

70.

As PAG correctly comments, the taxable remuneration is the same amount which forms the basis of remuneration for the purposes of the Unemployment Insurance Act and the Skills Development Levies Act, which is the definition of remuneration employed in the fourth schedule of the Income Tax Act. The intention is that of enabling employers to utilise the same basis for purposes of payroll, contributions and deductions. PAG is also correct in commenting that the training fee is to be paid by the employer only and may not be deducted from the foreign employee's remuneration. It is recorded that in terms of regulation 28(3) of the Regulations, which I made in terms of section 52 of the Act, I issued the following notice relating to the collection of the training fee which has been renewed in terms of regulation 48(1) with the amendment set out in regulation 48(1)(a) and recorded hereinafter:

"Collection of Training Fees

In terms of sections 2(1)(k) and 2(2)(g) of the Immigration Act, 2002 (Act No.13 of 2002) read with Regulations 28(3) and 30(8)(b) of the Immigration Regulations, the Minister of Home Affairs has determined that training fees amounting to two percent (2%) of a foreign employee's taxable remuneration payable by employers of foreigners on quota work permits and/or in terms of corporate permits, shall be collected in the following manner:

1. Employers shall deposit the fee quarterly ~~[in advance]~~ in arrears into the designated Standard Bank of South Africa current account number 0111135905, Van Der Wait Street, Pretoria Branch Number 010145. Cheques deposited must be made out in the name of the Department of Home Affairs.
2. ~~The training fee in respect of an initial temporary residence permit shall become payable by the employer upon notification by the Department that the relevant permit has been approved in principle. The permit shall only be issued on receipt of a deposit slip indicating that the fee has been paid into the abovementioned account. The training fee in respect of a relevant temporary residence permit shall become due by the employer upon notification by the Department that the relevant permit has been approved and the commencement of the relevant employment, and shall be payable in arrears as set out in the Immigration Regulations. The employer shall be responsible to deliver to the Department the deposit slip indicating that the fee has been paid into the abovementioned account.~~
3. The following particulars must be inserted on the deposit slip in the space allocated for the "Depositor's reference details/Bag seal number"
 - i. The depositor's (employer's) name; and
 - ii. The name of the employee in respect of whom the training fee was paid.
 The deposit slip together with a separate sheet (if necessary) containing any further pertinent information that may be necessary to identify the applicant in respect of whom the training fee was paid shall be, transmitted by facsimile, by mail or by hand to the permit issuing mission/office.
4. The deposit date of the initial fee shall be deemed to be the date of commencement ~~the end~~ of the first quarter. Subsequent quarterly fees payable in respect of the relevant employee shall be paid on or before the third day of the ensuing quarter. The deposit slip indicating payment of subsequent quarterly fees shall be transmitted to the regional office of the region in which the employee is employed. Such deposit slip must be accompanied by a separate sheet containing the employee's full names and surname, date of birth, temporary residence permit number, passport number, taxable salary and, if available, the Department of Home Affairs' case file reference number.
5. ~~Should the employee leave the services of the employer before expiry of the quarter for which the training fee was paid, such fee or pro rata thereof shall not be refundable.~~

71.

ACA and BSA objected to the training fee itself, rather than its actual amount. This fee is utilized as a market forces based "needs test", showing that, by being marginally more expensive than an available national, the foreigner is somehow needed. BSA and ACA did not suggest how such "needs test" ought to be otherwise satisfied in respect of any application or as an aggregate. I am not satisfied that there are research and administrative tools in place, able to determine how many foreign workers are needed in each of an innumerable number of industry types, subtypes, job positions and job classifications, in respect of each of the potential regions which would circumscribe a localized labour market or sub-market. Only tools of this nature would enable us to substitute the "needs test"

in respect of each application with an aggregate needs test, which would still require assessing the actual need in respect of any given job offer and renew such test over time to test the persistence of such need. In fact, in other countries, quota systems are combined with labour certifications similar to our section 19(2) work permits, or with "point systems" to determine actual need in spite of the quotas. Moreover, the training fees test is necessary throughout the employment relationship and not only at its inception. Therefore I do not share BSA's assertion that the fee is futile and not viable. It is entrenched policy that work permits are to be issued to foreigners when they are somehow "needed" [Preamble at (h) and (i) and section 2(1)(j)(i)(aa) of the Act]. It is also entrenched policy that a connection ought to exist between foreigners working in South Africa and the training of our nationals [Preamble (j) of the Act]. CON, ACA, PWC and BSA hold that the training fee was deleted by Parliament from the Bill as introduced and ought not to have been reintroduced. However, the training fee is expressly contemplated in sections 1(1)(xl), 2(1)(j)(ii), 2(2)(a) and 2(2)(g)(i) of the Act. Moreover, the notion of a quota system was introduced in the Portfolio Committee at the last stage of its deliberations and was then criticized by its own promoters during and immediately after its approval by the National Assembly. The NCOP could not complete its deliberations on the matter, and requested me to amend the Bill to eliminate the quota system. In the parliamentary debate on the Bill, I announced that I would do so only if my analysis of the Act would reveal that the same end could not be achieved by means of regulations. The need of giving implementation to sections 1(1)(xl), 2(1)(j)(ii), 2(2)(a) and 2(2)(g)(i) of the Act indicates that amendments to the Act are not necessary. ACA and BSA fear that the training fee may increase the cost of labour and make South Africa less competitive, without producing any factual or analytical basis for such statement. One of the major costs in acquiring foreign labour is the cost, time and uncertainty of a labour certification of the type contemplated in respect of section 19(2) work permits. Section 19(1) quota permits are immediately available in a simplified manner in the spirit of item (a) of the Preamble of the Act. If under any circumstances quota permits do not meet an employer's needs, section 19(2) permits are available where there is no training fee and the "needs test" is satisfied by a labour certification. Intra-company transfer and exceptional skills permits, which carry no training fee, and corporate permits, in respect of which the training fee may be waived or reduced, are also available. Because of this plurality of available work permits, I do not believe that the training fee will deter the employment of needed foreigners and reduce the pool of needed foreign skills as BSA and ACA suggest. ACA misread the draft Regulations, as the training fee is a "needs test" not a means to gain exemption from advertising requirements, as the latter are part of a labour certification process which is an alternative "needs test" justifying the employment of foreigners. Both tests are available to an applicant. BSA argues that the training fee does have a training purpose because it is deposited in the National Revenue Fund [NRF]; however the reason for section 2(2)(g)(i) of the Act is to enable the Department to define the training fund and recommend it when Parliament authorizes the appropriation of the NRF. BSA's argument that the training fee is discriminatory on an ethnic basis is incomprehensible. CON is in error in suggesting that the Department would run programmes utilizing the training fund which would interfere with the training in terms of the Skills Development Act and related legislation, when in fact the training fund, which is a mechanism to report to Parliament, has merely the function of recommending to Parliament and the decision-makers within the budgetary process, that the funding of such legislation be increased by the measure of the training fund. PWC argues that a quota system or a quota permit should refer only to specific categories which are identified by the Department of Labour as being in shortage. Setting aside that there is no reliable mechanism to make such a determination, the fact is that a quota system does not need to have such a feature and usually does not, as is the case, for instance, for the quota system of the United States. The IAB forwarded a recommendation from the education sector that higher education institutions be exempted from the training fee on account of their being "training institutions". I fear that the motivation for this recommendation fails to appreciate the purpose of the training fee, which purpose does not change in respect of training institutions. The foreigners who are employed in higher education institutions are working there and, technically, are filling positions which could be filled by South Africans. Therefore, also in their respect the need arises to demonstrate that they are "needed". The argument could be made that the threshold of "need" in respect of people working in institutions of higher education should be lower because they bring into the country large amounts of so-called "human capital". This sub-regulation provides for the future possibility of a differentiation of the amount of the training fee depending on categories. It might be the case that in such context the training fee may be reduced in respect of foreigners working at institutions of higher education in a teaching capacity and increased in respect of categories of workers where there is a lesser need for foreigners. I invite the IAB to conduct scientific and analytical research on how one could determine such differentiation of need. At present there are no scientific bases for such a differentiation over and above scant outdated and often anecdotal information. In addition to identifying the scientific and social bases for a

differentiation of a training fee, the IAB should advise me on how one can define clear categories delineating them by means of objective criteria which can easily be enforced by the Department without the need of actual verification of qualifications and their necessary connection with the job position and the relevant category, which exercise would be cumbersome in terms of administrative capacity and time. The IAB echoes some of the concerns expressed by certain public comments about the training fee, but indicates no alternative to determine the "needs test", suggesting that the entire quota system which, for better or worse, is provided for in the Act, ought to be scrapped. Going back to the legislative history of the Act, the IAB points out that the training fee was contemplated before the Bill was amended to introduce provision for a quota system, and therefore one may not have to have one together with the other. However, both the quota system and the training fee are in the Act. As I indicated, I am satisfied that the intention of Parliament, as it objectively emerges from the Act, was not that of excluding a training fee in respect of the quota system, for the training fee is provided for in the Act. Given its purpose as defined in the legislative history of the Bill, the training fee could only apply in respect of a work permit issued under the quota system, rather than one issued in respect of section 19(2) of the Act.

72.

It is recorded that in terms of regulation 28(3) of the Regulations which I made in terms of section 52 of the Act, I issued the following public notice relating to quotas, which, in terms of regulation 48(1)(b), shall apply in respect of these Regulations as per the date of their commencement.

"In terms of section 19(1) of the Immigration Act 2002 (Act no. 13 of 2002) and regulation 28(4)(g) of the Immigration Regulations, the Minister of Home Affairs has determined the following categories as the categories contemplated in section 19(1) of such Act and the quota of each of such categories as the quota contemplated in section 19(1) of such Act, provided that a foreigner may apply in respect of a lower category for which he or she qualifies when the higher one is exhausted.

CATEGORY	QUOTA
Employment opportunities in respect of which the relevant employer justifiably requires a post-graduate degree and at least 5 years of professional experience	90 000
Employment opportunities in respect of which the relevant employer justifiably requires a graduate degree and at least 5 years of professional experience	75 000
Employment opportunities in respect of which the relevant employer justifiably requires a graduate degree and at least 2 years of professional experience	70 000
Employment opportunities in respect of which the relevant employer justifiably requires a degree and at least 5 years of professional experience	70 000
Employment opportunities in respect of which the relevant employer justifiably requires a degree and at least 2 years of relevant experience	70 000
Employment opportunities in respect of which the relevant employer justifiably requires a certificate and at least 5 years of relevant experience	70 000
Employment opportunities in respect of which the relevant employer justifiably requires a certificate and at least 5 years of experience showing entrepreneurship, craftsmanship or management skills	70 000
Employment opportunities in respect of which the relevant employer justifiably requires at least 5 years of experience showing entrepreneurship, craftsmanship or management skills	75 000
Employment opportunities in respect of which the relevant employer justifiably requires at least 5 years of experience showing skills acquired through training	90 000
Employment opportunities in respect of which the relevant employer justifiably requires experience showing skills acquired through training	60 000

73.

IRU criticizes the use of chartered accountants arguing that they are not labour specialists. However, this is a function contemplated in the Act. Moreover, chartered accountants are not required to be labour specialists, and what is contemplated in this provision and in the analogous one in the Act does not require specialisation in labour matters. If necessary, in the performance of their function chartered accountants may require inputs from experts in the field, but by and large their task is that of evaluating the information before them. In so doing they perform a function which would be exercised by officials of the Department who are also not labour specialists.

74.

PWC mentions difficulty for a chartered accountant to certify matters as contemplated in these Regulations, but does not specify such matters and difficulties beyond the case of the certification "that the employer will employ the foreign national in the position". PWC misread this item, as what is required is "certifying that the position exists and is intended to be filled by such foreigner". It is not about what will happen in the future, but the present status of a vacancy assessed in good faith on the basis of rational business requirements, which make it reasonable for the employer to have the present intention to employ the foreigner concerned in such a position. It is a professional good faith test rather than a factual test not to be assessed exclusively against future developments. Believing that this explanation suffices to address the issue raised, I see no need to change this item as set out in the draft regulations.

75.

Seemingly in respect of this provision or possibly in respect of this entire regulation or even in general, INT raises the question of whether an applicant, personally or through his or her immigration practitioner or attorney, may contact directly the Department of Labour. It is the responsibility of an applicant to ensure that all certifications or documentation required to support his or her application are provided, and only when all such certifications or documentation are provided will an application be complete. Therefore, the applicant must obtain any relevant documentation from other departments, including the Departments of Labour or Trade and Industry, and it will not be the responsibility of my Department to do so on the applicant's behalf, except in those cases in which the Act or these Regulations require my Department to act in conjunction or after consultation with other departments, in which case my Department may undertake such processes; which, however, does not bar the applicant from approaching such departments directly and obtaining from any of them documentation which may satisfy the consultative requirement, so as to accelerate or shortcut the process. The IAB, peculiarly, does not suggest but merely "notes sympathetically" the requests from the education sector for exemptions from a waiver of the training fee, suggesting that the Department of Education be included in Regulation 28(4)(d)(i). However, within the schema of the Act, the juxtaposition of interest in this field is played out on the balance between the Department of Labour and that of Trade and Industry, or between organized business or organized labour. I am not inclined to multiply representation of interests in the process. Migration control affects the whole of society and therefore potentially all the departments and other organs of State may legitimately require to be represented. There are no sufficient basis to believe that foreigners within one sector of society may be more important than others, as, for instance, those working in the mining industry could justify the involvement of the Department of Energy and Mineral Resources.

76.

E&A questions whether evaluation contemplated in this paragraph is sufficiently well defined in terms of objective parameters and criteria to meet the constitutional requirements circumscribing discretion. I am convinced that such is the case, as the evaluation contemplated in this paragraph is the same as that undertaken by the Department in respect of a section 19(2) general work permit and, therefore, the parameters and criteria applicable in respect of such type of work permits shall apply also in this case *mutatis mutandis*.

77.

PWC requests clarity on whether the training fee applies in respect of extraordinary quota permits. I do not feel that an amendment is necessary to provide further clarity, as it is obvious that such a requirement does not exist as the sub-regulation does not call for it. In fact, in respect of this kind of permit the "needs test" is satisfied by government's assessment of what is needed and of the measure of such need. In this case government reacts to an identified need which ought to be able to be measured in respect of geographical areas and labour markets

and ought to be clearly identified in respect of the specific category of workers in respect of which this extraordinary permit might be used.

78.

E&A requested an amendment to make provision to publicise from time to time how many permits have been issued and how much of the quota is still available. This matter will be dealt with administratively. CON argues that this provision should have been contained in the Act and because it was not provided for in the Act exceeds the enabling provision. However, consideration must be given to the fact that section 19(1) calls for a system of issuance of work permits based on quotas without identifying the features for such a quota system, leaving the entire development of such a quota system to regulations. In other countries quota systems are spelt out in very lengthy provisions of law and even longer sets of regulations. Provisions relating to the unutilised portion of an annual quota are typical of, and appropriate to that which defines a quota system. CON argues that before a determination can be made that the unutilised portions of an annual quota is to be carried into the following year, one would need to understand the reasons for under-utilisation. However, such an analysis affects and can be taken into account when the Minister determines the quota for the following year in terms of section 19(1) of the Act.

79.

The IAB suggests that different permit requirements be devised to accommodate actors, models, graphic designers, software development specialists, photographers and "many other categories which do not involve fixed full-time employment". I share this policy view, but I do not think it necessary to modify the text of these Regulations, because the definition of "work" in the Act is clear, and I am confident that the Act, read with these Regulations, provides sufficient flexibility for this admittedly important class of foreigners to be accommodated within the Republic mostly on the basis of a visitor's rather than a work permit. However, the IAB suggests that it will conduct research in this field, which it is welcome to do.

80.

BSA incorrectly read this sub-regulation and section 19(2) of the Act. It is not correct that general work permits are available only when the quotas of section 19(1) permits have been exhausted. Both permits are available and an applicant may choose the type of permit he or she may wish to apply for. Upon exhaustion of the relevant quota, section 19(1) permits will not be available, but all other type of work permits are not limited in number but only in respect of their requirements and are available to anyone who qualifies for them in terms of the Act and its Regulations. In regulation 13 it is expressly stated that work permits issued in terms of the corporate permit do not fall within the quota contemplated in section 19(1)(i) of the Act, as one may have inferred the opposite as both quota and corporate permits employ the training fee as part of their respective "needs test". However, it is obvious that section 19(2) general work permits do not fall within the quota limits as they carry their own "needs test" and are issued over and above any quota, consistently with this statutory schema which makes them a separate category of permits from those contemplated in section 19(1). Also because section 19(2) permits in terms of the Act are not part of the quota permit, it became necessary to devise a separate "needs test" within quota permits and to implement the statutory provisions relating to training fees.

81.

PWC objected to the requirement of national media arguing that the job markets are more localised. While I concede that often prospective employees are primarily drawn from within the immediate employment area, under present circumstances of vast unemployment job seekers are also willing to relocate across the country and therefore, for purposes of this provision, which intends to protect nationals ready, willing, and able to take up the offered position, I must regard the whole of the country as the relevant job market. INT requires that I define national print media further, which I think unnecessary as the words employed sufficiently suggest that it must be a publication intended to be available throughout all main centres in the Republic, even though not necessarily everywhere in the Republic. I have added the word "relevant", not to limit what can be used in terms of this provision but to allow publication in specialised magazines and other print media in which it may be customary to advertise certain specialized job opportunities.

82.

ACA states that the requirements for advertisement set out in this paragraph could not be dealt with by regulations and ought to be left to the employers' discretion. However, our experience shows that it is important to define what is required to ensure a sufficient level of advertising. The policy is that of ensuring that the position of a foreigner is advertised more prominently than one would with a national, so as to ensure that at parity of conditions the national has a better chance to be employed. PWC suggests that the requirement for advertisement could be obviated by the use of an employment agency or job search company. However, such techniques would place the Department in the untenable position of having to assist the efforts made by such entities, and determine whether they are credible and capable. This would be against the spirit set out in paragraph (a) of the Preamble of the Act.

83.

PWC suggests that the remuneration should not be advertised to preserve confidentiality and avoid other employers' poaching. However, the remuneration is the most characterising aspect of a job offer and is therefore essential. The IAB also suggests that the remuneration should not be part of the advertisement because it is confidential and may be used by competitors for various purposes, including "poaching" employees. However, remuneration is the essential element of a job offer and its non-disclosure would make the labour certification less meaningful. The disclosure of remuneration is also international practice in respect of labour certifications. However, I must stress that this requirement will be satisfied if the remuneration is merely indicated within a reasonable range between a minimum and a maximum salary or remuneration package, to be negotiated or adjusted to the applicant's specific skills or qualifications, rather than by means of a specific figure.

84.

The size of the advertisement has been reduced to respond to public comments. However INT seems to question my power to prescribe a minimum size. I believe this provision to be an appropriate feature of regulating what needs to be done in terms of section 19(2) of the Act and to avoid perfunctory advertisement which eludes the purposes of the Act.

85.

The IAB echoes certain public objections to the utilization of national newspapers for advertisement purposes, pointing out that job markets are mainly localized. It proceeds to state that many prospective employees do not read national newspapers. In the absence of corroboration, I do not believe it to be correct that many employees do not read national newspapers as opposed to regional ones, for the Department's experience suggests otherwise. The IAB suggests that "large provincial newspapers" would qualify as well. However, that would place the Department in the invidious position of having to define what a "large" provincial newspaper is, which may become arbitrary. The IAB expressed a concern that the requirement to advertise for four weeks may place on the applicant burdens which are not necessary because "job seekers watch the papers very carefully". However, such length of advertisement is also meant to satisfy the "needs test" over a period of time, to avoid that a foreigner is employed when a national is not available to take up the relevant position only in respect of a very short time period. Nonetheless, I have reduced such period to three weeks.

86.

The IAB expresses the concern that a three month period may not be suitable in all cases because certain institutions, such as those in the education sector, may consume time by using "unwieldily procedures" in their hiring practices. However, the Department has no experience of advertisements with a closing date longer than three months. I do not believe that I should make the process more unwieldily for everyone to accommodate specific circumstances or institutions which could bring themselves into compliance by acting more efficiently.

87.

E&A raises the issue of religious workers requesting that they be exempted from work permit requirements while being able to apply for permanent residence in terms of section 26(a) of the Act. I am mindful of the required separation between church and State which demands churches to be treated like any other charitable or beneficial not-for-gain, organisation or entity. I am also mindful that the freedom of religion entrenched in our Constitution has led to the multiplication of religious organisations and that it is not within the scope of any government to determine what is a church or a religious organisation. Hence, religious workers are those who are employed by

any charitable organisation which in good faith, for purposes other than those of the Act and these Regulations currently and normally styles itself as a church or a religious organisation. Accordingly, the only distinguishing criteria, is whether or not the religious worker concerned is paid or not. If such worker is paid he or she will require a work permit and he or she will need to be paid on the same basis as our nationals are in the same organisation or an immediately comparable one. If he or she is not paid, he or she may qualify for a visitor's permit. In this latter case, such foreigner will need to pursue his or her aspirations for permanent residence on grounds other than those specifically set out in section 31 of the Act. CON argues that this provision is inconsistent with the enabling provision of the Act as it creates an exception to section 19(2)(a) of the Act. I do not agree as such section requires the Department to be satisfied that there are no nationals ready, willing and able to take up the position offered to a foreigner. The manner in which the Department becomes so satisfied is left to regulations to determine. Therefore, it is appropriate to have a presumption that in respect of certain categories the technique of advertisement is either inappropriate or not necessary. CON is concerned that the category of "key personnel at management level" is too broad. However, in the Department's past experience it is clear that attempts to define such a category more narrowly create administrative difficulties and do not foster the stated policy of acquiring necessary skills and promoting economic growth. CON is also concerned that a provision relating to key personnel undermines the Employment Equity Act. However, this does not seem to be correct, as a matter of law as the provisions of the Employment Equity Act are binding on the employer and will accordingly limit the number of key personnel who may be employed over and above the quotas determined by such an Act. Obviously, foreigners are not amongst the class of previously disadvantaged, whom such Act intends to favour, and therefore they cannot be factored into the equation set out in the Employment Equity Act. CON also argues that a provision relating to key personnel may lead employers not to train nationals to fill vacancies in management. Incentives for training are in place in many pieces of legislation, while it is government's policy to ensure that qualified immigration of skilled foreigners is promoted. Therefore, I cannot accede to CON's request that the provision relating to key personnel be deleted. IBN suggests that the occupations listed in Schedule E should be exempted from the requirements of (6)(e) relating to the Department of Labour. However, sub-regulation(6)(e) deals with ensuring that the thresholds which provides parity of conditions of the employment of a foreigner and that of a national are maintained on an equal level to avoid that foreign labour undermines labour conditions and standards.

