

Private & Confidential

The Chairman of the Portfolio Committee on Home Affairs
Parliament of South Africa
Cape Town
8000

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22 September 2006

Dear Sir or Madam

PUBLIC SUBMISSION WITH REGARD TO IMMIGRATION AMENDMENT BILL PUBLISHED FOR COMMENT ON 20 SEPTEMBER 2006

CLOSING DATE: 6 OCTOBER 2006

REQUEST FOR ORAL SUBMISSION DURING PUBLIC HEARINGS TO ELABORATE ON WRITTEN SUBMISSION

We thank the Chairperson for the opportunity to submit representations and comments pertaining to Immigration Amendment Bill.

Whilst we welcome the amendments proposed, it is important that certain aspects should be confirmed/clarified so as to fully understand their impact on the international business community.

1. Background:

- 1.1 PwC appreciates the work of the Portfolio Committee and their openness to public comment.
- 1.2 A significant number of our multinational clients and PwC ourselves are affected by the Immigration legislation. Based on comments from our clients and business generally, PwC has made submissions/recommendations regarding the Immigration legislation during the public hearings held in April 2002 and 2004.
- 1.3 In view of the intended amendments we feel that it is important to make further submissions.

T P Blandin de Chalain – National Tax Leader

Executive Directors – Cape Town C G de Wet, C P du Toit, D M Fairbank, D Lerner, I Swanepoel, J P van Wyk Bloemfontein G J Nel
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T P J McCarthy, A D Seccombe, G M Seegers, G N M Soverall, J L van Rhyne, I Wilson Port Elizabeth B J Botha Pretoria G Beckwith

2. AUTHORISATION TO WORK ON A VISITOR PERMIT FOR A PERIOD OF UP TO 3 YEARS

2.1 We welcome the re-introduction of the authorisation that will enable persons with foreign employers not assigned to a subsidiary, branch or affiliate to provide services in South Africa for a period of up to 3 years whilst in possession of a visitors permit.

3. AUTHORISATION TO WORK ON A VISITOR PERMIT FOR FOREIGN SPOUSES OF WORK PERMIT HOLDERS

3.1 The wording of Section 11(1)(b) (iv), read with the present regulations, provides that spouses may obtain an authorisation to work on a visitor permit.

3.2 This would be welcomed by the business community and will significantly enhance South Africa's ability to attract and retain skilled foreign workers.

3.3 The ability of spouses to work on visitors permits is a major change and because it was not addressed in the Minister's recent presentation of the draft Bill we should be grateful for your confirmation that this is indeed intended.

4 SECTION 19(5) AMENDMENT: INTER-COMPANY TRANSFER CATEGORY

4.1 The maximum period for an intra-company transfer permit has been increased to 4 years. This increase is welcomed. However, it still falls short of industry requirements, and is not consistent with the tax laws that provide for a 5 year window of physical presence before tax residence (so as not to act as barrier for the attraction of foreign skills).

4.2 There are a number of international companies that apply a 5 year period for their international secondments, and it is recommended that intra-company transfers should be for a maximum of 5 years.

4.3 It has been brought to our attention that the Department of Home Affairs plans to introduce a provision that where a position has been filled by an intra-company transfer, no foreign national may fill the position subsequently.

4.4 This would be of great concern to the multinational businesses, in particular those businesses where senior and middle management are always from the country of the parent company. Introducing such a provision would be regressive step, and would make the intra-company transfer a significantly less attractive option resulting in the necessity once again to pursue different permit options, such as general work permit which due the current requirements, is a barrier to the quick movement of staff across borders required by multinational companies. We strongly recommend that no

provision is introduced to limit the application of intra-company transfers and would welcome your confirmation of this.

**5. AMENDMENT OF SECTION 20 OF ACT 13 OF 2002 – RETIRED
CATEGORY**

5.1 This amendment is welcomed.

6. AMENDMENT OF SECTION 27 – PERMANENT RESIDENCE QUOTAS


6.1 We await the introduction of the revised quotas. We assume that the “Scarce Skills List” prepared by the Department of Labour will be reflected in the quotas issued.

We should be grateful for an indication when such quotas will be issued.

Yours sincerely



Linda Lampecht
Senior Consultant: Immigration
Practitioner Number: 2004/001/0055



Alan Secombe
Director: Tax Services



**CERTIFICATE OF REGISTRATION
AS AN IMMIGRATION PRACTITIONER**

SECTION 46 OF ACT NO. 13 OF 2002; REGULATION 46

No. A 00055

It is hereby certified that the person whose particulars appear hereunder is registered as an immigration practitioner or is deemed to be registered as an immigration practitioner in terms of the Regulations made in terms of the Immigration Act No. 2002, (Act No. 13 of 2002). The validity of this certificate expires within twenty-four (24) months after the date of issue.

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REGISTRATION NUMBER 2004/01/0055

Signed at Pretoria on this 7th day of June 2004


DIRECTOR-GENERAL



State of Skills

in South Africa, 2005



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Department:
Labour
REPUBLIC OF SOUTH AFRICA

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Editing, layout and design,
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Media Production Unit
Chief Directorate of Communication
Department of Labour

Website address

www.labour.gov.za

Printer

Government Printer

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Department of Labour
Private Bag X117
Pretoria
0001

ISBN No:

0-621-35953-X

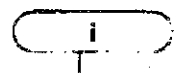


Table 4.21 Scarce skills, by main and minor occupational categories, 2004 – 2009

Main occupational category (for 2004–2009)	Minor occupational category (for 2004–2009)
Senior officials and management	Experienced and qualified managers: <ul style="list-style-type: none"> ● Project managers ● Financial managers ● Sales and marketing managers ● General managers ● Business leadership ● Entrepreneurs
Financial E-commerce specialists	<u>Engineers, including</u> <ul style="list-style-type: none"> ● Mining ● Agriculture ● Chemical ● Electrical ● Mechanical ● Electronic project ● Civil ● Design ● Nuclear ● Clinical Financial specialists, including <ul style="list-style-type: none"> ● Chartered Accountants ● Auditors ● Actuaries ● Financial/business analysts/consultants/advisors Researchers, including <ul style="list-style-type: none"> ● Marketing ● Surveyors ● Entrepreneurs
Technicians and associated professionals	Insurance brokers Bookkeepers Sales workers Buyers Qualified ETD practitioners Technicians, including <ul style="list-style-type: none"> ● Clinical ● Phlebotomy ● Medical ● Water ● IT ● Electrical ● Electronic ● Aircraft ● Mechanical
Clerks	Entrepreneurs Debt collectors Conveyance secretaries Administrative clerks

Main occupational category (for 2004-2009)	Minor occupational categories (for 2004-2009)
Service/shop/market sales workers	Qualified recruitment consultants Sales personnel Fire fighters Traffic officers Police officers
Skilled agric./fishery workers	Skilled horticulture workers Maintenance personnel
Craft and related trade workers	Electricians Plumbers
Plant/machine operators	Taxi drivers (code 10) Machine operators Plant operators

Source: Department of Labour, 2004b

The HRD Review 2003 (HSRC, 2003) has added to this 'signalling' process by flagging the issue of critical skills at each of the three skill bands: advanced, intermediate and entry-level skills. There has already been sufficient discussion in this report about the need to trigger greater demand for more labour-intensive, low skill employment through government interventions such as greater infrastructural investment, the Expanded Public Works Programme, and the development of small enterprises through SMMEs. Appropriate entry-level training schemes will soon be in huge demand and will play a crucial role in these socio-economic initiatives.