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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HOME AFFAIRS

NO. 4344

8 February 2024

IMMIGRATION ACT, 2002

DRAFT SECOND AMENDMENT OF THE IMMIGRATION REGULATIONS, 2014

The Department of Home Affairs (the “Department”) invites public comments on the **Draft Second Amendment of the Immigration Regulations, 2014** (the “draft Regulations”).

Written submissions should reach the Department **on or before 29 March 2024**. Submissions should be addressed to the **Chief Director: Legal Services** and may be forwarded to the Department in any of the following manners:

- (a) delivered by hand, to the Department of Home Affairs, **230 Johannes Ramokhoase Street, Hallmark Building (c/o old Proes and Andries Streets), PRETORIA, 0001** for the attention of **Adv Luvo Vena**;
- (b) mailed to the Department of Home Affairs at **Private Bag X114 PRETORIA 0001**; or
- (c) e-mailed to Luvo.Vena@dha.gov.za.

Any inquiries should be addressed to the attention of the Chief Director: Legal Services, through the e-mail address and contact information above.

Comments received after the closing date shall not be considered.



DR P.A. MOTSOLEDI
MINISTER OF HOME AFFAIRS
DATE: 7/2/2024

SCHEDULE

Definition

1. In this Schedule, “the Regulations” means the Immigration Regulations, 2014, published under Government Notice No. R. 413 of 22 May 2014, as amended by Government Notice No. R. 1328 of 29 November 2018.

Amendment of regulation 1 of Regulations

2. Regulation 1 of the Regulations is hereby amended—
 - (a) by the substitution for the definition of “police clearance certificate” of the following definition:

“**“police clearance certificate”** means a certificate issued, in respect of criminal records or the character of an applicant, by the police or security authority in each country where an applicant, after having attained the age of 18 years, resided for 12 months or longer during the five years immediately preceding the date of application, which certificate shall not be older than six months at the time of submission: Provided that in the case of a renewal or extension of a visa, such a certificate shall be issued by the police or security authority of the Republic;” and
 - (b) by the deletion of the definition of “radiological report”.

Amendment of regulation 9 of Regulations

3. Regulation 9 of the Regulations is hereby amended—
 - (a) by the substitution in subregulation (1) for paragraph (c) of the following paragraph:

“(c) a medical report in respect of each applicant, excluding applicants for the visa contemplated in section 11(1)(a) of the Act;”.

(b) by the addition in paragraph (a) of subregulation (9) of the following sub-paragraphs:

“(iii) is the spouse or child of a South African citizen or permanent resident;”.

“(iv) is the parent of a citizen or permanent resident child;”.

Amendment of regulation 11 of Regulations

4. Regulation 11 of the Regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

“(4) An activity contemplated in section 11(1)(b)(iv) of the Act shall be—

(a) work conducted for a foreign employer pursuant to a contract which partially requires conducting of certain activities in the Republic and relates to—

- (i) teaching at an international school;
- (ii) in respect of films and advertisements produced in South Africa, including, but not limited to, an actor, cameraman, hairstylist, make-up artist or lighting and sound engineer;
- (iii) a foreign journalist seconded to the Republic by a foreign news agency;
- (iv) a visiting professor or lecturer or an academic researcher;
- (iii) an artist who wishes to write, paint or sculpt: Provided that he or she submits a portfolio of his or her previous work;
- (iv) a person involved in the entertainment industry, travelling through the Republic to perform;
- (v) a tour leader or host of such a tour; or
- (vi) a religious leader of a recognised religious organisation or denomination;

(b) work conducted, as contemplated in section 11(2) of the Act, for a foreign employer on a remote basis: Provided that—

- (i) such foreigner earns no less than the equivalent of R1,000,000.00 (One Million Rand) per annum;

- (ii) if the visa is issued for a period not exceeding 6 months within a 12-month period, the foreigner will not be required to register with the South Africa Revenue Service; and
- (iii) if the visa is issued for a period longer than 6 months within a 12-month period, the foreigner must register with the South Africa Revenue Service; and
- (c) to accompany the holder of a visa issued in terms of sections 11, 13, 14, 15, 17, 18, 19, 20 or 22 of the Act: Provided that such a foreigner must be the spouse or child of the holder of such visa; or
- (d) to testify as a state witness in a criminal court case: Provided that the application shall be initiated by the relevant Deputy Director of Public Prosecutions, stating the reasons for such a foreigner to stay in the Republic.”.