88.

In answer to INT's question, I do not see the need to clarify whether categories of exceptional skills or qualifications will be supplied to immigration practitioners by my Department, because my Department would not have the authority to produce any such lists. Lists of required, not exceptional, skills or qualifications with related quotas may from time to time be published by notice in the Gazette in terms of and for the purposes of regulation 28(4)(e) which deals with a different type of quota work permits. In respect of exceptional skills or qualifications permits, at this juncture, my Department will make a case by case assessment on the basis of the information supplied by the applicant who carries the burden of showing that he or she has exceptional and documented skills or qualifications in any meaningful and socially valuable category of human endeavours.

89.

PWC objected to the intra-company transfer work permit being only for two years. However, this is a statutory requirement. PWC further suggested that the intra-company transfer permit should be for up to five years including renewals. This type of permit is not subject to a "needs test" which determines that the foreigner is somehow more needed than an available, ready, willing and able national. As such, it is designed to accommodate employers' needs on a short-term basis. If the need is for longer period, the employer may resort to quota, general or corporate permits. However, in order to accommodate the concern expressed the sub-regulation has been amended to provide for one or more renewals on condition that there is a good cause for this type of permit to apply for a longer period. It will be the applicants burden to justify why, under the circumstances, a renewal is justified and necessary.

90.

CFI, BSA, CKA, PWC, AOS, VDW and HGA have commented that the financial requirements set out in this regulation are too high. VDW targets its criticism on the basis of the regulations I made in terms of section 52 of the Act which had a higher threshold than the draft regulations. It has been clarified in the draft regulations that the long-term visitor's permit, which carries lower financial requirements, is also available for a purpose of stay

which is effectively that of retiring in the Republic on a long-term temporary basis or on a seasonal basis. The draft regulations already lowered the financial requirements previously imposed. As BSA and HGA concede the contribution of retirees to our country is in their capacity to spend money while in the Republic, which supports economic growth and generates indirect revenue, as they do not necessarily pay direct taxes while they receive government services and consume a pro-capita portion of the state budget. It can also be pointed out that most other countries do not have a permit of this nature. For this reason I cannot agree with CFI's averment that in other countries one may retire with a much lower monthly income. CFI argues that even immigrants of lower income brackets are good immigrants, which I do not question. However, from a policy viewpoint one needs to determine what contribution they may make towards our country's growth. It is not our policy to promote population growth through immigration and, therefore, in addition to the statement that certain potential immigrants may be good people, one needs to satisfy the public policy consideration that they may be specifically useful to our country's growth or otherwise needed. INT questions why an applicant who has property valuing between 0.5 and 5m should meet these financial requirements. The Act utilises the criterion of net worth to avoid a valuation of assets which may be encumbered. INT also questions how an applicant not qualifying in terms of section 20(1)(a) of the Act can qualify in terms of section 20(1)(b). It does not follow that someone with a high net worth must necessarily have a retirement plan or an annuity. I agree with SAC's comment that, as a matter of policy, it is our intention to encourage people who "bring lots of hard currency" as SAC's puts it, to retire in South Africa permanently or on a seasonal basis.

91.

IBN argues that the provisions of this regulation are unfair because they cater for individuals with high net worth or alternatively for those with high pensions or annuities, but they exclude those who have a substantial net worth and a substantial income from pensions or annuities. IBN proposes that the net worth requirement be decreased when the applicant shows income from pensions or annuities, or that the pensions or annuities requirement be decreased on the basis of the applicant's net worth. This would require the administration of an equation with two mutually defining functions, which would be difficult and cumbersome. In light of what I have explained in a preceding relevant Endnote, which highlights how applicants may also use the visitor's permit to achieve substantially the same purpose, and that they are not required to actually bring their money into, or have their pensions or annuities income available in, the Republic, I am satisfied that in order to simplify procedures without consuming excessive administrative capacity, as intimated by paragraph (a) of the Preamble of the Act, the retired person permit should be available to those who may squarely meet its requirements as set out herein. Such requirements are also formulated in two alternatives, which in itself casts a wider net. The requirement that pensions or annuities be capable of generating a life-long income is tied to the nature of the retirement permit, which albeit issued for four years, can be renewed every four years expeditiously and, effectively, almost on the basis of the same documentation originally submitted to the Department. IBN also complains of a discrepancy between the R20 000 stipulated in sub-regulation (2) and the R15 000 stipulated in sub-regulation (3) of the draft regulations, which figures have now been reduced. However, this discrepancy was formulated to accommodate comments IBN previously made, and tries to move towards cross referencing the net worth requirement with the pension or annuity requirement. In spite of income being volatile and capable of dramatically diminishing over time, in sub-regulation (3) an income figure has been used rather than an annuity value or pension not so much as a requirement but to qualify the nature of the net worth, for net worth by itself may not be necessarily productive of income, as would be the case of the net worth consisting of a collection of paintings. The IAB also insists that the financial thresholds for retired person permits be reduced, indicating that it is not convinced that retired persons place any burden on the state or our communities, and that under most conditions their presence in the Republic would be beneficial. The IAB suggests that in addition to reducing the relevant threshold to R2 000 000, in respect of Section 20(1)(b) of the Act and R15 000 per month in respect of Section 20(1)(a) of the Act, I should require proof of medical insurance. However, for the reasons set out above, I am not convinced that I would be serving the interests of the Republic in such a manner. This type of permit is a fast track for foreigners who do not wish to comply with the requirements of an extended visitor's permit. If the requirements of the two permits were the same, the retired person's permit would become redundant. Moreover, from the viewpoint of permanent residence, there is a lasting interest in ensuring that those who become permanent members of our communities exclusively on account of their initial financial means do not become public charges at any later time in spite of possibly changing economic conditions. I have considered the yields of annuity retirement accounts as set out in "ABSA: Financial Planning for After Retirement" of 2002, indicating that a post retirement inflation linked income of R200

000 per annum, would require a capital investment in an annuity of R3 700 000 at the age of 65. Considering that there are no minimum age thresholds to qualify for a retired person's permit which could be obtained at the age of 18, I feel that the thresholds indicated in this Regulation, as I have further reduced them, are now in order. I am also uncomfortable in requiring my Department to verify whether an applicant has and maintains medical insurance coverage, which would often be taken up abroad. For this requirement to be meaningful complex investigation into matters dealt with in foreign countries as well as ongoing monitoring would be required.

92.

LSN argues that it is harsh to withdraw the permit which has been extended to a spouse, in the case of termination of the spousal relationship. However, this is a consequence of the fact that the permit has been extended and the spouse is not entitled to it. It also decreases the incentive for spousal relationship of convenience. The harshness of the provision, if any, is limited by the exclusion of the case of death. LSN suggests that a Regional Director should have the discretion to waive this requirement for "specified reasons" but does not specify what such reasons could be. The difficulty in specifying such reasons shows the problematic nature of such a suggestion which would reopen the type of discretion which paragraph (a) of the Preamble of the Act intends to curtail. The IAB suggests that this permit should not lapse, but rather be capable of being withdrawn. As I indicated in previous Endnotes relating to such type of proposal, I cannot accept this approach which would require a presently impossible level of monitoring on the side of my Department and contravene the spirit embodied in other sections of the Act.

93.

IRU levels an unclear criticism at this regulation on the basis of the Department not having sufficient capacity in general, and being unable to conduct an inspection of workplaces, and the monitoring of permit compliance. However, the very purpose of the reform and migration control is that of reducing administrative capacity employed in the issuance of permits to make it available for law enforcement, monitoring of work permits and inspection of workplaces. Corporate permits is one of the techniques used to reduce the capacity otherwise employed to issue effectively and properly all the required work permits.

94.

BSA argues that the training fee is inappropriate in respect of the mining contracting industry and to a lesser extent in respect of agriculture and construction because the Department can set limits on the foreigners employed under the relevant corporate permit and such limitation may adversely affect the economics of labour intensive mining which, according to BSA, are in precarious conditions. It is not correct that the numeric limitation referred to in regulation 30(8) is a tool used by the Department to determine how many foreigners a corporate employer may need. It is rather the basis on which the requirements for specialised training and/or the training fee are to be assessed. To make it clearer that the numeric limitation is not a "needs test" the erroneous reference in the draft regulations to section 19(2) of the Act has been corrected to refer to 19(2)(b) only to the exclusion of section 19(2)(a). Any government will be supportive of our mining industry, which is one of our major national industries. I am not in the position to assess BSA's averment on the impact of the training fee on that industry, but the Ministers of Trade and Industry and/or Minerals and Energy are, and, therefore, regulation 30(8)(b)(iii) makes provision for the training fee to be waived or reduced at their request. BSA's request is based on its averment of the present conditions of the industry which are said to be worse now than before. By the same token, such industry could be better off in the future than it is now, hence the need to provide for the possibility of a waiver rather than an outright exception set out and fixed in regulation. Moreover, the training fee is just one of the elements of the negotiated process leading to the issuance of a corporate permit, the second being the training programme referred to in regulation 38(2)(a). I cannot exclude an entire industry from any needs test which can satisfy the public policy consideration that a need exists to employ foreigners rather than nationals in a field which requires a low level of skills. BSA makes reference to a Nedlac agreement, which, I am advised, does not exist and would in any case be irrelevant in this process, relating to consultation with neighbouring countries. I am advised that the Nedlac record only show discussions relating to consultations with neighbouring countries in respect of the legislative option of setting aside the system of compulsory deferred payment. In making its comments on this sub Regulation, the IAB has acted in a somehow peculiar manner providing me with contradictory advice, indicating that in respect of certain aspects "some members of the Board argue" for one thing, while in respect of others there are different views. In respect of some other aspects an indication exists that "the majority of the Board is of the opinion [...]". In this and other respects, at times, the IAB seems to have acted as a receptacle of different views, enabling each

of its members or components who had a concern or viewpoint to express it and have it recorded in the Board's final recommendation. However, the purpose of the IAB is not that of merely collecting views, but rather that of merging and reconciling them in a difficult process of dialogue. Its very composition makes it the venue where views ought to be merged, mutually influenced and tempered, rather than merely expressed and voiced in their original form. Some of the concerns expressed by the IAB in respect of this regulation relate to the lack of guidelines for the determination of the training fee. However, the plain language of this regulation indicates that there are plenty of guidelines. The IAB further voices the concern that the practice amongst the various Regions of the Department may not be uniform. The Director-General has the responsibility of ensuring uniformity of application of the Act and these Regulations. If discrepancies occur, the matter can be brought to the attention of the Minister and the Director-General, who have the legal duty to attend to it. Moreover, the IAB raises issues relating to the training fee with arguments which are somehow hard to follow. One relates to the notion that the proceedings of such a fee may not have been budgeted for by the Minister of Finance, which I do not know to be true but would seem to be irrelevant in any case. The training fee is the device used within the complex formula aimed at determining the threshold of "need" for foreigners to take up job opportunities rather than our nationals within a corporate permit environment. The employer would have the right to employ as many foreigners as it would wish in terms of, and subject to section 19(1) of the Act; but as the application moves into a section 21 environment, the possibility exists to reduce or even do away with the training fee by capturing the "needs" assessment by means of the other factors contemplated in section 21 and this regulation. The concern that the imposition of the training fee may be arbitrary and therefore illegal because there are no guidelines, seems misplaced as such guidelines exist, such as the maximum cap and specific criteria for its reduction. The IAB expresses a concern on the impact of the training fee on the gross domestic product of SADC neighboring countries which have an interstate agreement with the Republic to provide labour on the basis of the so-called system of deferred payment. The IAB also makes reference to certain discussions in NEDLAC on April 16, 2002, which I find puzzling as such discussions are not equally recollected by the representatives of the Department and, I am advised, the relevant minutes were never formally approved. According to this view of the IAB, consultation with SADC partners to be conducted at the initiative of the Department of Foreign Affairs would have needed to take place prior to the finalization of this aspect of corporate permits. However, no such venue exists for formal consultation of this type to take place and eighteen months have now lapsed without the process having even been started. Furthermore, the text of the relevant interstate agreements does not seem to contain any provision which collides in its letter or spirit with what is set out in these Regulations. Similarly, I do not see how anything in this regulation is discriminatory against foreign workers as they, by definition, are in a condition of temporary employment. The new advantage of the new system of migration control is that after five years of such temporary condition of employment, foreign workers now qualify by rights for permanent residence. The proposal of "some members of the Board" that the level of the fee be determined by the Department in consultation with the Department of Labour and the Department of Trade and Industry is in itself contradictory, as one cannot act in consultation with two different entities. Furthermore, such proposal collides with the spirit of the Act and with the entire new system of migration control which wishes to rely on market force dynamics to determine the relevant levels of required foreign workers, rather than on government decision making which is bound to be deficient, tardy and less than optimal from an economic viewpoint. The proposal that the training fee should not apply in respect of corporate workers under interstate agreements until consultation with SADC neighboring countries has been concluded, encounters the difficulty that no such process has begun, nor does a formal venue seem to exist for it to take place. The request that suitable guidelines be developed to direct the discretion of Regional Directors is well taken. The Department already has such guidelines in place and any discrepancy in the uniform application of the Act and these Regulations shall be dealt with by the Director-General, failing which can it be brought to the attention of the Minister. The IAB indicates four aspects of such guidelines which, being an administrative matter, have been referred to the Department and the Director-General.

95.

CON expressed its concern that this provision could enable employers to dismiss employees unfairly by terminating their immigration status. As set out in the Endnote relating to regulation 28, immigration law cannot concern itself with the underlying contractual relationship on which an employment relationship is based. If the dismissal is unfair recourse and remedies lie within the parameters of labour laws. It must also be considered that all work permits are temporary permits and relate to temporary employment positions. However, it seems that CON misread regulation 11(b)(ii) in that such a regulation gives the power to the Department to withdraw or modify a corporate

permit when some of the relevant conditions on which such a permit was issued materially changed. The provision does not have a bearing on whether under the same circumstances the dismissal of employees may be acceptable from a contractual or labour relations viewpoint.

96.

The IAB has requested me to make certain clarifications in respect of the interpretation of section 22(a) of the Act as it applies to public higher education institutions. In the first place, public higher education institutions are considered by the Act as distinct from organs of State because in terms of section 239 of the Constitution, an organ of State needs to be exercising a public power or performing a public function, which a university may not be necessarily deemed to do. However, in respect of whether universities and technikons are organs of State, they are undoubtedly covered by section 22(a) of the Act. However, students studying at such institutions are not exchange students, nor do they require an exchange permit unless they are part of an exchange programme conducted with an organ of a foreign State. Therefore, for instance, only foreign students studying at a university in pursuance of the Fulbright Exchange Program of the US Government will receive an exchange permit while the other foreign students from the same country, effectively following the same curriculum, may qualify only for a student permit.

97.

UNR objects to the statement contained in Annexure 52 in which the holder of an asylum permit admits that he or she understands that upon expiry of such permit he or she shall become an illegal foreigner and may be guilty of an offence. I have modified the relevant language from what was stated in the draft regulations, but I do not share UNR's concern that the statement in question violates the constitutional principle against self incrimination. All that is required is an understanding on the side of permit holders of the basic fact of law that at the expiry of the permit he or she will become an illegal foreigner and therefore liable of committing an offence and being punished accordingly. It is not an admission of guilt. Furthermore, I do not see how such statement would relate to the principle of *non refoulement*. As I indicated in an earlier Endnote, the Act only extends additional protection for asylum seekers over and above what is set out in the Refugees Act enabling them to be legal for the period from when they cross the border to when they apply for the protection extended under the Refugees Act. UNR also argues that the asylum seeker validity period should be extended from 14 days to 30 days but gives no reason for its request. 14 days seems to me more than ample time for anyone to move from the point of entry to a refugee reception office. The only purpose of stay under this permit is that of going to a refugee reception office and applying under the Refugees Act, and a longer time would not serve this purpose, but would enable the permit holder to conduct other activities which would create an even greater incentive for this permit to be abused. I am mindful that currently more than three fourths of asylum petitions are found to be unwarranted, which indicates that the vast majority of those utilising the system are in fact abusing it. UNR seeks clarity of what an asylum seeker can do if, on reasonable grounds, he or she cannot reach the refugee reception office within the permit validity. The answer to the question, which will arise in respect of any validity period lies in my statutory power to condone non-compliance with any prescribed requirement and the power of the Director-General under these Regulations to extend any deadline set out in regulations. The concern about the level in which the system of refugee protection is presently being abused by those who are not entitled to its benefits, also justifies the information requested in paragraph 3 of Annexure 52, to which the UNR objects. I do not share the UNR's and UCT's view that obtaining such information may lead to an unfair outcome in respect of the application of genuine asylum seekers, as there are no bases in law to deny asylum to one who is entitled to it merely because he or she chose not to apply for asylum in a country which he or she transited through. I am convinced that these Regulations comply with the Republic's obligations and the 1951 Convention. It is also significant that the opening of section 2 of the Refugees Act which entrenches the *non refoulement* principle begins by stating "notwithstanding any provisions of this Act or any law to the contrary, ..." which confirms that nothing in Annexure 52 is capable of affecting the effect of such a principle. The IAB makes a number of comments about the system of asylum seekers and refugee protection. I am glad that the IAB is taking an interest in the matter because I would like to see a closer reconciliation of policy and administration aspects relating to refugee affairs and immigration control and I would like to see greater administrative and policy convergence. However, the two matters are distinct and separate. Matters relating to refugee protection are not covered by these Regulations, and are not part of this regulation-making process. Therefore I will not take into account nor respond to the IAB's comments in this regard, even though they will be noted for other purposes and attended to in other ways. The asylum permit contemplated in the Act has the

purpose only to allow an asylum seeker arriving at a port of entry to proceed to a refugee reception office, so as to ensure that anyone in the Republic does in fact have a status. Otherwise such person would be an illegal foreigner liable to be arrested by the police and deported by the Department, which would contravene the purposes of refugee protection, both in terms of our law and in terms of international law.

98.

LSN, UCT and UNR argue that the word "may" should be substituted with the word "shall". I agree that under most circumstances any foreigner seeking asylum shall be entitled to this permit, and that, in this respect, the discretion of an immigration officer is extremely narrow. However, there might be cases of prohibited persons, such as terrorists, in respect of whom a different procedure will need to be applied. These people will need to seek the procedures under the Refugees Act, only without the additional benefit and protection extended to them at the port of entry in terms of the Act. In fact, this permit enables the holder to freely circulate within the Republic, which is a benefit, which neither the Refugees Act nor the 1951 Convention require the Department to extend to asylum seekers under all conditions.

99.

IRU criticises this time frame arguing that an asylum case takes more than one year to be processed, which is irrelevant as this permit only deals with the time between the foreigner entering the Republic and when an application for asylum is lodged.

100.

CKA contends that paragraph (g) of the introduction of Annexure 24 adversely affects immigration practitioners. I do not believe it to be so. I have nonetheless clarified what was meant in such paragraph. INT questions why the period of work permits issued under the Aliens Control Act cannot be computed for purposes of section 26(a) of the Act. The answer lies in the Act not allowing it.

101.

E&A requested a textual connection between this provision and section 28(c) of the Act which I do not deem to be necessary.

102.

INT questions how the Department will conduct this assessment. In terms of the Act, it is the burden of the applicant to demonstrate the existence of a good-faith spousal relationship. This regulation defines the discretion of the Department, and, therefore, will enable applicants to satisfy their burden by making a *prima facie* showing that they entered into a spousal relationship for reasons other than acquiring benefits under the Act. Once such showing is made, the burden will shift onto the Department to motivate why the Department is not satisfied that a good-faith spousal relationship exists.

103.

INT questions the constitutionality of this provision because of its not requiring a court warrant. However, this provision does not give the Department the right to enter a dwelling without consent. If the Department may not satisfy its need of an *in loco* inspection, it may not reach satisfaction that a good-faith spousal relationship exists and therefore may have reason not to issue a permit. Allowing the Department to conduct the relevant investigation, when there is good cause to do so, is part of the burden the applicant needs to satisfy, to show that he or she qualifies for the benefits under the Act. The applicant may refuse to provide the relevant information, or grant the necessary consent in this respect, or for other aspects such as fingerprinting, in which case he or she may not receive the desired permit, or will need to appeal against its refusal arguing that the Department had no basis to request an *in loco* inspection and exceeded its discretion. In conducting inspections of this type, as well as in other stages of the processing of an application, the Department must ensure that the applicant has the opportunity to be assisted by his or her attorney or immigration practitioner who must be contacted if their appearance has been entered on file. The IAB suggests that the consent requirement be made explicit. I believe it is explicit, and this Endnote meets any possible need for greater clarity.

