

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
IMMIGRATION  
AMENDMENT BILL**

**[B 32—2010]**

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*(As agreed to by the Portfolio Committee on Home Affairs (National Assembly))*

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**[B 32A—2010]**

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## AMENDMENTS AGREED TO

### IMMIGRATION AMENDMENT BILL

[B 32—2010]

#### CLAUSE 1

1. On page 2, in line 6, to omit “paragraph” and to substitute “paragraphs *(a)* and”.
2. On page 2, in line 7, to omit “paragraph” and to substitute “paragraphs respectively”.
3. On page 2, after line 7, to insert:
 

“(a)[**temporary**] visas and permanent residence permits are issued as expeditiously as possible and on the basis of simplified procedures and objective, predictable and reasonable requirements and criteria, and without consuming excessive administrative capacity;”

#### CLAUSE 2

1. On page 3, in line 6, to omit “permit” and to substitute “[**permit**] visa”.
2. On page 3, from line 45 up to and including line 51, to omit paragraph *(h)*.
3. On page 3, after line 56, to insert the following definition:
 

“ **“port of entry visa”** means the authority to travel from a port of entry of another country to any port of entry of the Republic for the purposes of admission into the Republic, as contemplated in section 10A;”
4. On page 4, in line 4, to omit “permit.”.
5. On page 4, from line 9 up to and including line 22, to substitute for the definition of “visa” of the following definition:
 

“ **“visa”** means the authority to temporarily sojourn in the Republic for the purposes of—

  - (a) a transit through the Republic as contemplated in section 10B;
  - (b) a visit as contemplated in section 11;
  - (c) study as contemplated in section 13;
  - (d) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;
  - (e) establishing or investing in a business as contemplated in section 15;
  - (f) working as a crew member of a conveyance in the Republic as contemplated in section 16;
  - (g) obtaining medical treatment as contemplated in section 17;
  - (h) staying with a relative as contemplated in section 18;
  - (i) working as contemplated in section 19 or 21;
  - (j) retirement as contemplated in section 20;
  - (k) an exchange programme as contemplated in section 22; or
  - (l) applying for asylum as contemplated in section 23,

whichever is applicable in the circumstances;”.

## CLAUSE 4

1. On page 4, from line 50 up to and including line 54, to omit “permits” wherever it occurs and to substitute “[**permits**] port of entry visa”.
2. On page 4, in line 52, to omit “the” and to substitute “[**the**] terms and”
3. On page 4, from line 50 up to and including line 54, after “visas” to insert “, permanent residence permits”.
4. On page 4, in line 57, after “warrants,” to insert “permanent residence”.
5. On page 5, in line 6, after “of”, to insert “port of entry visa,”.
6. On page 5, in line 6, after “visas,” to insert “permanent residence”.
7. On page 5, in line 18, after “warrants,” to insert “permanent residence”.
8. On page 5, in line 18, after “permits,” to insert “port of entry visa”.

## CLAUSE 7

1. On page 6, after line 6, to insert:
 

“(b)by the substitution for subsection (1) of the following subsection:  
     “(1) Upon admission, a foreigner, who is not a holder of a permanent residence permit, may enter and sojourn in the Republic only if in possession of a [**temporary residence permit**] visa issued by the Director-General for a prescribed period.”
2. On page 6, from line 8 up to and including line 22, to omit subsection (2) and to substitute with the following:
 

(2) Subject to this Act, upon application in person and in the prescribed manner [**and on the prescribed form, one of the temporary residence permits contemplated in sections 11 to 23 may be issued to**] a foreigner may be issued one of the following visas for the purposes of—

<ol style="list-style-type: none"> <li>(a) a transit through the Republic as contemplated in section 10B;</li> <li>(b) a visit as contemplated in section 11;</li> <li>(c) study as contemplated in section 13;</li> <li>(d) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;</li> <li>(e) establishing or investing in a business as contemplated in section 15;</li> <li>(f) working as a crew member of a conveyance in the Republic as contemplated in section 16;</li> <li>(g) obtaining medical treatment as contemplated in section 17;</li> <li>(h) staying with a relative as contemplated in section 18;</li> <li>(i) working as contemplated in section 19 or 21;</li> <li>(j) retirement as contemplated in section 20;</li> <li>(k) an exchange programme as contemplated in section 22; or</li> <li>(l) <u>applying for asylum as contemplated in section 23.</u>; and</li> </ol>
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3. On page 6, from line 24 up to and including line 29, to omit subsection (6) and to substitute with the following:
 

“(6) (a) Subject to this Act, a foreigner, other than the holder of a visitor’s or medical treatment visa, may apply to the Director-

General in the prescribed manner [**and on the prescribed form**] to change his or her status or [**the**] terms and conditions attached to his or her [**temporary residence permit**] visa, or both such status and terms and conditions, as the case may be, while in the Republic.

(b) An application for a change of status attached to a visitor's or medical treatment visa shall not be made by the visa holder while in the Republic, except in exceptional circumstances as prescribed."