Amendment of regulation 18 of Regulations

5. Regulation 18 of the Regulations is hereby amended—

- (a) by the substitution in subregulation (5) for paragraph (b) of the following paragraph:
 - “(b) proof of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, if such registration is required by law: Provided that in the case of submission of—
 - (i) proof of application for a certificate of registration, the critical skills work visa may be issued for a period not exceeding 12 months; or
 - (ii) proof of a certificate of registration, the critical skills work visa may be issued for the period referred to in subregulation (6);”.

- (b) by the insertion of subregulations (12) and (13), after subregulation (11), of the following subregulations:

“(12) An application for a work visa, contemplated in section 19 of the Act, must be adjudicated in accordance with the points-based system determined by Minister, from time to time, by notice in the *gazette*.

(13) The Minister may, in determining the points-based system referred to in subregulation (12), consider, but not limited to, the following—

- (a) age;
- (b) qualifications;
- (c) language skills;
- (d) work experience;
- (e) offer of employment; and
- (f) the ability to adapt within the Republic.”.

Amendment of regulation 20 of Regulations

6. Regulation 20 of the Regulations is hereby amended by the substitution in subregulation (9) for paragraph (h) of the following paragraph:

“(h) proof of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, if such registration is required by law: Provided that in the case of submission of—

- (i) proof of application for a certificate of registration, the corporate visa may be issued for a period not exceeding 12 months; or
- (ii) proof of a certificate of registration, the corporate visa may be issued for a period referred to in subregulation (8)(a);”.

Amendment of regulation 23 of Regulations

7. Regulation 23 of the Regulations is hereby amended by the substitution in subregulation (2) for paragraph (f) of the following paragraph:

“(f) a medical report;”.

Amendment of regulation 24 of Regulations

8. Regulation 24 of the Regulations is hereby amended—

(a) by the substitution in subregulation (3)(a) for subparagraph (ii) of the following subparagraph:

“(ii) proof of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, if such registration is required by law: Provided that in the case of submission of—

(aa) proof of application for a certificate of registration, the relevant work visa may be issued for a period not exceeding 12 months; or

(bb) proof of a certificate of registration, the visa may be issued for a period applicable to the relevant work visa;”;

(b) by the substitution in subregulation (5) for paragraph (d) of the following paragraph:

“(d) proof of application of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, if such registration is required by law: Provided that in the case of submission of—

(i) proof of application for a certificate of registration, the business visa may be issued for a period not exceeding 12 months; or

(ii) proof of a certificate of registration, the visa may be issued for a period applicable to a business visa;”;

(c) by the substitution in subregulation (6) for paragraph (c) of the following paragraph:

- “(c) proof of registration with the professional body, council or board recognised by SAQA in terms of section 13(1)(i) of the National Qualifications Framework Act, if such registration is required by law: Provided that in the case of submission of—
- (i) proof of application for a certificate of registration, the business visa may be issued for a period not exceeding 12 months; or
 - (ii) proof of a certificate of registration, the visa may be issued for a period applicable to a business visa;” and

Amendment of Annexure A

9. Annexure A of the Regulations is hereby amended by the substitution for Forms 8, 9, 10, 11 and 18 of Forms 8, 9, 10, 11 and 18, respectively, as contained in the Annexure hereto.

Short title and Commencement

10. These Regulations shall be called the Second Amendment of the Immigration Regulations, 2014 and come into operation on the date of publication hereof.

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