104.

E&A and IRU raise the issue of the insufficient administrative capacity of some of the Department's offices, which may impair the attainment of this target date. I am aware of such difficulties, and for such reason the word "endeavour" captures the need of taking into account existing administrative capacity shortcomings. However, it is important that one translates government commitment to prompt delivery of services into actual deadlines, even though the underpinning legal obligation may be subject to a best effort clause. I am also referring to my comment in respect of regulation 2(10) and sub-regulation (8)(g). The IAB fears that thirty days is not a realistic deadline. However, after having consulted with the Department's acting Chief Director of Migration and other officials in my Department, I am advised that such deadline can be met in most ordinary cases, and therefore I do not see why I should lower our level of expectations of quality service delivery.

105.

I have been requested to consider imposing a language proficiency test in relation of section 27 permanent residence permits on the basis of the argument that a foreigner becoming a permanent member of our national community should be able to speak one of the official languages. Such tests are common in immigration systems of foreign countries. However, I am confronted with grave practical difficulties. The Department cannot test language proficiency in an objective manner and as matter of routine, and will need to rely on objective tests developed and administered by others and yielding uniform results wherever administered around the world. Such tests exist in respect of English, such as the Test Of English as a Foreign Language [TOEFL], but I am not aware that anything analogous to the TOEFL has been developed or is routinely administered around the world in respect of the other ten official languages of the Republic. If such tests existed, they should also have a coordinated passing threshold. If possible, I would not wish to impose a language requirement based on English only. The IAB is requested to consider this issue both from a practical and a constitutional viewpoint and make a recommendation for future regulation making on the matter.

106.

IBN queried the relationship between the possibility that the processing of a permit for permanent residence may require interdepartmental enquiries, and the target date set out in sub-regulation (7). It must be pointed out that any of such enquiries must be prompted by a reason, and that they are not necessarily part of the routine processing of a permanent residence application. When, for good cause, the processing official deems it necessary to utilise sub-regulation (2)(g), he or she shall endeavour to nonetheless comply with sub-regulation (7). However, since sub-regulation (7) is not a firm deadline, but merely a target date underpinned by a best effort obligation, as evidenced by the word "endeavour", the need to resort to sub-regulation (2)(g), and the fact that the processing of the matter covered by such sub-regulation (2)(g) could not be completed within the target date, rightly justifies going beyond the processing period set forth in sub-regulation (7). However, it is not permissible for the Department to delay the processing of a complete application or the issuance of a permit because awaiting the outcome of investigations which the Department may wish to initiate either directly, for instance through its Inspectorate, or indirectly, for instance by means of a report requested from the National Intelligence Agency. If any of such investigations yields a material flaw in the information supplied by the applicant, the permit may be revoked or deemed invalid *ab initio*. The information requested in the application is what suffices to and is relevant for the issuance of a permit, and any investigation shall relate thereto and not delay the issuance of a permit otherwise warranted by the information and documentation provided through the application.

107.

The relevant year period runs from the effective date of these Regulations. IRU questions how applications will be tracked to rank them in respect of the limits, and how such limits are compatible with Regional offices issuing the relevant permits. This is an administrative matter. Obviously, each application lodged at and processed by Regional offices will need to be lodged within the mainframe of a unified number system under each of the categories. It will be the responsibility of the applicant to determine under which of the categories set out in this sub-regulation he or she is seeking permanent residence. IRU misreads this process suggesting that an application which exceeds the year limit will need to be lodged again, when in fact, consistent with international practice, such an application will be placed on a waiting list according to its number and will be processed against the yearly limits

of the following year(s). Only at that time such application will be deemed complete and the 30 days deadline shall apply.

108.

AOS argues that R5 million would be a more realistic figure. Under the Regulations adopted in terms of section 52 of the Act, I set this threshold at R20 million and reduced it in the draft Regulations to R10 million. Considering that this category applies to applicants who have no other grounds to become permanent resident, that the potential financial contribution through their spending while in the Republic, that it is possible that they do not work and that each person consumes a proportional share of Government services and related State expenditure, I am satisfied that a R10 threshold is appropriate. CFI argue that even immigrants of lower income brackets are good immigrants, which I do not question. However, from a policy viewpoint one needs to determine what contribution they may make towards our country's social and economic growth. It is not our policy to promote population growth through immigration, and therefore, in addition to the statement that certain potential immigrants may be good people, one needs to satisfy the public policy consideration, that they may be specifically useful to our country's growth or otherwise needed. IBN's concern that the financial criteria is excessive and unfair also meets its response in these terms. IBN's concern that holders of permanent residence permits acquired on these grounds may not be allowed to work is misplaced. In fact, all holders of permanent residence permits, including retired persons, are allowed to work as in terms of section 25(1) of the Act, as they enjoy all the rights, privileges, duties and obligations of a citizen, save for those which the law ascribes to citizenship. IRU feels that the figures used in respect of this sub-regulation are too high, but seems to relate this provision to the general bulk of applications and to investors, rather than recognizing its residual and marginal nature, as a permit of last resort. PWC agrees with this characterisation but draws the conclusion that this permit is redundant, as the relevant foreigner may qualify under the retirement category. However, the residual value of this permit is in not requiring the applicant to declare his or her intention to retire. IRU is wrong in comparing the amount to be paid to foreign examples, as in many foreign countries such type of permit does not exist, and often when it does, it calls for much higher payments. The relevant net worth need not be in the Republic. There is no obligation on the side of the applicant to move any funds to the Republic at any time, and, therefore, IRU is incorrect in arguing that the payment to the Department is purposeless because the foreigner concerned will, in any case, bring money into the Republic. INT confuses this requirement with that of investing in South Africa. It also erroneously argues that someone with a property in South Africa is not a burden to the State. In the absence of another basis for taxation, property ownership only triggers levies and rates which finance services rendered to the property and municipalities without addressing the cost that any person in the Republic represents as a share of the national budget which cost, in the case of foreigners, is to be offset by some tangible or intangible benefit to the Republic, such as their being needed in the workplace or their spending money in the country. INT makes a general comment that there is a gap between the grounds for residence in the Aliens Control Act and those in the Act, arguing that the latter are more restrictive than the former and that these Regulations should have bridged such gap somehow. I do not agree with the premises of the argument. The Act creates a large number of grounds, which, from a practical viewpoint, should be able to accommodate all the foreigners who have a contribution to make to our country. If future practices show that such is not the case, these Regulations may be reconsidered. Moreover, in terms of section 31(2)(d) of the Act, I have the power to waive any prescribed requirement for good cause. I will undoubtedly regard it to be good cause if, from a practical viewpoint, it appears that anyone with a meaningful contribution to make to our country's growth and economy, cannot be accommodated under these Regulations. The IAB regards these financial thresholds as being excessive on the basis of the assumption that foreigners with a lesser amount of money or financial resources available are not going to be a burden to the State. However, the issue here is one of determining the grounds to allow someone to reside in the Republic permanently, in cases where there are effectively no other reasons or grounds for such person to become a member of our national community. The thresholds used in other countries which have similar permits are in fact higher while, many countries do not even have a permanent residence permit of this type.

109.

RLA would wish permanent residence to be extended to relatives beyond the first step of kinship to include brothers and sisters of citizens and residents. However, such provision does not exist in the Act and would exceed my powers. It can also be noted that permanent residence is not extended to siblings in most countries the immigration systems of which are known to me. Members of the public have often not immediately appreciated the import of

the relationship of kinship set out in the Act. For clarity sake I point out that the first degree of kinship includes the applicant's parents, children, siblings, including 'half-siblings' (as the common antecedent is not counted) and spouse, while the second degree of kinship, in addition to those included in the first degree of kinship, includes grandparents, grandchildren, nieces and nephews, aunts and uncles, siblings' spouses, spouse's parents and spouse's children who are not such applicant's own children.

110.

The IAB suggests that I prescribe this item with reference to the list held by the World Health Organization. However, since such list is not readily available to those consulting these Regulations, I feel it necessary for this item to be duly prescribed, which is also what is required in terms of the Act, rather than making an indirect reference to something published and prescribed elsewhere.

111.

LSN reiterates its contention that Annexure 26 requires written representation to be attached because of the last sentence of item 2 of the recipient's statement. However, as I indicated, in respect of Annexure 8, the asterisk clearly indicates that a portion can be deleted and therefore there is no obligation for a recipient of that form to make a declaration at that time. However, if such declaration is made it should be recorded on the form that the declaration is attached to it. Such declaration can be made at a later time as set out in the Act and in these Regulations, and in a separate writing which is subject to no specific requirement of form. Also in this respect LSN argues that the PAJA should apply. As I indicated in an earlier Endnote by virtue of its own provisions the PAJA does not apply.

112.

CKA suggests that we amend this section to include previously registered immigration agents who failed to meet the deadline to register as immigration practitioners set out in the Immigration Regulations adopted in terms of section 52 of the Act. However, we have dealt with this matter in Schedule F, effectively creating a new deadline for registration for all those concerned.

113.

The UNR fears that stateless people and refugees could be forcefully deported to a place where they could be prosecuted in violation of the principle of *non refoulement*. However, it is for the stateless person to claim asylum protection, in which case the Refugees Act will take precedence over the Act, and this provision will not apply.

114.

UNR express its concern that enforcement actions against illegal foreigners may include persons having refugee permits. This concern is unwarranted in law, as those with refugee permits are not covered by the definition of illegal foreigners, as they are legally within the Republic.

115.

The IAB expresses a view of the SAPS in respect of certain aspects of this regulation, rather than expressing its own views after a process of collegial deliberation. Nonetheless, the view expressed is that the SAPS should have the exclusive function of investigating crimes, on account of its "skills and expertise". This is incorrect in various respects. First, it is the intention of the Act to create dedicated skills and expertise in the field of migration control, which at present the SAPS does not have. Such expertise develop from a comprehensive function of law enforcement which starts from border control and includes the monitoring of permit conditions as well as law enforcement at a community level and in workplaces. Second, the Department of Labour, the Department of Health and many other organs of State have the responsibility of enforcing laws which they are called upon to administer, including the power of pressing charges against those who breach them. Third, also under the previous Aliens Control Act, the Department was authorised to utilize the Criminal Procedure Act, and members of the Department were designated as peace officers.

116.

LSN argues that in the first bullet item "NB" of Annexure 31 the word "will" should be changed to "may" to reflect section 34(1) of the Act. However, this form is to be used when the decision to detain the person concerned has

been made and therefore the word "will" seems appropriate.

117.

SAH complained that this regulation does not provide for the constitutional rights of a child. However, I feel that it is both inappropriate and unnecessary for me to restate in regulations the contents of the Constitution which obviously apply to the extent set out in the Constitution regardless of anything set out in these Regulations. It must also be kept in mind that the purpose of detention within the immigration context is neither that of punishing detainees nor isolating them from external contacts. The only purpose is either that of conducting an examination to ascertain their status or to maintain them within the control of the State in order to deport them as soon as possible. Within this context, international practice shows that the interest of a child is best served by keeping children with their parents or other familiar detainees who, at times, are foreigners who may not be familiar with the Republic's official languages. SAH also complains about the conditions of detention in centres under the control of the Department. Irrespective of the accuracy of such a complaint, the matter is factual and does not have a bearing on the contents of these Regulations. SAH urges me to adopt regulations providing strict guidance and control on the manner in which places of detention under the control of the Department are administered, covering a number of administrative matters relating to the running of such centres, over and above the standards of detention contemplated in these Regulations. Such matter was not covered by the scope of the notice I gave in terms of section 7(1)(a) of the Act or by the draft regulations I made in terms of section 7(1)(b) of the Act. Therefore, if I become convinced that the matter must by necessity be dealt with by means of regulations rather than administratively, of which I am not presently convinced, and after I receive a recommendation from the IAB in this respect, I will consider the need to produce additional regulations in this matter on the basis of a separate process. SAH advocates the need for an internal inspectorate which would verify compliance with such guidelines. However, provision in this sense has already been made in section 47(1) of the Act which obviously applies to how the Department manages its detainees or causes them to be managed. SAH also urges me to adopt regulations to implement section 47 of the Act, which I have done in regulation 50(10). The IAB suggests that the standards referred to in this regulation be expressively set out to prevent abuse and to make them more widely known. I have instructed the Department to compile such standards and to make them available in a separate publication, which will be distributed to all those affected or interested. The IAB is invited to conduct any relevant research and make recommendation in respect of what may be included in future regulations.

118.

SAH would wish for regulations to clarify what are the "reasonable grounds" which justify an immigration officer to take a person into custody to ascertain his or her status. However, section 41 of the Act indicates that reasonable grounds must exist to justify that the relevant officer "is not satisfied that such person is entitled to be in the Republic", which is quite a high standard. Trying to unpack this standard may be as complex and self defeating as attempts made to unpack the notion of "probable cause" used in the field of criminal law in which the potential risks for freedom or liberty are much higher. As in the case of probable cause, also in this case it depends on the circumstances of the case, as much of this assessment is circumstantial. SAH has not given any concrete suggestion on how to define or unpack the content of the relevant provision of section 41. However I agree that racial profiling ought to be avoided and inspiration must be drawn from the spirit of section 9 of the Constitution. I have requested the IAB to supervise a research project, in which the SAH is invited to make inputs, to create administrative parameters to ensure that the effective enforcement of the Act does not produce xenophobia. I think that concerns of this nature ought to be addressed in terms of how the Department enforces the law rather than on the content of the law as set out in the Act or these Regulations.

119.

CKA draws the conclusion that the intent of these Regulations is that of rooting out immigration practitioners who, in its erroneous reading, would be regarded as a despised group. Nothing could be further from the truth. The policy underpinning these Regulations is that of strengthening the profession of immigration practitioners by giving it maximum recognition and credibility, with the view to fostering the development of the entire system of migration control in such a way that both the Department, as well as the public may increasingly rely more on a well regulated profession of immigration practitioners. The very notion of provisions which promote the self regulation of the profession underpins the confidence in the ever-growing role which this profession must contribute towards in the development of immigration law. This regulation addresses issues and concerns, which may undermine the

credibility of the profession or create problems for its clients, on the same basis as other professions are equally regulated to protect consumers and clients. IRU argues that immigration agents under the Aliens Control Act ought to be automatically regarded as immigration practitioners. However, this does not seem to be consistent with the spirit of the Act. In many cases, since the law has changed, knowledge of the new system will need to be tested together with ensuring compliance with the Act and these Regulations. PWC argues that the R 3,000 fee set out for membership in the Association contemplated in Schedule G is too high. However, such fee has been calculated on the basis of the cost necessary to launch the new profession and guaranteeing high quality testing and monitoring. If in excess of what is strictly necessary, the funds collected must be used for the benefit of the members of the Association.

120.

CKA would wish to limit the exemption to attorneys and advocates. However, it is important to clarify what is meant in section 14(6) of the Act with the expression "conducting the trade of representing another person in the proceeding and or procedures" of immigration control. Travel agents are not involved in such a trade, as they trade different products and services. Similarly, persons operating abroad in the capacity of travel agents, business procurers or advisors of various types, many of which are impossible to classify as they operate in different legal and social contexts many of which are unknown to us, are obviously not covered by the statutory language and its underlying intention. PWC asks for the exemption of chartered accountants in light of the role which they play in terms of the Act. However, such rule is based on the chartered accountant's knowledge of his profession, not of immigration law, and if a chartered accountant were to act as an immigration practitioner, he or she would need to be tested and abide by a different code of conduct which is not necessarily identical to the one governing the accountants' profession. In response to the concern expressed by the IAB, I need to point out that this regulation intends to clarify the implementation of the Act as it relates to the interpretation of the word "trade" rather than create an additional exemption. However, it does not preclude the statutory word "trade" from being subject to other interpretation by a court of law. It is obvious that not all activities relating to matters contemplated in section 46 of the Act are in fact "trade".

121.

LSN argues that the three day deadline set out in Annexure 49 is unreasonable. I disagree, as the function of this administrative fine is that of seeking a quick resolution and, in any case, the fine could be due even without such grace period. LSN also argues that there is no provision in the Act for a grace period. However, that is a matter conducive to the implementation of the Act, which relates to how a fine is administered and collected and falls within the broad scope of regulation making set out in section 7 of the Act. LSN argues that regulation 47 does not allow the Department to utilise their discretion in assessing administrative offences. The Act leaves this discretion to the regulations and, as a matter of policy, I feel that it is advisable not to impose the burden of such discretionary exercise onto officials. LSN also raises certain points relating to whether these are strict liability or negligence based offences, which relate more to the Act than to these Regulations. My interpretation of the Act is that negligence is not the basis on which the Department is called upon to impose these fines, and that one is *prima facie* liable for them upon acting as stated in section 50 (1) of the Act, which makes no mention of negligence, while sub-sections (2) and (3) mention it. However, I believe that this does not necessarily make a "no fault" liability, but merely a *prima facie* liability case, which means that the burden lies with the person concerned to prove that there were justifying or exculpatory circumstances which eliminate culpability. Both regulations 36(4) and section 31(2)(d) may be invoked to plea lack of culpability as well as any relevant provision of common law and other statutes. I trust that this clarification together with regulation 47(5) may address the concern expressed by the IAB in this respect.

122.

Sub-regulation 48(1) of the Immigration Regulations adopted in terms of section 52 of the Act, which came into force on April 7, 2003 has produced an effect which remains in force by virtue of regulation 48(1), and which is worth hereby recording as, in terms of section 52(2) of the Act, it has maintained sub-regulations (1)(a), (b)(i) and (2) of regulation 30 of the Aliens Control Act into force and effect. Such sub-regulation read

"The Regulations promulgated under the Aliens Control Act, 1991 (Act no 96 of 1991) are hereby repealed, except for sub-regulations (1)(a), (b)(i) and (2) of regulation 30."

123.

The IAB requested that bank, commercial or insurance guarantees be made available immediately, but the Department is not currently ready to handle them and is geared only to return cash rather than release guarantees or request their extension upon expiry. Commercial guarantees may include those provided by approved bonding companies.

124.

PWC argues that this provision forces an application lodged under the Aliens Control Act [ACA] to be dealt with in terms of the Act, which would be a case of retrospective legislation. However, that is not the case. By its coming into force, the Act has established a new parameter. The ACA can no longer be applied, because it is repealed. Therefore, all applications in terms of the ACA could have been summarily rejected. In order to avoid such a result, and entirely at the option of the applicant, this provision deems applications under the ACA as having been lodged under the Act, giving the applicant the maximum latitude to gain benefits under either of the Acts. However, the limit is in that one cannot gain what was allowed under the ACA, which cannot be provided under the Act, for that would be tantamount to applying a repealed law.

125.

The IAB suggests that I prescribe that all temporary or permanent residence permits be issued with an official computer generated bar code, an official stamp, the date of issue, the full name and persal number of the issuing official and other information. However, I am advised by the Department that at this juncture this proposal is not practical. For instance, a visa is computer generated but only gets stamped at the port of entry where it becomes a visitor's permit, and the extension of a temporary residence permit does not have a bar code as the foreigner retains his or her original permit or visa's bar code number issued when he or she entered the Republic.

126.

PWC requests the deletion of Annexure 58 because it objects to the provision of the Act relating to the delegation of powers from a chartered accountant to another accountant recognized under any other law. However, such objection is directed to the Act and not to the Regulations, and, as such, is misplaced. Going in the opposite direction, the IAB criticises the Act for not including CFA and in CMA in the definition of chartered accountants, which may be problematic. PWC also requests forms for each certification to be performed by chartered accountants in terms of the Act and these Regulations. However, I prefer to rely on the capacity of chartered accountants to read the relevant provisions of the Act and these Regulations, and incorporate them in their certifications in language, or by reference, so as to simplify paper work on all sides. If future experience proves that this approach does not simplify and expedite matters, or that chartered accountants need additional guidance, I will prescribe the relevant forms.

127.

This provision was set out in the draft regulations as a proviso to regulation 28(4)(a)(ii) qualifying the certification for chartered accountants in respect of quota work permits. It now qualifies all certifications from chartered accountants. HGA argues that, because to a certain extent chartered accountants may rely on information submitted by clients, the Department could very well accept the information provided by the applicants who should be able to corroborate it by means of their own affidavit. However, in such a case the Department would need to evaluate the credibility of such an affidavit and could not be expected to take information at face value. This provision requires the chartered accountant to be satisfied on the basis of his or account's expertise and skills that the information on which he or she relies is in fact credible, reliable and sufficiently accurate. The test which one would apply is that of professional good faith and due diligence that reflects the type of certifications which chartered accountants perform in other fields of their profession. This screening of information and professional assessment enables the Department to give credence to the information received and avoid having to evaluate it on an independent basis or anew.

128.

The IAB objects to the implication that a blood or radiological test should normally be taken. However, this is not a necessary implication. It may be the case that in the overwhelming number of cases the assessment of doctors is that blood and biological tests need not to be taken. However, since this has been the practice up until now, we

need to focus the attention on medical doctors on whether such or other tests should indeed be performed on the basis of applicable and scientific medical parameters.

129.

The IAB is concerned that the requirements set out in this sub-regulation make the envisaged police certificate unobtainable in certain countries of the world. However, the sub-regulation is very clear that this information is required only when available and capable of being routinely obtained. I fail to understand what the problem is.

130.

It is recorded that the corresponding provision in the Immigration Regulations made in terms of section 52 of the Act, indicated March 12, 2003 as the commencement date. However, such regulations came into force and effect at 18h00 of April 7, 2003 because of the suspensive effect of a court order.

131.