#### CLAUSE 8

1. Clause rejected.

#### NEW CLAUSE

1. That the following be a new clause:

**“Amendment of section 10A of Act 13 of 2002, as inserted by section 12 of Act 19 of 2004**

**8.** Section 10A of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:
 

**“[Visas] Port of entry visa;**
- (b) by the substitution for subsections (1) and (2) of the following subsections:
 

“(1) Any foreigner who enters the Republic shall, subject to subsections (2) and (4), on demand produce a valid port of entry visa, granted under subsection (3), to an immigration officer.

(2) Any person who holds [**a valid permit issued in terms of sections 13 to 22 and 25 to 27**]—

  - (a) a valid visa for the purposes of—
    - (i) study as contemplated in section 13;
    - (ii) conducting activities in the Republic in terms of an international agreement to which the Republic is a party as contemplated in section 14;
    - (iii) establishing or investing in a business as contemplated in section 15;
    - (iv) working as a crew member of a conveyance in the Republic as contemplated in section 16;
    - (v) obtaining medical treatment as contemplated in section 17;
    - (vi) staying with a relative as contemplated in section 18;
    - (vii) working as contemplated in section 19 or 21;
    - (viii) retirement as contemplated in section 20;
    - (ix) an exchange programme as contemplated in section 22; or
    - (x) applying for asylum as contemplated in section 23; or
  - (b) a permanent residence permit issued in terms of sections 25 to 27, shall, upon his or her entry into the Republic and after having been issued with that visa or permanent residence permit, be deemed to be in possession of a valid port of entry visa for the purposes of this section.”;
- (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
 

“A port of entry visa referred to in subsection (1)—”;
- (d) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

- “(a) may, subject to any **[condition]** terms and conditions that the Minister may deem fit, be granted by the Minister to any person who is not exempt, as contemplated in subsection (4), from the requirement of having to be in possession of a valid port of entry visa, and who has applied for such a port of entry visa in the prescribed manner **[and on the prescribed form];**” and
- (e) by the substitution in subsection (4) for paragraph (a) of the following paragraph:
- “(a) exempt any person or category of persons from subsection (1) with regard to the requirement of having to be in possession of a valid port of entry visa in order to obtain a visitor’s **[permit]** visa contemplated in section 11, for a specified or unspecified period and either unconditionally or subject to the conditions that the Minister may impose;”.

#### CLAUSE 11

1. Clause rejected.

#### NEW CLAUSE

1. That the following be a new clause:

**“Amendment of section 15 of Act 13 of 2002, as amended by section 17 of Act 19 of 2004 and section 5 of Act 3 of 2007**

- 11.** Section 15 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
- “**[A]** Subject to subsection (1A), a business **[permit]** visa may be issued by the Director-General to a foreigner intending to establish or invest in, or who has established or invested in a business in the Republic in which he or she may be employed, and an appropriate **[permit]** visa for the duration of the business **[permit]** visa to the members of such foreigner’s immediate family: Provided that—”;
- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
- “(c) such foreigner has undertaken to —
- (i) comply with any relevant registration requirement set out in any law administered by the South African Revenue Service; and
  - (ii) employ, the prescribed percentage or number of citizens or permanent residents, within a period of 12 months, from the date of issue of the visa.”;
- and
- (c) by the insertion after subsection (1) of the following subsection:
- “(1A) No business visa may be issued or renewed in respect of any business undertaking which is listed as undesirable by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”

## CLAUSE 12

1. On page 7, in line 34, to omit “permit” and to “substitute “[**permit**] visa”.
2. On page 7, in line 54, to omit “permit” and to substitute “[**permit**] visa”.

## CLAUSE 13

1. On page 8, from line 24 up to and including line 27, to omit subsection (1) and to substitute:
 

“(1) [**A**] Subject to subsection (1A), a corporate [**permit**] visa may be issued by the Director-General to a corporate applicant, to employ foreigners who may conduct work for such corporate applicant in the Republic.”
2. On page 8, after line 27, to insert:
 

“(b) by the insertion after subsection (1) of the following subsection:  
     “(1A) No corporate visa may be issued or renewed in respect of any business undertaking which is listed as undesirable by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”.
3. On page 8, in line 33, to omit “permit” and to substitute “[**permit**] visa”.

## CLAUSE 14

1. Clause rejected.

## NEW CLAUSE

1. That the following be a new Clause:
 

**“Amendment of section 22 of Act 13 of 2002, as amended by sections 23 and 47 of Act 19 of 2004**

**14.** Section 22 of the principal Act is hereby amended—

  - (a) by the substitution in paragraph (b) for the words preceding subparagraph (i) of the following words:
 

“who is under 25 years of age and has received an offer to conduct work for no longer than one year[, **provided**]; Provided that—”;
  - (b) by the deletion of “and” in subparagraph (iii) of paragraph (b); and
  - (c) by the addition in paragraph (b) of the following subparagraph:
 

“(iv) no visa may be granted under this section if the offer to conduct work pertains to an undesirable work as published by the Minister from time to time in the Gazette, after consultation with the Minister responsible for trade and industry.”

