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A TEMPORARY BRIDGE TO THE NEAR FUTURE

During the course of 2009, our Cabinet approved the Dispensation of Zimbabweans Project (DZP). In essence, qualifying Zimbabweans were issued with work permits without having to comply with all of the stringent requirements prescribed in terms of the Immigration Act, No 13 of 2002 (Act).

The purpose of the project was to regularise undocumented Zimbabweans currently residing in South Africa. Approximately 295,000 Zimbabweans applied for the permit and just over 244,500 permits were issued.

The majority of the permits issued in terms of the DZP will expire before 31 December 2014. The impending expiry date necessitated the recent announcement made by the Department of Home Affairs in terms of s31 of the Act. In terms of s31, the Minister of Home Affairs may upon application grant foreigners the right of permanent residence for a specified or unspecified period when special circumstances exist.

On 12 August 2014, the Minister of Home Affairs announced the closure of the DZP as of 31 December 2014. It is important to note that DZP permits which expire before 31 December 2014 will be delayed until 31 December 2014 and those which expire after 31 December 2014 will expire on 31 December 2014.

Zimbabweans who currently reside in South Africa in terms of the DZP may, however, apply for the newly created Zimbabwean Special Dispensation Permit of 2014 (ZSP).

Even though it is more than a month since this announcement has been made, all of the requirements for the ZSP are yet to be issued. In terms of the statement issued by the Department of Home Affairs, applicants would at the very least have to provide a valid Zimbabwean passport, evidence of employment, proof of business or accredited study and a clear criminal record.

Should all of these requirements be met, the applicant will be issued with a permit that will be valid until 31 December 2017. Applications will open on 1 October 2014 and close on 31 December 2014. All ZSP applications can be submitted in-country at the relevant VFS office located in the province in which the applicant ordinarily resides.

The ZSPs will provide a temporary bridge to the near future whereafter all Zimbabweans will need to re-enter the main stream immigration process in South Africa.

Anli Bezuidenhout and Shane Johnson



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THE EMPLOYER'S OBLIGATION TO CONDUCT AN ANALYSIS

Section 19 of the Employment Equity Amendment Act, No 47 of 2013 (EEAA), requires designated employers to conduct an analysis of its workforce profile in order to identify employment barriers that adversely affect people from designated groups. The purpose of the analysis is to identify the degree of under-representation of designated groups within the various occupational levels of the employer's workforce. The EEAA has slightly changed the section by removing the reference to 'occupational categories'.

This section must be read with Regulation 8 which sets out the duties of a designated employer in relation to collecting information and conducting an analysis of its workforce. For the most part, the regulations dealing with conducting an analysis have remained the same.

However, a new template for reporting on the analysis has been introduced, the so-called EEA12.

Form EEA12

This form consists of nine pages and covers headings such as:

- Employer details
- Qualitative analysis

This section requires employers to identify barriers that exist in terms of its policies, procedures and/or practices. It then requires the employer to describe the affirmative action measures to be implemented to address the identified barriers.

- Quantitative analysis

- Snapshot of workforce profile

This part of the form requires the employer to report on the total number of employees, including employees with disabilities, within each occupational level.

- Analysis of workforce profile by occupational level

Under this sub-heading, the employer is required to conduct an analysis separately for each occupational level, race and gender intersection.

Regulation 8 also refers to the EEA1, EEA8 and EEA9 forms. The EEA1 form is used to obtain information from employees to assist employers in conducting their analysis. The EEA8 form provides information relating to the demographic profile of the national and regional economically active population. Form EEA9 provides information relating to the various occupational levels.

Employers would be well advised to ensure that their workforce analysis is conducted in terms of the new regulations to ensure compliance with their various duties.

Lauren Salt and Christelle Wood

CONTACT US

For more information about our Employment practice and services, please contact:



Aadil Patel
National Practice Head
Director
T +27 (0)11 562 1107
E aadil.patel@dlacdh.com



Gillian Lumb
Regional Practice Head
Director
T +27 (0)21 481 6315
E gillian.lumb@dlacdh.com



Johan Botes
Director
T +27 (0)11 562 1124
E johan.botes@dlacdh.com



Mohsina Chenia
Director
T +27 (0)11 562 1299
E mohsina.chenia@dlacdh.com



Fiona Leppan
Director
T +27 (0)11 562 1152
E fiona.leppan@dlacdh.com



Hugo Pienaar
Director
T +27 (0)11 562 1350
E hugo.pienaar@dlacdh.com



Gavin Stansfield
Director
T +27 (0)21 481 6314
E gavin.stansfield@dlacdh.com



Michael Yeates
Director
T +27 (0)11 562 1184
E michael.yeates@dlacdh.com



Faan Coetzee
Executive Consultant
T +27 (0)11 562 1600
E faan.coetzee@dlacdh.com

Kirsten Caddy
Senior Associate
T +27 (0)11 562 1412
E kirsten.caddy@dlacdh.com

Nicholas Preston
Senior Associate
T +27 (0)11 562 1788
E nicholas.preston@dlacdh.com

Ndumiso Zwane
Senior Associate
T +27 (0)11 562 1231
E ndumiso.zwane@dlacdh.com

Anli Bezuidenhout
Associate
T +27 (0) 21 481 6351
E anli.bezuidenhout@dlacdh.com

Shungu Mariti
Associate
T +27 (0)11 562 1475
E shungu.mariti@dlacdh.com

Inez Moosa
Associate
T +27 (0)11 562 1420
E inez.moosa@dlacdh.com

Zinhle Ngwenya
Associate
T +27 (0)11 562 1119
E zinhle.ngwenya@dlacdh.com

Lauren Salt
Associate
T +27 (0)11 562 1378
E lauren.salt@dlacdh.com

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BBBEE STATUS: LEVEL THREE CONTRIBUTOR

JOHANNESBURG

1 Protea Place Sandton Johannesburg 2196, Private Bag X40 Benmore 2010 South Africa
Dx 154 Randburg and Dx 42 Johannesburg
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@dlacdh.com

CAPE TOWN

11 Buitengracht Street Cape Town 8001, PO Box 695 Cape Town 8000 South Africa
Dx 5 Cape Town
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@dlacdh.com