The Immigration Regulations I made in terms of section 52 of the Act only made reference to item 2(2) on the understanding that, by virtue of item 3, items 1(b) where reference is made to the Appeal Refugee Board and 2(3) cannot come into force until section 37 of the Act is brought into force. For clarity sake I have now made explicit what was implicit.

132.

The fact that most of the requirements set out in this column are to the satisfaction of the Department gives the Department the power of not requiring proof when it is satisfied that the applicant meets such requirement. In certain circumstances they may be superfluous, as in the case of routing applications. Therefore, I cannot accept the IAB's suggestion to delete this qualification.

133.

The IAB suggests that there is no justification for this requirement which therefore ought to be deleted. However, one needs to differentiate between long-term and indefinite stay. Extended visitor's permits are for people who intend to go back to their country of origin even after a lengthy period in the Republic. Therefore, this requirement is provided to give substance to the intention to return as this remains a temporary stay, rather than indefinite or permanent one, and is part of what an applicant needs to prove to satisfy the three requirements which are (a) length of stay, (b) purpose of stay and (c) available financial means for the intended stay.

134.

The applicability of requirements needs to be assessed under the circumstances and each requirement will need to be imposed only if the grounds to do so subsist also in respect of underlying discretionary evaluations. The fact that a requirement could apply does not make it necessary for it to apply. For instance, in theory the repatriation guarantees contemplated in item 1 column 4(e) could be applied in any case, but they are applicable only in a few cases where the Department in its discretion deems it advisable to request them, as the other the requirements for a long-term permit, such as the chartered accountant's proof of financial means, would satisfy otherwise the need to guarantee the availability of the financial means necessary to depart.

135.

The IAB suggests that a form be introduced for the medical certificate. However, I do not consider it necessary because medical doctors are trained to routinely issue certificates of good health.

136.

I wish to clarify that it is obvious that requirements (a) to (d) and (n) and (o) apply in respect of all applicants, while requirements (e) to (m) only apply when the relevant relationship of kinship is relevant to the application. In this as well as in any other contents of these Regulations, the birth certificate needs not to be a full one, unless it is used to aver a parental or spousal relationship.

137.

The IAB considers this amount to be arbitrary and excessive. In its research and experience, the Department has indicated that this amount is adequate to avoid abuse and to have a properly regulated system of migration control, taking into account that this criterion applies for a long-term stay, when other criteria do not apply.

138.

The IAB takes exception to this regulation making reference to the requirements under Item 9(1) only if "applicable" suggesting that this may lead to confusion and that the correct requirement should be properly spelled out. However, the requirements are applicable depending on the individual circumstances.

139.

The IAB suggests that this requirement be deleted because it is incorporated in Annexure 53. Even though that is the case, when possible, I prefer to have substantive requirements within the body of the regulations.

140.

The IAB makes reference to the need to supply a form for the radiological report. As I indicated in an earlier Endnote, I do not see the need for it because what counts is the certification from the medical doctor, which is a routine certification.

141.

The date of commencement of the status of Richards Bay or Mafikeng as ports of entry needs to be determined at a later time pending interdepartmental consultations which I request to take place within the IAB as soon as possible and a possible submission to Cabinet to finalize the matter and deal with logistical issues.

142.

Unless otherwise stated, the exemptions set out in this Schedule apply to all types of passports, including diplomatic and service ones.

143.

Consistently with section 12 of the Act, diplomatic permits may only be issued when the purpose of the visit is one contemplated in section 12 of the Act and not when the holder of a diplomatic passport uses such passport to enter for a different purpose, such as tourism or business, including government business not covered by the provisions of section 12 of the Act, in which case a visitor's permit shall apply, as would be the case in respect of other purposes which trigger another type of permit.

144.

CFI requested to be exempted from registration as an immigration practitioner because it is a not-for-gain organisation. However, because the purpose of this provision is to protect consumers, in this and in any other field of trade, the legal forum of the service or product provider cannot be relevant. The services of CFI and similar companies merely relating to the relocation of foreigners and providing them with forms of assistance other than the acquisition of benefits under the Act, do not fall within the scope of this Schedule. I appreciate the charitable nature of CFI. However, lawyers and physicians working for charitable organisations are required to meet the standards of registration of their profession and I do not see my way clear to treat immigration practitioners doing charitable work on a different basis. If CFI or other entities limit their activities to providing information to foreigners without representing them in respect of procedures in terms of the Act, registration in terms of this Schedule is not required.

145.

CKA argues that the reference to regional society is confusing because there may be more than one. However, this is a criterion directing my discretion and circumscribing a pool of people from which I can make appointments. Therefore any regional society will fall within the purview of this provision.

146.

IRU argues that the establishment of an association of this type is unconstitutional, without specifying the basis for such a claim. All professions are somehow regulated in the interest of consumers, and self regulation by the profession is constitutionally as acceptable as regulation by government. In this case a mixed system has been used in which the self regulation of a profession is monitored by government as certain powers are retained by government in what remains a partnership model. IRU misread this provision as providing that only lawyers may preside over an association, when in fact the provision refers to three immigration practitioners; nonetheless, I clarified the text. CKA argues that if immigration practitioners are a self regulatory organization, the Association should be able to make its regulations and Schedule F should be deleted. It could be as CKA suggests but does not need to be so, as it is a policy matter to decide the degree of self regulation or, conversely, the degree to which I devolve my regulation-making power to the Association. In my opinion the approach employed in Schedule F is balanced, especially in light of the initial formative stage of this newly regulated profession. CKA suggests that also lawyers and advocates practising immigration law should be members of an Association. In my opinion the Act prevents such an option and I would consider such option to be undesirable from a policy viewpoint as lawyers and advocates have their own self regulating mechanisms which are all encompassing, while, with a few exceptions, there are no requirements limiting the practice of a lawyer or advocate to all fields of law.

147.

CKA argues that 50 is too high a number and that rather the number of 7 should be used. However, it is important to avoid the excessive fragmentation of Associations. Provision has been made for more than one Association in order to enable dissatisfied practitioners not to be captured in a mandatory membership and to allow potential competition. However, each Association is to be viable and have sufficient support, otherwise Associations may fail the purpose of relieving the Department of the burden of regulating the profession, as the Department will have to regulate the Associations. The purpose of the potential plurality of Associations is not that of creating an Association in each region and I will be conservative in allowing more than two or three Associations in the absence of a clear showing of a functional need for them. CKA also suggests that Associations should be established ahead of need of membership, while the policy entrenched here is that of creating a new Association only when there is a proven need for it. Competing Associations may not necessarily operate on distinct territorial areas but may compete on a national basis. CKA also argues that I, as the Minister, would not be capable of assessing the need for a new Association. I beg to differ as any Minister can be advised by the IAB, the Department and the representations of those intending to form the new Association. CKA also wonders whether the regulations regard Immigration Practitioners as a profession and calls for a preamble to clarify that. I find that it is not necessary as the purpose of the regulations is indeed that of establishing a well regulated profession and, as I have clarified in these Endnotes, the Department is mandated to increasingly rely on the contribution which the professional Immigration Practitioners can and must make towards the development and administration of migration control.

148.

CKA fears that the competition between Associations may lead the Minister to erroneously utilise his power. However, this is not a free power and its exercise can be challenged in review proceedings in a court of law.

149.

CKA suggested a textual reference to the relevant SETA. However, I do not consider it appropriate as each qualifying employer has the right, but not the duty to seek the opportunities offered by its SETA and it is not for me to determine whether an Association would qualify for such opportunities or would wish to take advantage of them.

150.

CKA requested that the power of attorney be exempted from the R2 revenue stamp. However, such a requirement is not imposed by these Regulations and therefore I do not have the power to waive it.

151.

CKA suggests that an applicant should be able to lodge an application wherever he or she prefers. However, as I indicated elsewhere in these Endnotes, there is a connection between the place where the foreigner is to work or reside, and the Department's permit issuing office, for we intend to have continuity between the issuance of permits and the monitoring of compliance with their terms and conditions through inspections and possible

enforcement actions including deportation. For the same reason the territorial connection must be between the applicant and the Department's office, and not in respect of where the immigration practitioner is located, as CKA suggests, for an immigration practitioner may no longer represent his or her client after the issuance of a permit and for the entire length of a permit period.

152.

PWC argues that this age limit is a constitutionally impermissible discrimination. However, section 9(3) of the Constitution relates to unfair discrimination while section 9(4) refers the matter to legislation. In light of these provisions, having considered the relevant interest to protect consumers and similar provisions in national and foreign legislation, I am satisfied that there is no unfair discrimination, also considering the legal age limit set out herein.

153.

The IAB considered whether immigration practitioners should qualify only if citizens or whether they could be residents with a certain amount of years of qualifying residence, or whether they should merely be residents. I am advised that "various members of the Board believe that a resident, with one or two years of residence, should qualify, but there are dissenting views", and that some prefer a resident without any residence time qualification while others would restrict the job to citizens. In light of Section 25(1) of the Act, it is obvious that I cannot restrict such position to citizens and that a resident has all the rights of a citizen unless otherwise provided for in law. I also do not feel that I have the power to create an intermediary classification between residents and citizens, i.e. residents seasoned by a certain length of residence within the Republic.

154.

PWC argues that this provision should indicate that the police clearance needs to be delivered within 6 months of registration as the process of obtaining one may take several months. However, the feedback I have thus far received from the Association indicates that compliance under this provision has not been a problem.

155.

As CKA suggests, this requirement can be satisfied by a qualifying statement in this regard in the application form for registration as an immigration practitioner or by such qualifying statement being recorded in a signed copy of the code of conduct.

156.

CKA requested that the certificate be issued "immediately". In terms of this provision it must be issued "upon registration" which has a similar value of requesting that it be issued without any intervening delays or further ado.

157.

CKA suggests that it is not necessary to have such an offence because by reference to the official list of registered practitioners an office of the Department can easily identify whether a practitioner is still registered. However, the certificate is the primary form of identification of a practitioner. Unless the Department has a reason to doubt the legitimacy of a practitioner, it is unlikely to go beyond verifying that someone claiming to be a practitioner does in fact have the relevant certificate.

158.

CKA asks when the application for an extension ought to be submitted. In terms of this provision such application has to be submitted while the certificate is still valid.

159.

IRU questions the purpose of this insurance arguing that in case of a law suit the registration of the immigration practitioner may be withdrawn. IRU concedes that most immigration practitioners are one person businesses and, as such, they may not be able to pay for damages they may cause to their clients, in which case the fact that their registration has been withdrawn will be of little satisfaction to the injured party. PWC argues that the minimum cover of R 500 000 is too high, however, I find it to be proportional to the type of bad scenario case damages flowing from Immigration Practitioner's negligence, especially in respect of corporate permit applications.

160.

As CKA suggests, nothing prevents that compliance with (a) and (b) takes place simultaneously.

161.

CKA argues that agents who registered under the Aliens Control Act ought to be exempted for 2 years. I see no reason to do so. The law has changed and new criteria have been established both for the profession as well as in respect of the rules governing immigration control. Consumer protection demands that all those practising in the field are familiar with and comply with such criteria. Moreover the Act was promulgated on May 31, 2002 and came into force on April 7, 2003, which gave plenty of notice to all relevant agents of the need to bring themselves in compliance with the new requirements. It is also worth recording that the Immigration Regulations made in terms of section 52 of the Act were first published in the Gazette of November 22, 2002. A commitment to the Code of Conduct previously made in terms of the Immigration Regulations which I made in terms of section 52 of the Act satisfies the relevant requirement of this provision.

162.

CKA holds that section 46(1) of the Act would allow Immigration Practitioners to have the right of appearance before Immigration Courts and requests that the matter be addressed in the Schedule. However, section 37 of the Act has not come into force and it would be premature for me to address this matter and voice my doubt on the correctness on CKA's interpretation of section 46 of the Act.

163.

CKA objects to this provision on the basis that Immigration Practitioners and the Department's officials work closely together and are bound to develop close relationships. However, what is addressed here is a "special or privileged relationship". Furthermore, it may be the case that an immigration practitioner has such a relationship with one or more of the Department's officials, which this provision does not prohibit. What is prohibited is to advertise or otherwise portray that such relationship exists as a way of marketing or promoting oneself.

164.

CKA is incorrect in stating that this provision would authorise an Association to set uniform fees. The Association is to determine what is reasonable under the circumstances taking into account that price differentiation amongst Immigration Practitioners is essential to promote competition, quality of services and reflect market conditions and client's expectations. CKA is correct in stating that at times it may not be possible to identify upfront the cost of a service, which accounts for the fact that this provision refers to estimates which, as such, are subject to assumptions which may change over time. It is also possible for estimates to be made with reference to certain conditions or hourly rates.

165.

GHS made a request that fees for permanent residents be lowered for applicants for temporary residence who have previously shown their intent to stay in South Africa for a period longer than five years. I fail to understand the rationale of this comment as temporary and permanent residence are somehow separate and I don't see how one could lower fees for permanent residents in light of an intention expressed five years prior to application.

166.

The fee is payable in Rands in the Republic even though the immigration practitioner may be residing and operating his or her practice abroad. The fee relates to the administration of tests within the Republic. Should an Association make test facilities available abroad, it will need to enter into voluntary agreements with those intending to use them to recover the costs of testing abroad.

167.

A number of concerns were raised by the IAB in respect of some of the Annexure, which, when they have not been accommodated, for simplicity's sake I wish to address in this single Endnote. In respect of Annexure 2, the IAB reiterates its concern expressed in relation of Regulation 19(3) which I have addressed in an Endnote relating thereto. The IAB also indicates that the requirement of proof of booking of airline tickets is inconsistent with the Regulations and item 1 of Annexure A. I do not believe so because Annexure A of item 1 does in fact require *inter*

alia an air ticket and therefore, when applicable, proof of booking is consistent therewith. Correctly the IAB indicates that item A of Annexure 4 does not list all the purposes of a visitor's permit. However, it would not be practical to do so and therefore the listing is more evocative than descriptive. The IAB questions the requirements to provide information about one's own whereabouts emerging from the language of Annexure 6 and 7 which I deem to be necessary as part of a good faith intention to participate in the process set out in section 8 of the Act. The procedure followed in practice is that Annexure 6 and 7 are served on the foreigners in duplicate. The foreigner is required to sign the duplicate and indicate his or her decision regarding whether he or she wishes to make representations or not. Should he or she wish to make representations at that time, this must be attached to the original copy when it is submitted after the expiry of ten days. Nonetheless, the IAB has requested me to make provision for representations to be made at a later time but within the ten days period, which I have done by amending this Item of the "acknowledgment" accordingly, both in respect of Annexure 6 and 7. In respect of Annexure 13 the IAB suggests that reference should be made to regulation 22, which is not necessary as regulation 22 provides for but one of the many permits covered by this Annexure, and that the list is not exhaustive, when in fact it is. The IAB also erroneously suggests that this permit is not handed to the applicant, when in fact it is. The IAB suggests the deletion of item "important (iv)" of Annexure 4, which however is necessary because the foreigners concerned do not have a visitor's permit application and their visa will, on admission, become a visitor's permit. In respect of Annexure 14, 16 and 24, the IAB suggests that the requirement of proof of availability of funds to be transferred from abroad, "if applicable" be scrapped because it is covered in the certification of the chartered accountant. This requirement only applies when the matter is not covered by the certification of the chartered accountant. If it is, it will be "inapplicable". I invite the IAB to monitor the implementation of this directive: if it is not followed or creates uncertainties, I shall promote the amendment of these Annexure to scrap this requirement. The IAB objects to items 12.7.7 and 12.7.9 of Annexure 14, which, however, seem to me to flow from section 19(2)(a) of the Act and regulation 28(5). The IAB objects to the use of the word "sponsor" in item 10.18.1 of Annexure 16. However, such word is in regulation 27(2)(a) and is required to highlight that a relative has access to a relative's permit because of the interest in the matter and the request of the citizen or resident. The IAB objects to item 4.6 of Annexure 21 suggesting that it has nothing to do with interstate agreements. However, the purpose of this item is merely to determine whether a waiver is sought where applicable. The IAB also suggests that the waiver of section 21(2)(d) be provided in items 3.1 and 3.2 of Annexure 21, which is instead catered for in item 5.1, which I made clearer also to clarify the purpose of any possible but not required consultation and the fact that such consultation must be promoted by the applicant, so that the Department may have a complete application before it without needing to consult any other entity in this respect when processing the application. The same applies in respect of items 5.2 and 5.3. The IAB should appreciate that this procedure is designed to avoid delays in the hope that the applicant may obtain what is required from other organs of State at least as efficiently, effectively and promptly as an official of the Department, thereby eliminating the possibility of internal delays or inaction. The IAB suggests that item 4.5 of Annexure 21 indicates a "future entitlement" to interstate agreements, when in fact it refers only to existing ones. I have clarified that the proof of funds coming from abroad contemplated in item 14(a) of Annexure 24 is required only when applicable, which is when not covered by the chartered accountant's certification. The IAB queries the need to refer to a contract of employment in Annexure 53 in cases other than workers covered by an interstate agreement. This requirement is to avoid the use of Annexure 53 to enter or stay in the Republic before the foreigner is contractually bound to the employer.

168.

In concluding this regulation-making process, I wish to highlight some of its unique characteristics. To the best of my knowledge, this has been the first time in our Republic that regulations have been made on the basis of legally necessitated public participation, and in a format which restricts the discretion of the Minister to the point that he or she cannot disregard public comments or the advice of the Board in a manner which is arbitrary or capricious. This is a major step forward in consolidating our participatory democracy. Making regulations in this fashion is undoubtedly more difficult, but I hope that the quality of the product may justify the effort. It is worth noting that in justifying why certain suggestions have not been accommodated it must also be kept in mind that the field of migration control is one which will never be able to satisfy everyone and is likely to displease more people than those it pleases. Migration control is one of the issues which will need to receive in this century global policy attention so as to create a comprehensive conceptual framework and a general policy direction at the international level in the same way as in the 19th and 20th centuries mankind worked together to develop a general framework for human rights' protection. In the age of globalization the last prerogative of the national state to bar entry to

people who are not its citizens is coming under question. By the same token we live in an age of heightened security concerns, which seems to push backward the frontiers of freedom and liberalism which have so difficultly been acquired during the 19th and 20th centuries. All these are difficult considerations which require to be balanced within the field of migration control both domestically and internationally. The Act has chosen a liberal approach to migration control, determining that under regulated conditions we shall open the front door of our Republic to immigrants, while closing the back door to illegal immigration. A more liberal policy which opens our country's door to selected, beneficial and needed foreigners who may come to South Africa on a temporary or permanent basis is indeed a fundamental policy choice which highlights our country's own confidence in its future success as well as the world-wide emerging knowledge and understanding of the benefits of immigration, even in countries in which there is a high level of unemployment and great social and economic problems, such as ours. In this respect I wish to record a portion of the IAB's advice which reads "a number of surveys and analyses, such as the research of the National Academy of Science in the United States in 1997 and various analyses in the European Union have concluded that on average every foreign immigrant creates more jobs than he or she occupies. This in particular applies to migrants who bring capital and business skills where a factor of at least 4 jobs created for each migrant is a likely scenario". Therefore, I adopted these Regulations with a view to implementing both the letter and the spirit of the Act which meant to create in South Africa a more liberal system of migration control, on the premises that properly regulated migration is indeed beneficial to the social make-up of our country and for its medium and long-term economic growth. I wish to thank all those who provided inputs and contributions in this regulation-making process and invite them to continue applying their minds to the relevant issues and monitor the implementation of the Act and these Regulations, for in a field like migration control policy formulation must remain an ongoing process.

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Annexure 1

REPUBLIC OF SOUTH AFRICA
PART 1
AFFIDAVIT IN RESPECT OF PARTIES
TO A PERMANENT SPOUSAL RELATIONSHIP
[Section 1(1)(xxxvi) of Act No 13 of 2002 : Regulation 9]

We, the undersigned,
 Particulars of South African citizen / permanent resident

Surname	Male <input type="checkbox"/>	Female <input type="checkbox"/>	
First name/s (in full)			
Address:			
.....			
Identity No#	<input type="text"/>	<input type="text"/>	or <input type="text"/>
Passport No	Nationality	Date of birth	
Being a widow(er)/unmarried/divorced person*			

And
 Particulars of foreigner

Surname	Male <input type="checkbox"/>	Female <input type="checkbox"/>	
First name/s (in full)			
Address :			
.....			
Passport No	(Attach copy of passport with facial photograph)		
Date of Birth	Place of Birth		
Nationality	Date of First Entry into South Africa #.....		
Type of residence permit held #.....			
Being a widow(er)/unmarried/divorced person*			

do hereby make oath and say/hereby solemnly affirm*

1. We are parties to a spousal relationship for the past years months* which is intended to be permanent, excludes any other person and involves cohabitation, an obligation of mutual emotional support between us and a reciprocal obligation to support one another financially in circumstances where the one has the means to do so and the other requires

such support in order to maintain, without recourse to public funds, his or her financial and social standing and standard of living.

- 2. To substantiate our intention we attach a notarial contract required in terms of section 1(1)(xxxvi) of the Immigration Act, 2002.
- 3. We understand that within three years from the date of issuance of the conditional permanent residence permit, we must depose to the affidavit in Part 2 of this form and submit it to the Regional Director : Department of Home Affairs and that, should we fail timeously to do so, the conditional permanent residence permit issued to the spouse shall lapse.

.....
**THE SOUTH AFRICAN CITIZEN/
 PERMANENT RESIDENT**

.....
FOREIGN SPOUSE

Thus signed and sworn/solely affirmed*
 before me on the date and at the place set out below, in accordance with the regulations governing the administration of an oath or an affirmation in GN 1258 of 21 July 1972, as amended.

