



Response

25th May 2023

ZEP Confusion

With the expiration date for the Zimbabwe Exemption Permits drawing steadily closer, and a silence from the Department of Home Affairs (DHA) about the possibility of a further extension, as well as the continued wait for the judgement in the High Court case on the same issue, there has been, amongst ZEP holders, a heightened anxiety, restiveness and desperation with regard to their continued legal stay in South Africa.

It is quite possible that the DHA, too, is waiting for the High Court judgement so as to frame its overall response appropriately. But, be that as it may, the desperation was not helped by a directive from Director General of the DHA, on 29th March, extending the validity of (other) long-term visas until 31st December 2023. This extension probably comes in the wake of the admission of the huge backlog in visa applications that was recently the subject of considerable contestation in Parliament. The category to which the March directive applies is one that includes work and business visas, study visas, relative visas, and accompanying-spouse visas. It does not include ZEP holders, but many ZEP holders misread the directive, thinking that it applied to them too; this has led to false expectations and, in turn, chaos and confusion as witnessed over the past few days on various social and print media platforms. As far as ZEP holders are concerned, the *status quo* remains.

Amidst the false information and confusion it was emphasised that, contrary to rumours, ZEP holders could not apply for permanent residence. It was also confirmed that ZEP holders who are in possession of a Visa Facilitation Services (VFS) receipt showing that they have made an application for a different visa, may continue to work even after the 30th June deadline, until they receive the outcome of their application. In addition, those with such receipts may continue to make use of the services provided by financial services and educational institutions.

ZEP holders are encouraged, in the few weeks that remain, to apply for other types of visas or for the various waivers that could be granted to ease their way into applying for a general work visa. Among the visas that could be applied for are the **critical skills visa**, with its specific demands such as occupations mentioned in the critical skills list, SAQA approval for the applicant's qualifications, and membership of the professional bodies pertaining to the occupation, as well as a job that is already confirmed. The last requirement is also a requirement for the **general work visa**, which is a much more open visa, but which also needs to be accompanied by the necessary waivers. Then there is a **spousal visa** with the right to work for ZEP holders who are married to South African citizens or permanent residents, or who are in a life partnership with the same. There needs to be proof of the marriage or, in the case of life partnership, a notarial deed testifying that they have cohabited for three years. It is possible for the spouse or partner to apply for a **relatives visa** if the ZEP holder does not intend to apply for work. Finally, there is a **business visa** available for those who have invested R5m or more into new or existing businesses and where the Department of Trade, Industry and Competition has recommended such a visa.

It is clear, though, that very many of the ZEP holders will not be eligible for these visas, and will have to go the route of waivers. A waiver application is a formal written request to the DHA to set aside certain prescribed requirements for a visa in any given category. This means that either individuals or companies may for good cause be exempted from certain prescribed requirements. In this regard it is interesting to note that there is some record of the DHA having approved a small number of waivers over the

past weeks. There is no clear indication of which waivers have been granted, or which occupations are most favoured, but unconfirmed reports suggest that teachers and nurses form a significant percentage of those who have benefitted.

For those who are granted a waiver the application for a general work visa then follows. These applications are also handled through VFS. The clutch of documents needed for such a visa includes a valid passport, a letter of appointment from VFS, and proof of payment of the R2 800 fee. An electronically completed DHA 947 form, a letter confirming employment from the place of work, a SAQA report if necessary, and a valid police clearance certificate are also needed.

It is worth noting that, at the same time as this confusion swirled around many in the ZEP community, Pope Francis issued the 109th Message for the Annual World Day for Migrants and Refugees, in which he quotes the late Pope Benedict XVI as saying, “The right of persons to migrate is numbered among the fundamental human rights, allowing persons to settle wherever they consider best for the realisation of their abilities, aspirations and plans.” It would do us good to ponder this pivotal thought as we contribute to the activism and advocacy in the field of the ZEPs.

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