## CLAUSE 15

1. On page 8, in line 45, to omit “permit” and to substitute [**permit**] visa.
2. On page 8, from line 46 up to and including line 51, to omit subsection (1) and to substitute with the following:

“(1) The Director-General may, subject to the prescribed procedure under which an asylum transit visa may be granted, issue an asylum transit visa to a person who at a port of entry claims to be an asylum seeker, valid for a period of five days only, to travel to the nearest Refugee Reception Office in order to apply for asylum.”.

3. On page 8, in line 52, to omit “permit” and to substitute “visa”.
4. On page 9, in line 1, to omit “permit” and to substitute “visa”

#### CLAUSE 17

1. On page 9, after line 10, to insert:
 

“(b)by the substitution for paragraphs (a) to (b) of the following paragraphs:

  - “(a) has been the holder of a work [**permit**] visa [**, including one issued under a corporate permit,**] in terms of this Act for five years and has proven to the satisfaction of the Director-General that he or she has received an offer for permanent employment;
  - (b) has been the spouse of a citizen or permanent resident for five years and the Director-General is satisfied that a good faith spousal relationship exists: Provided that such permanent residence permit shall lapse if at any time within two years from the issuing of that permanent residence permit the good faith spousal relationship no longer subsists, save for the case of death;”.

#### CLAUSE 18

1. On page 9, in line 22, to omit “prescribe to be in the national interest” and to substitute “as contemplated in section 15”.
2. On page 9, in line 23, to omit “prescribe to be in the national interest” and to substitute “as contemplated in section 15”.
3. On page 9, after line 26, to insert:
 

“(c)by the substitution in paragraph (c) for subparagraph (ii) of the following subparagraph:

  - “(ii) the permanent residence permit shall lapse if the holder fails to prove within two years of the issuance of the permanent residence permit and three years thereafter, to the satisfaction of the Director-General, that the prescribed financial contribution to be part of the intended book value is still invested as contemplated in this paragraph;”.

#### CLAUSE 19

1. On page 9, after line 29, to insert:
 

“(a)by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The following foreigners are prohibited persons and do not qualify for a port of entry visa, admission into the Republic, a [**temporary**] visa or a permanent residence permit;”.

2. On page 9, in line 39, to omit “[**residence**] permit,” and to substitute “[**residence permit**,”]

CLAUSE 20

1. On page 9, in line 48, to omit “permit,” and to substitute “port of entry visa”.

CLAUSE 21

1. On page 11, in line 38, after “or”, to insert “port of entry”.

CLAUSE 22

1. On page 11, in line 48, after “relevant”, to omit “permit”,.

CLAUSE 24

1. On page 12, in line 8, to omit “five” and to substitute “two”.
2. On page 12, in line 11, to omit “seven” and to substitute “four”.
3. On page 12, in line 14, to omit “eight” and to substitute “five”.
4. On page 12, in line 20, to omit “12” and to substitute “five”.
5. On page 12, in line 26, to omit “10” and to substitute “eight”.
6. On page 12, in line 32, to omit “nine” and to substitute “five”.
7. On page 12, in line 35, to omit “10” and to substitute “seven”.
8. On page 12, in line 38, to omit “15” and to substitute “eight”.
9. On page 12, in line 41, to omit “eight” and to substitute “three”.
10. On page 12, in line 46, to omit “20” and to substitute “10”.
11. On page 12, in line 50, to omit “nine” and to substitute “five”.
12. On page 12, in line 52, to omit “12” and to substitute “five”.
13. On page 12, in line 55, to omit “six [**months**] years” and to substitute “[**six months**] three years”.
14. On page 12, in line 58, to omit “15” and to substitute “eight”.
15. On page 13, in line 2, to omit “15” and to substitute “eight”.
16. On page 13, in line 8, after “any”, to insert “permanent residence”.
17. On page 13, in line 8, after “permit,” to insert “port of entry visa”.
18. On page 13, in line 11, after “falsified”, to insert “permanent residence”.
19. On page 13, in line 11, after “permit,” to insert “port of entry visa”.
20. On page 13, in line 18, after “any”, to insert “permanent residence”.
21. On page 13, in line 18, after “permit,” to insert “port of entry visa”.

22. On page 13, in line 29, to omit “20” and to substitute “15”.
23. On page 13, in line 37, to omit “10” and to substitute “seven”.

CLAUSE 25

1. On page 13, in line 43, to omit “permit or”.

CLAUSE 26

1. On page 14, from line 6 up to and including line 7, to omit subparagraph (i).
2. On page 14, after line 13, to insert:
  - “(c) by the substitution for the word “condition” or “conditions”, wherever it occurs in the Act, of the words “terms and conditions”, except in cases where the phrase “terms and conditions or terms or conditions are used; and”





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