.....
COMMISSIONER OF OATHS

FULL NAMES
CAPACITY
DATE:
PLACE :

OFFICE STAMP

***Delete what is not applicable**
#If applicable

Annexure 1

REPUBLIC OF SOUTH AFRICA
PART 2
SUPPLEMENTARY AFFIDAVIT IN RESPECT OF PARTIES
TO A SPOUSAL RELATIONSHIP

We, the undersigned,

Particulars of South African citizen / permanent resident

Form for South African citizen / permanent resident with fields for Surname, First name/s, Address, Identity No#, Passport No, Nationality, Date of birth, and Being a widow(er)/unmarried/divorced person*.

And

Particulars of foreigner

Form for foreigner with fields for Surname, First name/s, Address, Passport No, Date of Birth, Place of Birth, Nationality, Date of First Entry into South Africa #, Type of residence permit held #, and Being a widow(er)/unmarried/divorced person*.

do hereby make oath and say/herby solemnly affirm*

- 1. On (Fill in the date) we deposed to an affidavit in terms of part 1 of this form.

- 2. We are not married and the spousal relationship referred to in paragraph 1 of that affidavit still subsists with all the characteristics set out in that paragraph.

.....
**THE SOUTH AFRICAN CITIZEN/
 PERMANENT RESIDENT**

.....
FOREIGN SPOUSE

Thus signed and sworn/solely affirmed*
 before me on the date and at the place set out below, in accordance with the regulations governing the administration of an oath or an affirmation in GN 1258 of 21 July 1972, as amended.

.....
COMMISSIONER OF OATHS

FULL NAMES
CAPACITY
DATE:
PLACE :

OFFICE STAMP

***Delete what is not applicable**
#If applicable

REPUBLIC OF SOUTH AFRICA
APPLICATION FOR A VISA
[Section 1(xlii) of Act No 13 of 2002 : Regulation 10]

IMPORTANT
INSTRUCTIONS AND INFORMATION
(Please read carefully)

PURPOSE OF A VISA

A visa only enables the holder to proceed to a port of entry before or on the expiry date of the visa, where the holder must comply with the applicable law, regulations and the following entry requirements of the Republic of South Africa. No fixed travel arrangements must be made prior to the issuing of the visa and ten (10) days must be allowed for the processing thereof.

ENTRY REQUIREMENTS

- An acceptable passport / travel document to be valid for no less than 30 days after the expiry of the intended stay and containing at least one blank page for endorsements.
- A valid visa, if required.
- Sufficient funds.
- A return / onward ticket.
- Yellow fever certificates are required if the journey starts or entails passing through the yellow fever belt of Africa or South America.

WHERE TO APPLY FOR A VISA

- At the nearest or most convenient South African diplomatic or consular representative.
- Visas **CANNOT** be applied for at South African ports of entry.

WHAT TO SUBMIT

- Passports must accompany the visa applications when submitted at a South African diplomatic or consular representative.
- Proof of booking of airline ticket.
- 2 Identity photographs.
- Prescribed visa fee, if not exempted therefrom.
- Proof of sufficient funds.
- Supporting documentation confirming the purpose of the visit
- Inoculation certificate, if required.

FEES

Nationals of certain countries are subject to visa fees. Fees are levied per application and are not refundable should the application be refused.

PERSONS IN TRANSIT

Persons applying for transit visas must submit proof that they will be admitted to their destinations and they must be in possession of onward / return tickets.

DURATION AND PURPOSE OF STAY

On entry into the Republic, the visa is deemed to be a visitor's permit. The validity of the permit must be calculated from date of entry. The period for which the permit will be valid will be set out under the heading "conditions" on the visa label. Applicants must ensure that they apply for the correct visa / permit as any change in the purpose of stay or the relevant permit applied for in the Republic may be refused if the purpose of the original entry was not correctly stated.

WARNING

Any applicant allowed entry into South Africa due to any misrepresentation, or false declaration on this application form or who sojourns in the Republic in contravention of his/her visa/permit conditions shall be guilty of an offence and liable on conviction to a fine or to imprisonment as an illegal foreigner.

(Page 1 must be detached and retained by the applicant)

**REPUBLIC OF SOUTH AFRICA
VISA APPLICATION**

Failure to complete this application form in full may result in the visa being delayed or refused.
Please use block letters and black ink only.

PERSONAL PARTICULARS

1. Surname	<input style="width:100%; height: 15px;" type="text"/>																											
2. First names (in full)	<input style="width:100%; height: 15px;" type="text"/>																											
3. Maiden name	<input style="width:100%; height: 15px;" type="text"/>																											
	Y Y Y Y M M D D																											
4. Date of birth	<input style="width:100%; height: 15px;" type="text"/>								5. City of birth	<input style="width:100%; height: 15px;" type="text"/>																		
									6. Country of birth	<input style="width:100%; height: 15px;" type="text"/>																		
7. Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female																											
8. Nationality	<input style="width:100%; height: 15px;" type="text"/>														9. If acquired by naturalisation state original nationality	<input style="width:100%; height: 15px;" type="text"/>												
	and where and when present nationality was obtained														<input style="width:100%; height: 15px;" type="text"/>													
10. Details of passport	(a) Number <input style="width:100%; height: 15px;" type="text"/>														(b) Issuing authority <input style="width:100%; height: 15px;" type="text"/>													
	(c) Date of expiry <input style="width:100%; height: 15px;" type="text"/>														(d) Type of document <input style="width:100%; height: 15px;" type="text"/>													
11. Present address	<input style="width:100%; height: 15px;" type="text"/>																											
12. Period resident at this address	<input style="width:100%; height: 15px;" type="text"/>														13. Telephone number	<input style="width:100%; height: 15px;" type="text"/>												
14. Country of permanent residence	<input style="width:100%; height: 15px;" type="text"/>														15. Period resident in that country	<input style="width:100%; height: 15px;" type="text"/>												
16. Occupation/Profession	<input style="width:100%; height: 15px;" type="text"/>																											
17. Name and address of employer, university, organisation etc. to which you are attached, attend or which you represent:	<input style="width:100%; height: 15px;" type="text"/>																											
18. If self-employed, state name and nature of business:	<input style="width:100%; height: 15px;" type="text"/>																											
19. Marital status	<input type="checkbox"/> Never married <input type="checkbox"/> Married <input type="checkbox"/> Widow/er <input type="checkbox"/> Separated <input type="checkbox"/> Divorced																											
	NB: ITEM 20 TO 23 TO BE FILLED IN THE CASE OF ACCOMPANYING SPOUSE																											
20. Full names of husband/wife	<input style="width:100%; height: 15px;" type="text"/>																											
21. Maiden name of wife	<input style="width:100%; height: 15px;" type="text"/>																											
	Y Y Y Y M M D D																											
22. Birth date of spouse	<input style="width:100%; height: 15px;" type="text"/>								23. His/her nationality	<input style="width:100%; height: 15px;" type="text"/>																		
	NB: SEPARATE FORMS MUST BE COMPLETED IN RESPECT OF PERSONS OVER THE AGE OF 16 AND CHILDREN UNDER THE AGE OF 16 TRAVELLING ON THEIR OWN PASSPORTS.																											
24. Particulars of children accompanying you and endorsed on your passport																												
	<i>Surname</i>							<i>First names</i>							<i>Date of birth</i>							<i>Place of birth</i>						
(1)	<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>						
(2)	<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>						
(3)	<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>						
(4)	<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>							<input style="width:100%; height: 15px;" type="text"/>						

VISIT TO SOUTH AFRICA

25. Expected date of arrival 26. Port of arrival *

27. Purpose of visit

28. Duration of stay (months, weeks or days)

29. Proposed residential address (not P O Box number) in RSA, including the full names of your host or hotel:
.....

30. Names of organisations/persons you will be contacting during your stay in the RSA; if any

Name	Address	Relationship
.....
.....
.....

31. Identity document number/permanent residence permit number of South African host if any.....

Indicate by means of an X whichever is applicable

32. Have you at any time applied for a permit to settle permanently in South Africa?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

33. Have you ever been restricted or refused entry into South Africa?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

34. Have you ever been deported from or ordered to leave South Africa?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

35. Have you ever been convicted of any crime in any country?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

36. Is a criminal enquiry pending against you or any of your dependents in any country?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

37. Are you an unrehabilitated insolvent?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

38. Are you suffering from tuberculosis or any other infectious or contagious diseases or any mental or physical deficiency?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

39. Have you ever been judicially declared incompetent?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

40. Give particulars if reply to one or more of questions 32 to 42 is in the affirmative

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

41. Are you a member of, or an adherent to an association or organization advocating the practice of social violence, or racial hatred.

42. Are you or have you been a member or an adherent to an association or organization utilizing or advocating crime or terrorism to pursue its goals?

43. Is there any court order outstanding against you for failure to fulfill maintenance obligations.

TO BE COMPLETED ONLY BY PASSENGERS IN TRANSIT TO A FOREIGN COUNTRY

44. Destination after leaving the RSA

45. Mode of travel to destination

46. Intended date and port of departure from the RSA to that destination

47. Do you hold a visa/permit for temporary or permanent residence in the country of your destination? (Proof must be submitted)

I SOLEMNLY DECLARE THAT THE ABOVE PARTICULARS GIVEN BY ME ARE TRUE IN SUBSTANCE AND IN FACT AND THAT I FULLY UNDERSTAND THE MEANING THEREOF. I FURTHER DECLARE THAT I DO NOT CONTEMPLATE EMPLOYMENT OR PERMANENT RESIDENCE OR CHANGE OF TEMPORARY RESIDENCE STATUS IN SOUTH AFRICA.

.....

Date Signature of applicant

Control No :

REPUBLIC OF SOUTH AFRICA

[Section 1(xlii) of Act No 13 of 2002 : Regulation 10]

.....VISA *

Ref No

Name

Passport No

Authority to proceed to the Republic to report to an immigration officer at a port or port of entry has been granted by the Department of Home Affairs.

No of entries Visa expiry date

Issued at on

Conditions :

.....
.....
.....

.....

for : Department of Home Affairs

[*] Indicate type of permit to be issued by reference to relevant section of the Act or Regulation

Annexure 4

REPUBLIC OF SOUTH AFRICA

ARRIVAL FORM

[Section 10(2) and 35(3)(a)(ii) of Act No. 13 of 2002: Regulation 10(3)(d)(i)]

Not to be completed by a South African citizen or permanent resident.

Mode of travel	Flight No.	Vehicle Registration No.	Train No.	Name	Other

Nationality of passport

Passport No.

Surname and Initials

Gender

Male

Female

Full Forenames

Date of birth	Year	Month	Day	Intended departure date	Year	Month	Day

Country of ordinary residence

Purpose of visit (use X to specify)

A	B	C	D	E	F	G	H	I
Vacation, Study for less than 3 months. Medical Treatment for less than 3 months, or Work remunerated and contracted abroad for less than 3 months.	Investment	Study for longer than 3 months	Work or manage a business	Transit	Immigrating	Diplomatic placing	Crew Member	Medical treatment for longer than 3 months

Occupation (use X to specify)

A	B	C	D	E	F	G	H	I
Diplomatic	Charitable	Civil Service Military Police	Student	Educational	Trade Business	Professional	Artist	Other

For official use

TRP number

Entry stamp

REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF HOME AFFAIRS
DECLARATION BY FOREIGNERS SEEKING ADMISSION
[Section 10(2) and 35(3)(a)(ii) of Act No 13 of 2002 : Regulation 10(3)(d)(ii)]

First name/s (in full) and surname.....
Date of birth.../.../...Place of birth (town / city).....country.....
Present nationality.....Country of permanent residence.....
Marital status.....
Country which issued passport / travel document.....
Passport/travel document no.....issued at (place).....
On (date).....and valid until (date).....
Placeand dateof entry into the RSA
Occupation / profession (describe in full)
Purpose of visit (must be described in full and, in the case of commercial activities, the nature thereof must also be described)
.....
Duration of intended stay in the Republic (date of departure).....
Address in the Republic.....
Have you ever been refused a visa for or admission to the Republic, been removed or instructed to leave the country? (YES/NO)..... If YES, furnish particulars in full.....
.....

I declare that the information I have furnished above, is true and correct and that if I am admitted to the Republic, I will comply with the purpose and conditions in terms of which the admission has been authorised.

.....
Signature of deponent

.....
Date

.....
Place
Left thumb print

Annexure 5A

**REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF HOME AFFAIRS
AFFIDAVIT OF IMMIGRATION OFFICER
REGARDING AN INADMISSIBLE FOREIGNER**

1. STATEMENT

(Officer in charge of the case to state his/her full names, immigration appointment number and station where employed).

Delete which is not applicable.

IAN ADULT MALE/FEMALE IMMIGRATION
OFFICER NUMBERAPPOINTED IN TERMS OF SECTION 1
(1)(XX) OF THE IMMIGRATION ACT 2002 (ACT NO 13 OF 2002) STATIONED AT
.....DECLARE THE FOLLOWING TO BE TRUE AND CORRECT;

WHILST ON DUTY THE MORNING / AFTERNOON / EVENING OF

(date)(month)(year)

I WAS ROSTERED TO CLEAR PASSENGERS ON INCOMING CONVEYANCE (name)

.....SCHEDULED FOR ARRIVAL AT (time)

PASSENGER(name) PRESENTED HIM/HERSELF TO ME
IN TERMS OF SECTION 34(8) OF THE SAID ACT AND WAS FOUND TO BE
INADMISSIBLE.

2. QUESTIONS

ANSWERS

Do you understand English?

Are you fit, well and willing to be interviewed?

Do you require a translator?

Is there anything important that you wish to raise

before the interview starts?

3. CONTENTS OF THE INTERVIEW (use additional pages if space is insufficient)

.....
.....
.....

4. STATEMENT OF PERSON INTERVIEWED:

I, (name) hereby acknowledge
that the above is a true account of the interview that took place.

.....
.....

SIGNATURE OF ILLEGAL FOREIGNER

DATE

5. DECISION OF IMMIGRATION OFFICER:

.....
.....
.....
.....

6. REASON FOR DECISION:

.....
.....
.....
.....

SIGNATURE OF IMMIGRATION OFFICER

DATE

7. IMMIGRATION OFFICER'S PARTICULARS

SURNAME

3

FULL NAMES

APPOINTMENT NO.....

RANK

PORT OF ENTRY.....

**DEPARTMENT OF HOME AFFAIRS
NOTICE OF CONTEMPLATED DECISION
ADVERSELY AFFECTING A PERSON
[Section 8(1) and 8(4) of Act No 13 of 2002 : Regulation 16(1)]**

To
At
.....
.....

1. With reference to your application for
you are, in terms of the provisions of sections 8(1) and 8(4) of the Immigration Act,
2002 (Act No 13 of 2002), hereby, notified that the Department is contemplating the
following decision :
.....
The reason(s) for the contemplated decision is/are the following :
.....
.....
2. In terms of section 8(4) of the Act you are, hereby, furthermore notified that you have
10 calendar days/..... calendar days * from date of this notice having been served on
you, to make written representations to the Department to reconsider its
contemplated decision.
3. Should you fail to make representations, or fail to keep the Department informed of
your whereabouts, the contemplated decision set out above will become effective.
The onus is on you to inquire about the outcome of your representations within 14
days after submission thereof.

.....
FOR THE REGIONAL DIRECTOR
DATE:
PLACE

Appointment No
(if Immigration Officer)

1. I acknowledge receipt of the original of this notice and declare that I understand the
content thereof.
2. I wish/do not wish* to make representations to the Department in terms of section
8(1) of the Act to review the decision. Written representations are attached hereto /
will be delivered and submitted within 10 days.*

.....
SIGNATURE OF RECIPIENT OF NOTICE
DATE:

***Delete what is not applicable**

Annexure 7

**DEPARTMENT OF HOME AFFAIRS
NOTICE OF EFFECTIVE DECISION AND
EXPLANATION OF ADJUDICATION AND REVIEW PROCEDURES
THAT MAY BE FOLLOWED
[Section 8(2) and 8(4) of Act No 13 of 2002 : Regulation 16(2)]**

To

At

.....

.....

1. Further to the notice of my contemplated decision served on you on, and having duly considered your representations pertaining thereto I, hereby, notify you that I have –
 *modified my contemplated decision as follows

 *confirmed my contemplated decision, i.e.
 which is now effective.
2. Should you still feel aggrieved by this decision you may, in terms of section 8(2) of the Act, within 20 calendar days from date of this notice having been served on you, appeal against it –
 - (a) to the Director-General, who may reverse or modify it within 10 calendar days, failing which the decision shall be deemed to have been confirmed; or
 - (b) within 20 calendar days of modification or confirmation by the Director-General, if any, to the Minister, who may reverse or modify it within 20 calendar days, failing which the decision shall be deemed to have been confirmed, and be final; or
 - (c) within 20 calendar days of modification or confirmation by the Minister, if any, to a court of law.
 - (d) in exceptional circumstances, or should you stand to be deported as a consequence of this decision, the Minister may extend the deadline set out under (b) above.
3. Should you not appeal as set out in paragraph 2 above, or fail to keep the Department informed of your whereabouts, the contemplated decision of the Department shall become effective and final. The onus is on you to inquire about the outcome of your representations after expiry of the time limits mentioned above. Until this decision is final you may not be deported.

.....
FOR THE REGIONAL DIRECTOR
 DATE:
 PLACE:

Appointment No.
(If Immigration Officer)

(*Delete what is not applicable)

1. I acknowledge receipt of the original of this notice and declare that I understand the content thereof.
2. I wish/do not wish* to lodge an appeal against the decision to the Director-General/court* in terms of section 8(2) of the Act. Written representations are attached hereto / will be delivered and submitted within 20 days.*

.....
SIGNATURE OF RECIPIENT OF NOTICE
 DATE:

(*Delete what is not applicable)

Annexure 8

REPUBLIC OF SOUTH AFRICA
APPLICATION FOR EXEMPTION FROM THE REQUIREMENT TO
REPORT TO AN IMMIGRATION OFFICER
OR TO ENTER OR LEAVE THE
REPUBLIC THROUGH A PORT OF ENTRY
 [Section 9(3)(c)(i), 31(2)(c) and 31(2)(d) of Act 13 of 2002 :
 Regulation 9(2)(a), 17(1)(a) and 17(2)(a)]

See reverse side for conditions

Nationality of passport				Passport/Travel document No	
Surname				First name(s) in full	
Date of birth	year	month	Date	Country of normal residence	
Permanent Residence Permit No (if applicable)				Date issued	
Temporary Residence Permit (if applicable) valid until				For purposes of	
Application is hereby made to enter/exit the Republic: At a place other than a port of entry*				Application is hereby made to enter/exit the Republic at a port of entry but without reporting to an immigration officer*	
Where entry/exit is required					
Motivate why exemption is required					
Period of cross border visit		From			
		To			
Purpose of visit					
I have taken note of the conditions on the reverse side hereof					
Date			Signature		
FOR OFFICIAL USE ONLY APPLICATION FOR EXEMPTION APPROVED/REFUSED * .					
Valid until (Not to exceed 6 months)					
Reasons for refusal/comments (Where applicable)					
File No		Exemption granted i.t.o section			
Place		Immigration Officer			
Date		Appointment/Service No.			
TRP Label/No.					

*Delete what is not applicable.

REVERSE OF ANNEXURE 8**EXEMPTION CONDITIONS**

1. The exemption is a privilege and not a right and can therefore be withdrawn by the Officer-in-Charge for the better execution of the Act.
2. The exemption is specifically for the purpose applied for and does not exempt the holder from other entry requirements of the RSA, e.g. valid passport, visa control, sufficient funds, etc.
3. The exemption, your passport or any other document relevant to entry or residence in respect of South Africa, must be produced on demand by an immigration officer or any security officer employed at the border post or in the execution of border control duties.
4. Only the holder of exemption is exempt as indicated thereon and all persons accompanying him/her must comply with entry requirements in their own right.
5. The exemption is only valid for short visits and for the purpose indicated thereon and the holder is not entitled to reside inside the Republic unless already in possession of a permit to that effect.
6. The "purpose of visit" mentioned in the application for exemption may not be changed while the holder is inside the Republic. If the holder intends to change the purpose of the visit he or she shall apply for a change of status.
7. The exemption does not exempt the holder from any requirement of another country involved when crossing the common border of the Republic with such country.
8. Proof of right to return to country of nationality and / or residence may be required from an applicant who is a foreigner.
9. An exemption to exit the Republic in terms of Section 9(3)(c)(i) of the Act shall be signed by a Regional Director or an official dually delegated by him or by her. An exemption to enter the Republic in terms of section 31(2)(c) of the Act shall be signed by the Minister or an official dually delegated by him or by her, after consultation with the Immigration Advisory Board if and when required by the Act.

REPUBLIC OF SOUTH AFRICA

**EXEMPTION FROM THE REQUIREMENT TO REPORT TO AN IMMIGRATION OFFICER
AT A PORT OF ENTRY**

[Section 31(2)(c) of Act 13 of 2002 : Regulation 17(2)(a)]

Holder (name) and passport no is hereby
authorised to enter/depart from the Republic through
(place) without appearing before an immigration officer subject to the following conditions (if
any).

.....
.....
.....
.....

Date of issuance Date of expiry

Place of issuance

.....
Immigration Officer

.....
Appointment No

Annexure 10

REPUBLIC OF SOUTH AFRICA

**APPLICATION FOR A CERTIFICATE TO LEAVE THE REPUBLIC
IN LIEU OF A PASSPORT**

(Section 9(3)(a) of Act No 13 of 2002 : Regulation 17(3))

Note: No certificate in lieu of a passport will be issued without positive proof of identity having been submitted by the applicant.

Nationality of applicant		Identity No	Type of Identity document
Surname		First names in full	
Date of birth		Country of normal residence	
Temporary Residence Permit No (if applicable)			Valid until
Date issued	Issued for purposes of		
Motivate why a passport cannot be obtained			

Application is, hereby, made for a certificate in lieu of a passport to depart the Republic of

South Africa through for on

Should this application be approved I, hereby, undertake to absolve the Department of Home Affairs from all responsibility, claims and/or costs that may be incurred if I am refused admission to my country of destination.

.....
SIGNATURE OF APPLICANT

.....
DATE:

For official/Use only		
Application approved/refused *		
Reasons for refusal/comments (Where applicable)		
File No		
Place		Immigration Officer
Date		Appointment/Service No.

**REPUBLIC OF SOUTH AFRICA
 CERTIFICATE TO LEAVE THE REPUBLIC IN LIEU OF A PASSPORT
 [Section 9(3)(a) of Act No 13 of 2002 : Regulation 17(3)]**

REFERENCE NO		
FULL NAME		
NATIONALITY		
DATE OF BIRTH		
PLACE OF BIRTH		
GENDER MALE FEMALE		
FATHER'S NAME		
MOTHER'S NAME		
PASSPORT NO : IDENTITY DOCUMENT (IF APPLICABLE)		
PLACE AND DATE OF ISSUE : (IF APPLICABLE)		
DATE OF DEPARTURE		
COUNTRY OF DESTINATION		
DATE OF ISSUANCE		
PLACE OF ISSUANCE		
OFFICE STAMP	LEFT THUMB PRINT	PHOTOGRAPH
*I, hereby, undertake to absolve the Department at Home Affairs from all responsibility, claims and/or costs that may be incurred if I am refused admission to my country of destination. SIGNATURE OF HOLDER		

.....
For DIRECTOR-GENERAL : HOME AFFAIRS

.....
APPOINTMENT/PERSAL NO

*Not applicable in respect of deportations.

Annexure 12

REPUBLIC OF SOUTH AFRICA

**ENTRY OR AUTHORIZATION TO DEPART FROM THE REPUBLIC
AT A PLACE OTHER THAN A PORT OF ENTRY
[Section 9(3)(c)(i) and 31(2)(c) of Act 13 of 2002 : Regulation 17(4)]**

**AUTHORISATION IN TERMS OF SECTION 9(3)(c)(i) and 31(2)(c)
OF THE IMMIGRATION ACT, 2002 (ACT NO. 13 OF 2002)**

Holder (name) and passport no : is
hereby authorised to enter/depart from the Republic through
(place) without travelling through a port of entry subject to the following conditions (if any) :

.....
.....
.....
.....

Date of issuance Date of expiry

Place of issuance

Immigration Officer Appointment no

CODE NO

REPUBLIC OF SOUTH AFRICA

TEMPORARY RESIDENCE PERMIT

[Section 10(2) of Act No 13 of 2002 : Regulation 18]

This permit, valid until is hereby issued in terms of Section ____ of the Act for purposes of (Mark with x)

Study	Joining a relative	Retiring	Operating a business
Exchange Programme	Work	Medical treatment	Purpose under treaty
Visitor's _____			

Subject to the following condition(s):

- (1) The holder is not or does not become a prohibited or undesirable person.
- (2)
-

Note: (1) Fees will be charged for extensions/subsequent permits which must be applied for 30 days prior to the above-mentioned validity date.

(2) Anyone who contravenes the purpose and / or conditions of this permit shall be guilty of an offence and liable on conviction to a fine or imprisonment.

For Regional Director

Issued by

Persal No

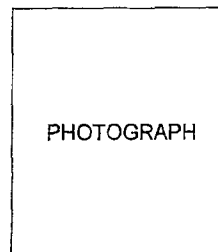
Bar Code

REPUBLIC OF SOUTH AFRICA

APPLICATION FOR TEMPORARY RESIDENCE PERMIT

[Sections 13, 14, 15, 17 to 20 and 22 of Act no 13 of 2002 : Regulations 18, 22 to 24, 26 to 29 and 31]

CATEGORY OF PERMIT BEING APPLIED FOR	
Work : Quota	Work : General
Own Business/Investor	Intra -company Transfer
Work: corporate	Exceptional / Skills
Study (> 3 months)	Medical (> 3 months)
Relative's	Retired person
Student exchange programme	Work exchange programme
Cultural/economic/social Exchange programme	Treaty



IMPORTANT:

- (i) Please complete this form in BLOCK LETTERS and tick the appropriate squares, marking any sections which do not apply "n/a", ensuring that all the questions are fully responded to. Your application will be considered on the basis of the information furnished on this form and on the documentary evidence provided. If additional space is required to answer any questions, please provide the extra details on a separate signed sheet and attach with your supporting documents.
- (ii) All the applicable supporting documents specified in item 12 must be attached to this application.
- (iii) Applicants who are found to have provided materially false or misleading information on this form will have their applications refused or their authorisation to remain in South Africa withdrawn, as will any applicants who enter the Republic prior to holding a permit commensurate with their purpose of entry, or who have permitted the validity of their permits to lapse.
- (iv) Spouse and dependant children accompanying the applicant must complete the prescribed visa application form.
- (v) Applying for a permit does not provide you with a status in terms of the Immigration Act, and if you do not have a valid permit you must await the outcome of your application outside the Republic
- (vi) In most cases and under ordinary conditions, the Department will endeavour to process this application within time frames set out in the Regulations
- (vii) To facilitate the endorsement of your passport, please indicate which office of the Department should be advised of the outcome to this application, if other than where submitted, viz:

FOR OFFICIAL USE ONLY			
Office of origin:	BLOK:	Mission file no.:	
Date received:	Date forwarded to Regional Office:	Regional file no.:	
Submission checked by/on:	Date received at Regional Office:	Remarks:	
Passport seen/returned by/on:	Processed by/on:		
Fee: Currency and amount	Authorised by/on:		
Fee received by/on:	Decision carried over by/on/per:		
Receipt no:	BI-1098		

1. PERSONAL DETAILS

1.1 Title:	Mr				Ms	Other (specify)	
1.2 Surname/Family name						1.3 Given names	
1.4 Maiden name						1.5 Stage name	
1.6 Previous/alternative name(s)/aliases, including details:							
1.7 Date of birth: Year.....Month.....Day.....							
1.8 Place of birth: Town/City Country							
1.9 Marital status		Never married		Divorced		Life Partner	
		Married		Separated		Widowed	
1.10 If separated state: Whether divorce proceedings have been instituted and when final decree is expected.....							
1.11 If divorced provide: Date of divorce and details of any maintenance and/or custody agreements/orders for which certified copies of substantiating legal documentation must be attached.....							
1.12 If married to a South African citizen, a certified copy of the marriage certificate must be attached.							

2. CITIZENSHIP DETAILS

2.1 Present country of citizenship:	
2.2 If acquired other than by birth, date and conditions under which acquired	
2.3 Do you hold any other citizenship? No <input type="checkbox"/> Yes <input type="checkbox"/>	
If so, of which country, plus details.....	

3. PASSPORT DETAILS

3.1 Passport number:	3.2 Country of issue:
3.3 Date of issue / /	3.4 Valid until / /
3.5 If you have any other document required by your government, provide details: Type of document..... Number..... Expiry date:...../...../.....	

4. ADDRESSES

4.1 Residential address: Postal code.....	4.2 Postal address: Postal code.....
4.3 Country of usual residence if other than country of origin or above address:	
4.4 Telephone numbers: Work (area code) Home (area code)	

4.5 Other addresses where you have lived for one year or longer during the last ten years other than your current address.

Address	Period	Country

4.6 Do you hold the right of re-entry into your country of origin and/or country of residence if this differs?

Yes No

If no, specify period and present status

.....

4.7 Have you ever applied for asylum or refugee status in SA or any other country?

Yes No

If yes, specify.....

.....

4.8 Contact person:

Relationship	Friend	<input type="checkbox"/>	Business Associate	<input type="checkbox"/>	Relative	<input type="checkbox"/>	Other	<input type="checkbox"/>
--------------	--------	--------------------------	--------------------	--------------------------	----------	--------------------------	-------	--------------------------

Name and address

Telephone numbers: Work (area code) Home (area code)

4.9 Details regarding relatives and/or friends in South Africa; if any

Name	Address	Relationship	ID No

5. INTENTIONS/PROPOSED DURATION OF STAY IN THE RSA

5.1 Proposed date and place of departure for SA:	/ /
5.2 Anticipated date and place of arrival in SA:	/ /
5.3 Travelling by:	Air <input type="checkbox"/> Road <input type="checkbox"/> Rail <input type="checkbox"/> Sea <input type="checkbox"/> Carrier <input type="checkbox"/>
5.4 If you intend staying in SA temporarily only, state your proposed duration of stay	
Days/weeks/months/or	Years
Intended date of departure	/ /
5.5 Do you intend settling in South Africa on a permanent basis?	5.6 If so, have you submitted an application for a permanent residence permit?
No <input type="checkbox"/> Yes <input type="checkbox"/>	No <input type="checkbox"/> Yes <input type="checkbox"/>
5.7 If yes and the outcome is still awaited, application submitted on	
To foreign/domestic office at	under reference no
5.8 Outline your proposed activities whilst in the RSA	
.....	
.....	
.....	
.....	

6. **MAINTENANCE/REPATRIATION**

State what funds you have available for maintenance during your stay in South Africa and whether you have purchased a return ticket/other arrangements made for maintenance and return passage:

6.1	Available funds (foreign currency): Type.	Amount.	SA Rand equivalent
6.2	Valid return or onward ticket no:	Expiry date	/ /
6.3	Cash deposit in the amount of	Receipt no	SA Rand equivalent
	on / /		
6.4	Other		
		
		

7. **PARTICULARS OF ANY FAMILY/DEPENDANTS ACCOMPANYING YOU**

7.1	Full names	Date of birth	Relationship	Passport number	Expiry date	Nationality	Occupation

7.2 Do any of the above hold either

7.2.1 a South African identity document? No Yes Holder Number Or

7.2.2 a permanent/temporary residence permit? No Yes Holder Office of issue Type Date of expiry / /

7.3 If your spouse and/or other dependants are not accompanying you, do they intend to enter the country?

Yes On (date) / /

No Details/reason(s)

8. **PREVIOUS APPLICATIONS**

8.1 Have you or any other person included in this application previously applied for any type of South African visa, or if exempt from visa control, obtained permits on arrival?

No Yes

8.2 Give details of each application:

Name	Category of permit	Date and place of application	Granted or refused	Period authorized	Reference number
				From	
				To	
				From	
				To	
				From	
				To	
				From	
				To	

8.3 Details of any prior restrictions/repatriations/deportations/orders to depart from South Africa :

.....

.....

11. DECLARATION

I acknowledge that I understand the contents and implications of this application and solemnly declare that the above particulars given by me are true and correct.

.....
Signature of applicant

.....
Date

.....
Signature of witness

.....
Date

12. THE FOLLOWING SUPPORTING DOCUMENTS MUST ACCOMPANY THE APPLICATION.

12.1 In respect of all the categories except categories 12.4, 12.11 and 12.12

	Attached	
	Yes	No
12.1.1 Passport valid for no less than 30 days after expiry of the intended visit.		
12.1.2 A medical certificate.		
12.1.3 Birth certificate.		
12.1.4 Marriage certificate (where applicable).		
12.1.5 The affidavit prescribed in regulation 9 where a spousal relationship other than a marriage is applicable with proof of co-habitation.		

12.1.6	A notarial contract, in the case of cohabitation.		
12.1.7	Proof of a customary union, where applicable.		
12.1.8	Divorce decree, where applicable.		
12.1.9	Proof of court order awarding custody, where applicable.		
12.1.10	Death certificate, in respect of late spouse, where applicable.		
12.1.11	Written consent from both parents, or sole custody parent where applicable with proof of sole custody.		
12.1.12	Proof of legal adoption, where applicable.		
12.1.13	Legal separation order, where applicable.		
12.1.14	Police clearance certificates in respect of applicants 21 years and older, in respect of all countries where person resided one year or longer to be supplied within 1 year of submission if not immediately available.		
12.1.15	A vaccination certificate, if required by the Act.		

12.2 In respect of a study permit :

12.2.1	An official letter of provisional enrolment from the institution of learning concerned stating the nature of the course, the applicant's compliance with all admission requirements, including any applicable language proficiency requirement, as well as details regarding arranged accommodation and proof of sufficient funds to cover tuition fees, maintenance and incidental costs.		
12.2.2	In the case of a minor written permission by both parents or sole custody parent, provided that relevant documentation proving sole custody is produced.		
12.2.3	The particulars of the person(s) in the Republic who will act as the learner's guardian.		
12.2.4	Undertaking by Institution to keep the Department informed if learner discontinues course or fails to qualify for re-enrolment.		

12.3 In respect of a business permit to establish an own business or to invest in an existing business venture :

12.3.1	Proof of availability of funds for transfer from abroad, if applicable		
12.3.2	Undertaking to register with the appropriate statutory body, if required by the nature of the business		
12.3.3	Certification by a chartered accountant proving compliance with section 15 of the Act and Regulation 24		
12.3.4	Proof of registration as a closed corporation or a company, if applicable.		
12.3.5	Documentation proving the investment, such as shareholders' or partnership agreements for an investment in existing business		
12.3.6	Details of the partners/directors for an investment in existing business		

12.3.7	If an existing business, audited financial statements.		
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12.4 In respect of a medical treatment permit.

12.4.1	A valid passport as envisaged in paragraph 12.1.1.		
12.4.2	Proof of financial means to cover day to day needs of persons accompanying medical permit holder, if any, in the form of bank statements, salary advices, if available, and/or travellers' cheques		
12.4.3	A letter from the applicant's medical practitioner or medical institution, indicating the reasons/necessity for treatment, the period of treatment and particulars of the treatment plans in the Republic		
12.4.4	Details of the person or institution responsible for the medical expenses and hospital fees, if any. Should the applicant's medical scheme or employer not be liable for expenses incurred, proof of financial means or medical cover must be submitted.		
12.4.5	Particulars of persons accompanying permit holder.		

12.5 In respect of a "General Quota" work permit :

12.5.1	Offer of employment.		
12.5.2	Certification by a chartered accountant as set out in Regulation 28(4)(a)(i) and (ii)		
12.5.3	Commitment by employer to comply with Regulation 28(3) [NB Proof of payment to be submitted within three days of receipt of permit] (a) ONLY if an exemption or reduction is sought in terms of regulation 28(4)(d)(i) or (ii), please attach request letter from the relevant Department and other relevant documentation (b) ONLY if an exemption or reduction is sought in terms of regulation 28(4)(d)(iii), please fill in and comply with the requirements set out in with items 12.7.4, 12.7.5, 12.7.7, 12.7.8, 12.7.9. and 12.7.10 and with regulation 26(6)(f).		
12.5.4	Certification by a chartered accountant containing job details as set out in Regulation 28(4)(a)(ii)		
12.5.5	Proof of registration with professional body/board, if applicable		

12.6 In respect of an "Extraordinary Quota" work permit :

12.6.1	Proof of the relevant skills and/or qualifications, including authenticated copies of academic certifications or degrees, if applicable		
12.6.2	Proof of registration with professional body/board, if applicable.		
12.6.3	A comprehensive curriculum vitae		
12.6.4	Testimonials of previous employers confirming the applicant's competencies and/or skills.		

12.7 In respect of a "General" work permit:

12.7.1	Proof of registration with the professional body/board if applicable.		
12.7.2	Certification from a chartered accountant as envisaged in section 19(2)(b) and (d) of the Act, which include the certification contemplated in regulation 28(6)(f)		
12.7.3	An undertaking from the employer as required in section 19(2)(c) of the Act.		
12.7.4	Original advertisement in the national printed media, which must comply with regulations 28(5) and (6)(b), except for the categories listed in Schedule E.		
12.7.5	Copy of employment contract containing the information set out in regulation 28(6)(d).		
12.7.6	Certification contemplated in regulation 28(6)(f) if not contained in the chartered account's certification.		
12.7.7	Proof that all short-listed candidates have been interviewed.		
12.7.8	Letter of motivation from the employer as required in regulation 28(5).		
12.7.9	In the case of senior positions, employer's letter stating the reasons for not filling the position by the promotion of existing personnel		
12.7.10	Letter of approval, where required by a law, from <ul style="list-style-type: none"> * The relevant professional body/board/council; * The Department of Labour; * The relevant organ of state. 		

12.8 In respect of an exceptional skills work permit

12.8.1	A comprehensive curriculum vitae together with testimonials from previous employers.		
12.8.2	A letter from a foreign or South African organ of State, or from an established South African academic, cultural or business body, confirming the applicant's exceptional skills or qualifications		
12.8.3	Other proof to substantiate exceptional skills or qualifications, such as publications, and testimonials		

12.9 In respect of Intra-company transfer permit:

12.9.1	A letter from the international concern confirming that the foreigner will be transferred to a branch/affiliated South African company		
12.9.2	Certification by a chartered accountant as set out in Regulation 28(4)(a)(i) and (ii)		
12.9.3	Letter from the South African company confirming the transfer from the parent/affiliated company abroad, as well as specifying the occupation and capacity in which the foreigner will be employed, and that the maximum duration will not exceed two years		
12.9.4	Certification by a chartered accountant acting on behalf of the employer that the employer needs to employ such foreigner within the Republic and outlining the foreigner's job description		
12.9.5	Proof of registration with professional body/board, if applicable		
12.9.6	An undertaking from the employer as required in section 19(5)(b)		
12.9.7	Financial guarantees required under section 19(5)(c) and regulation 28(10)		

12.10 In respect of a work permit under a corporate permit

12.10.1 Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration		
12.10.2 Corporate permit holder's certification contemplated in regulation 30(9)		

12.11 In respect of a work permit under a corporate permit in terms of an agreement with a foreign state

12.11.1 A passport valid for no less than 30 days after the expiry date of the intended stay		
12.11.2 A full set of fingerprints		
12.11.3 A valid employment contract entered into and attested to in the worker's country of origin, for a maximum period of 18 months		
12.11.4 An undertaking by the proposed employer, that he/she will remove the worker to his/her country of residence on completion or expiry of the contract		
12.11.5 Corporate permit holder's certification contemplated in regulation 30(9)		
12.11.6 Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration		

12.12 In respect of a work permit under a corporate permit for seasonal workers

12.12.1 A passport valid for not less than 30 days after the expiry date of the intended stay		
12.12.2 A valid employment contract, which has been entered into and attested to in the worker's country of origin, for a maximum period of 6 months		
12.12.3 A full set of fingerprints		
12.12.4 An undertaking by the proposed employer, that he/she will remove the worker to his/her country of residence on completion or expiry of the contract		
12.12.5 Corporate permit holder's certification contemplated in regulation 30(9)		
12.12.6 Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration.		

12.13 In respect of a retired person:

12.13.1 Proof of the net worth envisaged in sections 20(1) (a) and 20(1)(b), and regulation 29.		
12.13.2 Should the retired person wish to work he/she must submit proof that a South African citizen or resident is not available for the occupation applied for.		
12.13.3 Contract of employment for a person wishing to work		

12.14 In respect of student exchange permit

12.14.1 A letter from the Department of Education or the public higher educational institution in the Republic, confirming that it is responsible for organising or administering the programme, outlining the activities and duration thereof, as well as confirming that it will take full responsibility for the student whilst he or she is in the Republic and that the student has been accepted to be registered.		
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12.14.2 A letter from an organ of the foreign state, confirming the particulars of the student, including confirmation of the student's registration with a tertiary educational institution abroad, as well as the date on which study will commence.		
--	--	--

12.15 In respect of cultural/economic/social exchange:

12.15.1 A letter from the organ of the State confirming the status/existence of the exchange program.		
12.15.2 A letter from the educational institution in the Republic confirming that the permit holder, if a student, has been accepted to register, if applicable, or a letter from the entity, organisation or family where the foreigner intends to conduct his or her programme.		

12.16 In respect of an exchange work programme

12.16.1 A letter from a prospective employer certifying compliance with, and providing the undertaking contemplated in section 22(b) and regulation 31(4).		
12.16.2 Employment offer.		

12.17 In respect of a treaty permit

12.17.1 A letter from the relevant organ of State attesting to the nature of the program and the treaty under which it is conducted.		
12.17.2 A letter from the relevant organ of State attesting to the fact that the relevant foreigner participates in such program.		
12.17.3 A letter from the relevant organ of State attesting to the type of activities which the foreigner is expected to perform under such program and the duration thereof and whether he or she is expected to conduct work.		

12.18 In respect of a relative's permit

12.18.1 Proof of foreigner being a member of the immediate family of the sponsoring citizen or resident.		
12.18.2 Proof of compliance with regulation 27 (2) and section 18(1) of the Act.		

13. IN RESPECT OF APPLICATION FOR A WORK PERMIT (as specified below)**NOTE:**

The applicant is by law precluded from commencing employment until in possession of a valid work permit for the specific purpose. Non-compliance can lead to heavy penalties being imposed on both the employer and employee.

Separate sheets may be attached if the space provided is insufficient to include full information/motivation.

13.1 A letter of release from the previous employer/organisation in the Republic, if applicable, must be attached.
--

13.2 OFFER OF EMPLOYMENT FOR ALL PERMITS

13.2.1 Title of Company/Organisation:	
13.2.2 Physical address:	13.2.3 Mailing address:
13.2.4 Telephone number: (code) (number)	13.2.5 Facsimile number: (code) (number)
13.2.6 Employer's business registration number:	13.2.7 Employer's tax reference number:
13.2.8 If a subsidiary, principal company:	13.2.9 and location

13.2.10 Nature of business conducted:			13.2.11 Number of employees:			
Category	Key personnel	Management	Professional	Clerical	Unskilled	Other (specify)
13.2.12 SA citizens						
13.2.13 Residents						
13.2.14 Holders of temporary work permits						
13.2.15 The position offered has been vacant since:						
13.2.16 If a newly created position, details:						
13.2.17 The position was brought to the attention of the applicant by the following means:						

13.3 RECRUITMENT AND INTERVIEWING OF SA CITIZENS/RESIDENTS TO FILL THE POSITION (ONLY for "General" Work Permits Not applicable for "General Quota" Permits, "Extraordinary Quota" Permits –except when a waiver of the training fee is sought–, "Exceptional Skills" Permits and "Inter-company Transfers" Permits.)

13.3.1 The Department of Labour was approached:	No	Yes	13.3.2 Branch:
13.3.3 Employment agencies were approached	No	Yes	13.3.4 Agencies:
13.3.5 Media advertisement in: (name of publication)		from	to
Note: The relevant press cuttings must be affixed to an original, official letterhead (which includes details of the directors/owner members of the business) and submitted with the application. Please also attach relevant copies of replies received from the Department of Labour and employment agencies.			

13.4 Full details of the outcome to the above and reasons why suitably qualified local candidates were not appointed:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

13.5 Does the applicant possess any special skills that have been tested by you and make him/her the most suitable candidate for that position:

No Yes

Details.....

.....

.....

13.6 Additional explicit motivation to support the selection of a foreign candidate:

.....

.....

.....

.....

.....

.....

.....

.....

.....

13.7 DETAILS OF OFFER MADE TO APPLICANT:

13.7.1 Title of occupation to be followed:	
13.7.2 Nature of offer:	For a period of.....weeks/months/years.
13.7.3 Salary offered: R per month	13.7.4 Additional benefits, if any:
13.7.5 Summary of duties	
13.7.6 Preferred date of commencement of employment: / /	

13.8 DECLARATION BY EMPLOYER

I, (full name)..... ID Number.....in my capacity as.....of the company/organisation known as..... hereby undertake full responsibility for the above-named applicant.....and declare that I am authorised to make this offer of employment on behalf of the aforesaid company/organisation, that this offer is made in good faith and will be honoured and that the above information provided by me are true and correct.

.....
Signature of employer

.....
Signature of witness

Signed at.....this.....day of.....200.....

REPUBLIC OF SOUTH AFRICA
APPLICATION FOR A RENEWAL OF AN EXISTING OR ISSUING
OF A SUBSEQUENT PERMIT

[Sections 11, 13, 15, 17 to 20 and 22 of Act 13 of 2002 : Regulation 18(e)]

FOR OFFICIAL USE ONLY	Mission file No:	BLOK:	
Office of origin	Regional file No:		
Date received:	Date forwarded to Regional Office:		
Submission checked by/on:	Date received at Regional Office:	Remarks:	
Passport seen/returned by/on:	Processed by/on:		
Fee: Currency and amount:	Authorised by/on:		
Fee received by/on:	Decision carried over by/on/per:		
Receipt No:	BI-1098		Facsimile

IMPORTANT:	
(i)	The Representatives of employers/ or head of educational institutions must complete item 5 of this form in support of applications for continued employment/study in the Republic.
(ii)	The required documents as specified in the application must be provided with the application.
(iii)	If the initial employment contract has lapsed, a new contract and any changed documentation required from the employer under a first work permit application must be submitted timeously.
(iv)	If the validity of your permit has already expired, you are in contravention of the Immigration Act, 2002 and guilty of an Offence and on conviction, liable to a fine or to imprisonment. In terms of section 43 of the Act, you are obliged to Depart from the Republic. On the back of this form you may give reasons why criminal charges should not be Instituted against you.
(v)	Applying for a permit does not provide you with a status in terms of the immigration Act, and if your permit expires prior to The Department deciding on your application and issuing a permit, you must await the outcome of your application outside the Republic unless a visitor's permit is issued to you
(vi)	In most cases and under ordinary conditions, the Department will endeavour to process this application within time frames set out in the Regulations
(vii)	When applicable, the Department may request you to renew any of the documentation or certification on which the issuance of your original permit was based

AS SUBMITTED BY:

Surname/Family name	First names	Date of birth
Presently residing at:		
Home telephone No:	(code)	(number)

PASSPORT DETAILS

Passport number:	Country of issue:	
Date of issue:	Valid until:	
If you have another identity document required by your government, provide details:		
Type of document:	Number:	Expiry date:

1. DETAILS OF ORIGINAL PERMIT, AS ISSUED TO YOU PRIOR TO OR ON ARRIVAL IN SOUTH AFRICA:

1.1	Date of entry	1.2	Permit No:	Type of permit
1.3	Place of entry:	1.4	Date of expiry:	
1.5	Purpose of entry:			

2. DETAILS OF ANY SUBSEQUENT PERMIT ISSUED TO YOU, OR THE MOST RECENT EXTENSION THERETO:

2.1	Date of permit:	2.2	Issued at:
2.3	Date of issue/extension: / /	2.4	Date of expiry: / /

3. A renewal/subsequent permit is required until/...../..... for purposes of (state reason(s) for request)

.....

.....

.....

.....

PLEASE NOTE:

(a) *Holders of visitor's, relative's and retired person permits must provide appropriate details in the space allocated above demonstrating the subsistence of the grounds on which the original permit was issued and, if applicable, attach relevant documentation.*

(b) Holders of medical permits must attach a letter from the relevant medical authority (doctor/hospital) clarifying the nature of the ongoing treatment and confirming that such treatment is required until the given date.

(c) Holders of a visitor's permit must attach a documentation confirming the purpose of their extended stay and availability of financial resources to cover any cost and expenses likely to be incurred during such stay.

(d) Holders of a work permit, other than those issued in terms of section 19(1) of the Act [quota work permit] and 21 of the Act [work permit under a corporate permit], and of study permits must ensure that the representative of their employer or of the head of the educational institution completes and signs item 5 below and affixes the official seal/stamp of the company/organisation/institution thereto.

(e) Subject to the Immigration Act and Regulations, work permits issued in terms of sections 19(1) or 21 of the Act shall remain in force or shall be extended and validated for as long as the employer and the relevant foreigner comply with the terms and conditions of their issuance and those set out in the Act and the Regulations, including, *inter alia*, the payment of the training fee and the renewal of the relevant certifications as prescribed and contemplated in the Act.

(f) Work permits, other than those issued in terms of section 19(1) and 21 of the Act, may be renewed/extended when the grounds and conditions on which they were originally issued subsist and subject to the Immigration Act and Regulations.

4. **DECLARATION BY APPLICANT**
 I acknowledge that I understand the contents and implications of this application. I solemnly declare that the above particulars provided by me are true and correct and that this is a bona fide request in accordance with legitimate procedures.

.....
 Signature of applicant Signature of witness

Signed at.....this.....day of.....20.....

5. **DECLARATION BY AN AUTHORISED REPRESENTATIVE OF EMPLOYER/HEAD OF EDUCATIONAL INSTITUTION**
 I (full name) ID Number
 in my capacity as for and on behalf of the company/
 organisation/institution known as
 located at
 telephone number: (code.....)..... fax number: (code.....).....
 hereby solemnly declare that:

5.1 **To be completed in respect of subsequent work permit:**

5.1.1 The applicant is still in my employ and his/her continued services are required in the capacity of
 for the period until at a salary of R..... per month.

5.1.2 His/her company employee number is and tax reference number is

5.1.3 In respect of work permits issued in terms of section 19(2) of the Act ONLY, details of effort made to obtain the services of a suitably qualified citizen or resident to replace the applicant and motivation to justify the retention of the services of the applicant, with corroborating documentation to be affixed:

5.2 **To be completed in respect of an application for a subsequent study permit for a scholar/student:**

5.2.1 The learner is in grade/The student is in the year of his/her studies for a degree/diploma/certificate.

- 5.2.2 The extension or renewal of the permit is consistent with the admission policy of this institution of learning in respect of foreigners, including quotas, if any (in a government owned institution the relevant government policy, if any).
- 5.2.3 The candidate complies with the language requirements and this school/university/college/technikon is satisfied that the applicant has the ability to study in the Republic.
- 5.2.4 The governing body is satisfied that the candidate is able to pay the relevant fees, in the case of government owned institutions as may be determined for foreign scholars/students by the Department of Education, and documentary proof of this is attached.
- 5.2.5 A repatriation undertaking in respect of the candidate/cash deposit or bank guarantee in respect of the student has been provided (if specifically requested by the Department for good cause).
- 5.2.6 Proof of medical cover for duration of studies has been provided.

.....
Signature of the representative of the employer/Head of Institution

.....
Signature of witness

Signed at.....this.....day of.....20.....

Annexure 16

**REPUBLIC OF SOUTH AFRICA
APPLICATION FOR CHANGE OF CONDITIONS OR STATUS
OF EXISTING PERMIT**

[Section 10(6) of Act No 13 of 2002 : Regulation 18(7)]

FOR OFFICIAL USE ONLY	BLOK:
OFFICE OF ORIGIN	
DATE RECEIVED:	MISSION FILE NO
SUBMISSION CHECKED BY/ON:	REGIONAL FILE NO
PASSPORT SEEN/RETURNED BY/ON:	DATE RECEIVED AT REGIONAL OFFICE
FEE: CURRENCY AND AMOUNT:	PROCESSED/AUTHORISED BY:
FEE RECEIVED BY/ON:	DECISION CARRIED OVER REMARKS
RECEIPT NO:	

IMPORTANT:

1. Foreigners are obliged, by law, to apply for the correct status permit prior to arrival in the Republic necessitating a change of status. Applicants will not be allowed to sojourn in the Republic through misrepresentation in the original application.
2. If the validity of your permit has already expired, you are in contravention of the Immigration Act, 2002 and guilty of an offence and on conviction, liable to a fine or to imprisonment. In terms of section 43 of the Act, you are obliged to depart from the Republic. On the back of this form you may give reasons why criminal charges should not be brought against you.
3. All relevant documents specified in this application must be provided with the application, except for police disclosure when not immediately available.
4. Applying for a change of status does not provide you with a status in terms of the Immigration Act, and if your permit expires prior to the Department deciding on your decision and issuing a permit, you must await the outcome of your application outside the Republic
5. In most cases and under ordinary conditions, the Department will endeavour to process this application within time frames set out in the Regulations
6. When applicable, the Department may request you to renew any of the documentation or certification on which the issuance of your original permit was based

AS SUBMITTED BY:

Sumame/Family name	Given names	Date of birth
Presently residing at:		
Home telephone No:	(code)	(number)

PASSPORT DETAILS

Passport number:	Country of issue:
Date of issue:	Valid until:
If you have other identity document required by your government, provide details:	
Type of document:	Number: Expiry date:

1. DETAILS OF ORIGINAL PERMIT, AS ISSUED TO YOU PRIOR TO OR ON ARRIVAL IN SOUTH AFRICA:

1.1 Date of entry	1.2 Permit No:
1.3 Place of entry:	1.4 Date of expiry:
1.5 Purpose of entry:	

2. DETAILS OF ANY SUBSEQUENT PERMIT ISSUED TO YOU, OR THE MOST RECENT EXTENSION THERETO:

2.1 Type of permit:	
2.2 Issued at	2.3 Reference number
2.4 Date of issue/extension: / /	2.5 Date of expiry: / /

3. I HERBY, APPLY TO :

*3.1 Change the status of my above-mentioned permit to that of a permit;
*3.2 Change the conditions of my above-mentioned permit as follows
*3.3 Change my employer from
3.3.1 Name of present employer/organization :
3.3.2 Occupation/capacity employed in :
To the employer and capacity set out in paragraph 11 below
* Delete what is not applicable

4. PLEASE PROVIDE FULL DETAILS OF YOUR REASONS(S) FOR REQUESTING THE ABOVE-MENTIONED CHANGE AND IF YOU HAVE ENTERED THE REPUBLIC ON A DIFFERENT PERMIT THAN THE ONE NOW APPLIED FOR, GIVE REASONS FOR THE CHANGE OF STATUS.

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5. DECLARATION BY APPLICANT

I acknowledge that I understand the contents and implications of this application. I solemnly declare that the above particulars provided by me are true and correct and that this is a bona fide request in accordance with legitimate procedures.

.....
Signature of applicant

.....
Signature of witness

Signed at.....this.....day of.....20.....

6. THE FOLLOWING SUPPORTING DOCUMENTS MUST ACCOMPANY THE APPLICATION.

6.1 In respect of an application in terms of paragraphs 3.1 and 3.2, (unless dealt with under 10 below and unless already submitted with the original application)

	Attached	
	Yes	No
6.1.1 Passport valid for no less than 30 days after expiry of the intended visit.		
6.1.2 A full medical certificate.		
6.1.3 Birth certificate.		
6.1.4 Marriage certificate (where applicable).		
6.1.5 The affidavit prescribed in regulation 9 where a spousal relationship other than a marriage is applicable, with proof of co-habitation in the form of communal accounts or other documents.		

6.1.6	A notarial contract, in the case of cohabitation.		
6.1.7	Documentary proof of a customary union, where applicable.		
6.1.8	Divorce decree, where applicable.		
6.1.9	Documentary proof of custody, where applicable.		
6.1.10	Death certificate, in respect of late spouse, where applicable.		
6.1.11	Written consent from both parent(s), where applicable.		
6.1.12	Proof of legal adoption order, where applicable.		
6.1.13	Legal separation order, where applicable.		
6.1.14	Police clearance certificates in respect of applicants 23 years and older, in respect of all countries where person resided for one year or longer to be supplied within 1 year of submission if not immediately available.		
6.1.15	A vaccination certificate, if required by the Act.		

7. SECURITY/HEALTH CLEARANCES

7.1	Have you or any of your dependants ever been convicted of any crime in any country?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.2	Is a criminal action pending against you or any of your dependants in any country?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.3	Are you or any of your dependants suffering from tuberculosis, any other infectious or contagious disease or any mental or physical deficiency?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.4	Are you an un-rehabilitated insolvent?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.5	Have you ever been judicially declared incompetent ?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.6	Are you are a member of, or an adherent to an association or organisation advocating the practice of social violence, or racial hatred.?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.7	Are you or have you been a member or an adherent to an association or organisation utilising or advocating crime or terrorism to pursue its goals?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
7.8	Is there any court order against you for your failure to fulfil child maintenance obligations?	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
			<input type="checkbox"/>		<input type="checkbox"/>
7.9.	Furnish full particulars if the reply to any of these questions is in the affirmative:				
				
				
				

8. ANY ADDITIONAL MATTERS YOU WISH TO BRING TO THE DEPARTMENT'S ATTENTION

.....
.....
.....

.....

9. DECLARATION

I acknowledge that I understand the contents and implications of this application and declare that the above particulars given by me are true and correct.

.....
 Signature of applicant

.....
 Date

.....
 Signature of witness

.....
 Date

10. THE FOLLOWING SUPPORTING DOCUMENTS MUST ACCOMPANY THE APPLICATION (unless already submitted with the original application).

10.1 In respect of all the categories except categories 10.4, 10.10 & 10.11

	Attached	
	Yes	No
10.1.1 Passport valid for no less than 30 days after expiry of the intended visit.		
10.1.2 A medical certificate.		
10.1.3 Birth certificate.		
10.1.4 Marriage certificate (where applicable).		
10.1.5 The affidavit prescribed in regulation 9 where a spousal relationship other than a marriage is applicable with proof of co-habitation.		

10.1.6	A notarial contract, in the case of cohabitation.		
10.1.7	Proof of a customary union, where applicable.		
10.1.8	Divorce decree, where applicable.		
10.1.9	Proof of court order awarding custody, where applicable.		
10.1.10	Death certificate, in respect of late spouse, where applicable.		
10.1.11	Written consent from both parents, or sole custody parent where applicable.		
10.1.12	Proof of legal adoption, where applicable.		
10.1.13	Legal separation order, where applicable.		
10.1.14	Police clearance certificates in respect of applicants 23 years and older, in respect of all countries where person resided for one year or longer to be supplied within 1 year of submission if not immediately available.		
10.1.15	A vaccination certificate, if required by the Act.		

10.2 In respect of a study permit :

10.2.1	An official letter of provisional enrolment from the institution of learning concerned stating the nature of the course, the applicant's compliance with all admission requirements, including any applicable language proficiency requirement as well as details regarding arranged accommodation and proof of sufficient funds to cover tuition fees, maintenance and incidental costs.		
10.2.2	In the case of a minor written permission by both parents or sole custody parent, provided that relevant documentation proving sole custody is produced.		
10.2.3	The particulars of the person(s) in the Republic who will act as the learner's guardian.		
10.2.4	Undertaking by institution to keep the Department informed if learner discontinues course or fails to qualify for re-enrolment.		

10.3 In respect of a business permit to establish an own business or to invest in an existing business venture :

10.3.1	Proof of availability of funds for transfer from abroad, if applicable		
10.3.2	Undertaking to register with the appropriate statutory body, if required by the nature of the business		
10.3.3	Certification by a chartered accountant proving compliance with section 15 of the Act and Regulation 24		
10.3.4	Proof of registration as a closed corporation or a company, if applicable.		
10.3.5	Documentation proving the investment, such as shareholders' or partnership agreements for an investment in existing business		
10.3.6	Details of the partners/directors for an investment in existing business		
10.3.7	If an existing business, audited financial statements.		

10.4 In respect of a medical treatment permit.

10.4.1	A valid passport as envisaged in paragraph 12.1.1.		
10.4.2	Proof of financial means to cover day to day needs of persons accompanying medical permit holder, if any, in the form of bank statements, salary advices, available, and/or travellers' cheques		
10.4.3	A letter from the applicant's medical practitioner or medical institution, indicating the reasons/necessity for treatment, the period of treatment and particulars of the treatment plans in the Republic		
10.4.4	Details of the person or institution responsible for the medical expenses and hospital fees, if any. Should the applicant's medical scheme or employer not be liable for expenses incurred, proof of financial means or medical cover must be submitted.		
10.4.5	Particulars of persons accompanying permit holder.		

10.5 In respect of a "General Quota" work permit :

10.5.1	Offer of employment.		
10.5.2	Certification by a chartered accountant as set out in Regulation 28(4)(a)(i) and (ii)		
10.5.3	Commitment by employer to comply with Regulation 28(3) [NB Proof of payment to be submitted within three days of receipt of permit] (a) ONLY if an exemption or reduction is sought in terms of regulation 28(4)(d)(i) or (ii), please attach request letter from the relevant Department and other relevant documentation (b) ONLY if an exemption or reduction is sought in terms of regulation 28(4)(d)(iii), please fill in and comply the requirements set out in with items 10.7.4, 10.7.5, 10.7.7, 10.7.8, 10.7.9. and 10.7.10 and with regulation 26(6)(f).		
10.5.4	Certification by a chartered accountant containing job details as set out in Regulation 28(4)(a)(ii)		
10.5.5	Proof of registration with professional body/board, if applicable		

10.6 In respect of an "Extraordinary Quota" work permit :

10.6.1	Proof of the relevant skills and/or qualifications, including authenticated copies of academic certifications or degrees, if applicable		
10.6.2	Proof of registration with professional body/board, if applicable.		
10.6.3	A comprehensive curriculum vitae		
10.6.4	Testimonials of previous of employers confirming the applicant's competencies and/or skills.		

10.7 In respect of a "General" work permit:

10.7.1	Proof of registration with the professional body/board if applicable.		
10.7.2	Certification from a chartered accountant as envisaged in section 19(2)(b) and (d) of the Act, which include the certification contemplated in regulation 28(6)(f)		
10.7.3	An undertaking from the employer as required in section 19(2)(c) of the Act.		
10.7.4	Original advertisement in the national printed media, which must comply with regulations 28(5) and (6)(b), except for the categories listed in Schedule E.		
10.7.5	Copy of employment contract containing the information set out in regulation 28(6)(d).		
10.7.6	Certification contemplated in regulation 28(6)(f) if not contained in the chartered account's certification.		
10.7.7	Proof that all short-listed candidates have been interviewed.		
10.7.8	Letter of motivation from the employer as required in regulation 28(5).		
10.7.9	In the case of senior positions, employer's letter stating the reasons for not filling the position by the promotion of existing personnel		
10.7.10	Letter of approval, where required by a law, from * The relevant professional body/board/council; * The Department of Labour, % The relevant organ of state.		

10.8 In respect of an exceptional skills work permit

10.8.1	A comprehensive curriculum vitae together with testimonials from previous employers.		
10.8.2	A letter from a foreign or South African organ of State, or from an established South African academic, cultural or business body, confirming the applicant's exceptional skills or qualifications		
10.8.3	Other proof to substantiate exceptional skills or qualifications, such as publications, and testimonials		

10.9 In respect of Intra-company transfer permit:

10.9.1	A letter from the international concern confirming that the foreigner will be transferred to a branch/affiliated South African company		
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10.9.2	Letter from the South African company confirming the transfer from the parent/affiliated company abroad, as well as specifying the occupation and capacity in which the foreigner will be employed, and that the maximum duration will not exceed two years		
10.9.3	Certification by a chartered accountant acting on behalf of the employer that the employer needs to employ such foreigner within the Republic and outlining the foreigner's job description		
10.9.4	Proof of registration with professional body/board, if applicable		
10.9.5	An undertaking from the employer as required in section 19(5)(b)		
10.9.6	Financial guarantees required under section 19(5)(c) and regulation 28(10)		

10.10 In respect of a work permit under a corporate permit

10.10.1	Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration		
10.10.2	Corporate permit holder's certification contemplated in regulation 30(9)		

10.11 In respect of a work permit under a corporate permit in terms of an agreement with a foreign state

10.11.1	A passport valid for no less than 30 days after the expiry date of the intended stay		
10.11.2	A full set of fingerprints		
10.11.3	A valid employment contract entered into and attested to in the worker's country of origin, for a maximum period of 18 months		
10.11.4	An undertaking by the proposed employer, that he/she will remove the worker to his/her country of residence on completion or expiry of the contract		
10.11.5	Corporate permit holder's certification contemplated in regulation 30(9)		
10.11.6	Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration		

10.12 In respect of a work permit under a corporate permit for seasonal workers

10.12.1	A passport valid for not less than 30 days after the expiry date of the intended stay		
10.12.2	A valid employment contract, which has been entered into and attested to in the worker's country of origin, for a maximum period of 6 months		
10.12.3	A full set of fingerprints		
10.12.4	An undertaking by the proposed employer, that he/she will remove the worker to his/her country of residence on completion or expiry of the contract		
10.12.5	Corporate permit holder's certification contemplated in regulation 30(9)		
10.12.6	Corporate permit holder's letter specifying the reference number of the corporate permit, the fact that the person is employed under a corporate permit, the occupation and capacity in which the applicant will be employed, and his or her remuneration.		

10.13 In respect of a retired person:

10.13.1	Proof of the net worth envisaged in sections 20(1) (a) and 20(1)(b), and regulation 29.		
10.13.2	Should the retired person wish to work he/she must submit proof that a South African citizen or resident is not available for the occupation applied for.		
10.13.3	Contract of employment for a person wishing to work		

10.14 In respect of student exchange permit

10.14.1	A letter from the Department of Education or the public higher educational institution in the Republic, confirming that it is responsible for organising or administering the programme, outlining the activities and duration thereof, as well as confirming that it will take full responsibility for the student whilst he or she is in the Republic and that the student has been accepted to be registered.		
10.14.2	A letter from an organ of the foreign state, confirming the particulars of the student, including confirmation of the student's registration with a tertiary educational institution abroad, as well as the date on which study will commence.		

10.15 In respect of cultural/economic/social exchange:

10.15.1	A letter from the organ of the State confirming the status/existence of the exchange program.		
10.15.2	A letter from the educational institution in the Republic confirming that the permit holder, if a student, has been accepted to register, if applicable, or a letter from the entity, organisation or		

family where the foreigner intends to conduct his or her programme..		
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10.16 In respect of an exchange work programme

10.16.1 A letter from a prospective employer certifying compliance with, and providing the undertaking contemplated in section 22(b) and regulation 31(4).		
10.16.2 Employment offer.		

10.17 In respect of a treaty permit

10.17.1 A letter from the relevant organ of State attesting to the nature of the program and the treaty under which it is conducted.		
10.17.2 A letter from the relevant organ of State attesting to the fact that the relevant foreigner participates in such program.		
10.17.3 A letter from the relevant organ of State attesting to the type of activities which the foreigner is expected to perform under such program and the duration thereof and whether he or she is expected to conduct work.		

10.18 In respect of a relative's permit

10.18.1 Proof of foreigner being a member of the immediate family of the sponsoring citizen or resident.		
10.18.2 Proof of compliance with regulation 27 (2) and section 18(1) of the Act.		

11. IN RESPECT OF APPLICATIONS FOR A WORK PERMIT (as specified below)**NOTE:**

The applicant is by law precluded from commencing employment until in possession of a valid work permit for the specific purpose. Non-compliance can lead to heavy penalties being imposed on both the employer and employee.

Separate sheets may be attached if the space provided is insufficient to include full information/motivation.

11.1 A letter of release from the previous employer/organisation in the Republic, if applicable, must be attached.
--

11.2 OFFER OF EMPLOYMENT FOR FULL PERMITS

11.2.1 Title of Company/Organisation:						
11.2.2 Physical address:			11.2.3 Mailing address:			
11.2.4 Telephone number: (code) (number)			11.2.5 Facsimile number: (code) (number)			
11.2.6 Employer's business registration number:			11.2.7 Employer's tax reference number:			
11.2.8 If a subsidiary, principal company:			11.2.9 and location			
11.2.10 Nature of business conducted:			11.2.11 Number of employees:			
Category	Key personnel	Management	Professional	Clerical	Unskilled	Other (specify)
11.2.12 SA citizens						
11.2.13 Residents						
11.2.14 Holders of temporary work permits						
11.2.15 The position offered has been vacant since:						
11.2.16 If a newly created position, details:						
11.2.17 The position was brought to the attention of the applicant by the following means:						

11.3 RECRUITMENT AND INTERVIEWING OF SA CITIZENS/RESIDENTS TO FILL THE POSITION (ONLY for "General" Work Permits Not applicable for "General Quota" Permits, "Extraordinary Quota" Permits—except when a waiver of the training fee is sought—, "Exceptional Skills" Permits and "Inter-company Transfers" Permits)

11.3.1 The Department of Labour was approached:	No	Yes	11.3.2 Branch:
---	----	-----	----------------

11.3.3 Employment agencies were approached	No	Yes	11.3.4 Agencies:
11.3.5 Media advertisement in: (name of publication)		from	to
Note: The relevant press cuttings must be affixed to an original, official letterhead (which includes details of the directors/owner members of the business) and submitted with the application. Please also attach relevant copies of replies received from the Department of Labour and employment agencies.			

11.4 Full details of the outcome to the above and reasons why suitably qualified local candidates were not appointed:

.....

.....

.....

.....

11.5 Does the applicant possess any special skills that have been tested by you and make him/her the most suitable candidate for this position:

No Yes

Details.....

.....

11.6 Additional explicit motivation to support the selection of a foreign candidate:

.....

.....

.....

.....

11.7 DETAILS OF OFFER MADE TO APPLICANT:

11.7.1 Title of occupation to be followed:	
11.7.2 Nature of offer:	For a period of.....weeks/months/years.
11.7.3 Salary offered: R per month	11.7.4 Additional benefits, if any:
11.7.5 Summary of duties	
.....	
.....	
.....	
11.7.6 Preferred date of commencement of employment: / /	

11.8 DECLARATION BY EMPLOYER

I, (full name)..... ID Number.....in my capacity as.....of the company/organisation known as.....heretly undertake full responsibility for the above-named applicant.....and declare that I am authorised to make this offer of employment on behalf of the aforesaid company/organisation, that this offer is made in good faith and will be honoured and that the above information provided by me are true and correct.

.....
Signature of employer

.....
Signature of witness

Signed at.....this.....day of.....20.....

REPUBLIC OF SOUTH AFRICA
EXTENSION / RENEWAL OF PERMIT
[Section 11 Act No 13 of 2002 : Regulation 18]

The temporary residence permit no.....

on page..... is hereby extended/renewed until:

.....

And / or relevant condition(s) is/are substituted by the following conditions :

.....

.....

.....

.....

.....

issued at:.....

on.....

Issued by

for Regional Director

Annexure 18

**CODE NO
REPUBLIC OF SOUTH AFRICA**

**TEMPORARY RESIDENCE PERMIT
[Section 11, 16 and 21 of Act No 13 of 2002 : Regulation 19]**

A temporary residence permit of the category marked X:

Visitor's Permit	Crew Permit
Corporate work permit – seasonal worker (sec. 21(4)(c))	Corporate work permit from an agreement with a foreign state (sec. 21(4)(b))

valid until.....

Is hereby issued for purpose of.....
subject to the following condition(s) :

- (1) The holder is not or does not become a prohibited or undesirable person.
 - (2) The holder of a visitor's or crew permit shall not conduct work.
 - (3) The holder of a work permit issued under a corporate permit in terms of an agreement with a foreign state {section 21(4)(b)} or as a seasonal worker {section 21(4)(c)} may only conduct work under the terms and conditions set out in such corporate permit.
 - (4)
-

- Note: (1) Fees will be charged for extensions/subsequent visitor's permits which must be applied for 30 days prior to the above-mentioned validity date.
- (2) Anyone who contravenes the purpose and / or conditions of this permit shall be guilty of an offence and liable on conviction to a fine or imprisonment.

For the Regional Director

Issued by

Bar Code

Annexure 19

APPLICATION FOR A VISITOR'S PERMIT AT PORT OF ENTRY

[Section 34(8) of Act No 13 of 2002 : Regulation 19(6)(a)]

1. Surname : _____
2. Full names : _____
3. Date of Birth : _____ Nationality : _____
4. Passport No : _____ valid until : _____
5. Country of residence : _____
6. Accompanied by : _____
7. Occupation : _____
8. Employer / Organisation : _____
9. Purpose and period of visit : _____
10. Name of contact person : _____
11. Proposed residential address : _____
12. Reason why you are not in possession of a visa : _____

Signature : _____ Date : _____

Official use

1. Time received : _____ Official _____
2. Port of entry _____
3. Arrived: Flight No : _____ from _____
4. Departure: Flight _____ to _____
On _____ at _____

- | | | | |
|------------------------------|-----|----|--------------|
| 5. BLOK: | Yes | No | Code : _____ |
| 6. Funds available : | Yes | No | R _____ |
| 7. Return air ticket : | Yes | No | |
| 8. Application Fees levied : | Yes | No | |
| 9. Conveyer penalised : | Yes | No | |

Decision : _____ Made by _____
Date : _____ Reference no _____

DEPARTMENT: HOME AFFAIRS**REPUBLIC OF SOUTH AFRICA****APPLICATION FOR A DIPLOMATIC PERMIT AND ACCREDITATION**

(Section 12 of Act No. 13 of 2002: Regulation 21)

- Note:
1. Foreign representative completes fields 1 - 13.
 2. Member of family and as private servant complete fields 1, 2, 5, 7, 14 -22.
 3. Incomplete applications are returned to applicants to complete in full, as required.
 4. The Department of Foreign Affairs, Pretoria, or the Department may issue diplomatic permit at a mission
 5. Ambassadors or Ministers of a foreign state may use a *note verbale* acceptable to the Department of Foreign Affairs in lieu of this form.

-
1. DATE OF APPLICATION: YEAR.....MONTH.....DAY.....
 2. NAME OF FOREIGN REPRESENTATIVE: Title.....
Surname as in passport.....
Full names as in passport.....
 3. DATE OF BIRTH: YEAR.....MONTH.....DAY.....
 4. NATIONALITY.....
 5. NAME OF MISSION / OFFICE.....
IN SOUTH AFRICA (CITY)
 6. CATEGORY OF ACCREDITATION:
Tick one space only (as per-definition of category on reverse side)
..... DIPLOMATIC CONSULAR INTERNATIONAL ORGANISATION
..... ADMIN / TECHNICAL
 7. OFFICIAL DESIGNATION..... 8. TERM OF DUTY (years)
 9. MISSION /OFFICE STAFF ESTABLISHMENT IN SOUTH AFRICA: Tick one space only:
----- Existing post (Name of predecessor).....
----- Vacant post (Name of last incumbent and designation)
 - Expansion (New post duties)

10. PASSPORT TYPE: DIPLOMATICOFFICIAL UNLPPRIVATE
11. PASSPORT NUMBER.....
12. ISSUE DATE OF PASSPORT: YEAR MONTH..... DAY.....
13. EXPIRY DATE OF PASSPORT: YEAR..... MONTH..... DAY.....
- Tick one space only (as per definition on reverse side)
14.MEMBER OF FAMILYPRIVATE SERVANT
15. RELATIONSHIP TO FOREIGN REPRESENTATIVE.....
16. TITLE AND SURNAME (as in passport)
17. FULL NAMES (as in passport)
18. DATE OF BIRTH: YEAR..... MONTH DAY.....
19. PASSPORT TYPE: DIPLOMATIC OFFICIAL UNLP PRIVATE
20. PASSPORT NUMBER
21. ISSUE DATE OF PASSPORT: YEAR.....MONTH DAY
22. EXPIRY DATE OF PASSPORT: YEAR MONTH DAY

DEFINITION OF ACCREDITATION CATEGORIES IN TERMS OF THE DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT (ACT No. 37 OF 2001): SCHEDULES I,II,III,IV, AND THE IMMIGRATION ACT (ACT No. 13 OF 2002)

1. **DIPLOMATIC AGENT:** Diplomatic representative appointed by the sending State.
2. **CONSULAR AGENT:** Consular official appointed by the sending State.
3. **OFFICIALS OF INTERNATIONAL ORGANISATIONS:**
 Officials appointed by offices of International Organisations accredited to South Africa in terms of section 5 of the Diplomatic Immunities and Privileges Act (Act No. 37 of 2001) as per official listings published on the Department of Foreign Affairs' web site at www.dfa.gov.za/forrep
4. **ADMINISTRATIVE AND TECHNICAL PERSONNEL:**
 - 4.1 Administrative and technical personnel transferred by the sending State to a diplomatic mission or a consular post in South Africa.
 - 4.2 Administrative and technical personnel transferred by offices of International Organisations accredited to South Africa in terms of section 5 of the Diplomatic Immunities and Privileges Act (Act No. 37 of 2001) as per official listings of organisations published on the Department Foreign Affairs' web site at www.dfa.gov.za/forrep

5. MEMBERS OF FAMILY:

5.1 A member of family means the spouse, any unmarried child under the age of 21 years; any unmarried child between the ages of 21 and 23 years who is undertaking full time studies at an education institution; and any other unmarried child or other family member officially recognised as a dependent member of the family by the government of the sending State, the United Nations, a specialised agency or an organisation, and who is issued with a diplomatic or official passport.

Note: According to the above definition, the following persons therefore qualify for a diplomatic permit when officially recognised, issued with a diplomatic or an official passport by the sending State, and endorsed on the United Nations Liassez Passer passport of a UN official:

- Spouse, partners

Nationalities other than the sending State:

Spouses - marriage certificate or documentation of the relevant foreign country proving legally signed conjugal relationship under the law of their country.

Partners - affidavit.

- Children until 21 years of age (prior to turning 22).

- Children studying until 23 years of age (prior to turning 24).

- Other unmarried children or other family member.

6. PRIVATE SERVANT:

6.1 A person who is in the domestic service of a member of the mission or an official of an international organization, who is not an employee of the sending State or organization.

6.2 A private servant and a foreign representative are required to complete repatriation undertakings, attached hereto.

Annexure 19B

Control No: _____

**REPUBLIC OF SOUTH AFRICA
DIPLOMATIC PERMIT**

(Section 12 of Act No. 13 of 2002: Regulation 21)

Ref. No.:

NAME :

PASSPORT NO.:

NO. OF ENTRIES: PERMIT EXPIRY DATE:

ISSUED AT: ON:

CATEGORY ACCREDITATION:

CONDITIONS:
.....
.....

.....
for Director-General Foreign Affairs (*)

or

Regional Director
Department of Home Affairs (*)

(*) **Delete what not applicable**

**PERIODIC CERTIFICATE ON THE PERFORMANCE OR
CURRICULUM OF STUDY OF FOREIGN STUDENTS
[Section 13(1)(b)(v) of Immigration Act No 13 of 2002: Regulation 22(4)]**

To be completed by Institutions/Schools where foreign students/pupils are studying in South Africa, at the beginning or end of each Semester.

A. Name and Address of the Institution

.....

Telephone and Fax no.Contact
 person.....Designation.....

B. Name and Surname of the Pupil/student.....

Passport NoDate of Birth
 Date of Admission into the Institution

C. This serves to certify that the above-named pupil/student has performed satisfactorily/during the last semester ofJune/December 20....and that he/she is eligible/not eligible for re-admission in this Institution/School for the next Semester of 20.....

D. It is further confirmed that the pupil/student still complies with the admission conditions i.e. valid permit, accommodation arrangements, sufficient funds to cover tuition fees etc. (if still continuing).

REPRESENTATIVE OF HEAD OF INSTITUTION/SCHOOL

DATE

STAMP

Annexure 20 A

PERIODIC CERTIFICATION OF MEDICAL TREATMENT

[Section 17 (1)(b)(iv) of Immigration Act 13 of 2002 : Regulation 26(3)]

to be completed every six months by the Institution where a foreigner patient is receiving treatment in South Africa.

A. Name and Address of the Institutions

.....
.....
.....

B. Name and Surname of the patient

.....
.....
.....

Passport No

Date of Birth

Date of Admission into the Institution

C. This serves to certify that the above-named is still receiving treatment, for the followingmonths and our Institution is satisfied that such patient is capable of incurring and paying for the costs of such treatment for such period and has sufficient means to support himself for such period.

REPRESENTATIVE OF THE INSTITUTION OF TREATMENT

DATE

STAMP

REPUBLIC OF SOUTH AFRICA
APPLICATION FOR A CORPORATE PERMIT

[Section 21 of Act No 13 of 2002: Regulation 30]

FOR OFFICIAL USE ONLY	BLOK:
DATE RECEIVED:	FILE NO:
APPLICATION CHECKED BY:	ON:
APPLICATION FEE AMOUNT:	RECEIPT NO:
TRAINING FEE AMOUNT R (2 % OF R REMUNERATION OR)	
NO OF APPOINTMENT CERTIFICATES ISSUED:	
PROCESSED/AUTHORISED BY :	
<p>IMPORTANT:</p> <p>(a) Foreigners are by law precluded from commencing employment until in possession of a valid work permit for the specific purpose. Non-compliance can lead to heavy penalties being imposed on both the employer and employee.</p> <p>(b) This application is to authorize a corporate entity, as defined in the Immigration Act, to employ in terms of a corporate permit a number of workers as agreed upon with the Department. In addition, in terms of the Act, foreigners working for the same employers are eligible for work permits under other provisions of the Act.</p> <p>(c) Separate sheets may be attached if the space provided is insufficient to include full information/replies.</p> <p>(d) At the time of submission of this application, the training fee in respect of the foreigner to be employed by the corporate applicant and contemplated in this application is 2% of such foreigners' taxable remuneration. If in terms of regulation 28(3) the applicable training fee has been changed and/or has been differentiated on the basis of categories of foreigners, please use a separate sheet to list the number of foreigners under each category and the corresponding applicable training fee.</p>	

1. BACKGROUND DETAILS OF CORPORATE APPLICANT

Name of Company/Organization:	
Contact person:	E-mail address:
Physical address:	Mailing address :
Telephone number : (code) (number)	Facsimile number : (code) (number)
Employer's business registration number:	Employer's tax reference number:
If a subsidiary, principal company and location:	
Nature of business conducted:	Total No of workers employed:

2. THE ABOVE-MENTIONED COMPANY/ORGANIZATION HEREBY APPLIES FOR A CORPORATE PERMIT TO EMPLOY FOREIGNERS (If more space is required provide information on a separate sheet. Please be as specific as possible in describing the job positions)

Type of position:	No of workers:
Type of position:	No of workers:
Type of position:	No of workers:
Type of position:	No of workers:
Type of position:	No of workers:

3. REQUIREMENTS

3.1 Representation demonstrating the need to employ the requested number of foreigners, in the job descriptions set out under 2 above.	Yes	No	Comments:(Add additional sheet if required)
3.2 Certificate of a chartered accountant as contemplated in section 21(2)(a) containing an organisational diagram of the relevant productive unit including the staff's residential status and job descriptions.	Yes	No	
3.3 An undertaking by the corporate applicant described in section 21(2)(b) and regulation 28(11).	Yes	No	
3.4 An undertaking by the corporate applicant that he/she will be responsible for the removal of foreigners employed in terms of this permit to their respective countries of residence on expiry of the contract.	Yes	No	
3.5 Financial guarantees contemplated in section 21(2)(c) and regulation 30(7).	Yes	No	
3.6 The corroborating representations on the need to employ foreigners required under section 21(2)(d).	Yes	No	
3.7 An undertaking to comply with the provisions of Regulation 30(8).	Yes	No	

3.8 Pro Forma type of employment contract, if applicable	Yes	No	Comments:(Add additional sheet if required)
3.9 Statement by the CEO or executive authority of the corporate applicant that relevant office or corporate official is authorized to perform the functions related to the corporate permit and its administration	Yes	No	
3.10 Statement indicating the expected time frame for the consideration and finalization of this application and the time and place where the contact person is available to discuss this application with officials of the Department and provide in loco verification if deemed necessary.	Yes	No	

4. OPTIONS

(Indicate preferred option on which Corporate Permit may be issued subject to agreement with the Department after consultation (regulation 30(8))

4.1 Payment of Training Fee	Yes	No	Comments:(Add additional sheet if required)
4.2 Training Programme aimed at reducing dependency on foreign labour and/or transferring skills from the relevant foreigners to citizens or residents.	Yes	No	
4.3 Combination of paragraphs 4.1 and 4.2 above.	Yes	No	
4.4 Do you seek a reduction or waiver of the Training Fee on the basis of a request by the Minister of Trade and Industry or Mineral and Energy, or Agriculture (if so, attach Request Letter signed by such Minister or his/her delegate) – regulation 30(8)(b)(iii).	Yes	No	
4.5 Has your industry, or segment thereof, been identified by the Department as one in respect of which the Government of the Republic has entered into an agreement with a foreign state referred to in section 21(4)(b) of the Act? If yes, attach relevant documentation.	Yes	No	
4.7 If your Corporate Permit is for seasonal workers for a period not exceeding 6 months a year, are you seeking a Corporate Permit to be in force for longer than a year? If so, provide details on a separate sheet and collaborated information showing the need for such foreigner.	Yes	No	

5. CONSULTATION

5.1 Has the Department of Labour expressed a view or has been consulted in respect of this application (if so, attach relevant documentation) - waiver in terms of section 21(2)(d)	Yes	No	Comments:(Add additional sheet if required)
5.2 Has the Department of Trade and Industry expressed a view or been consulted in respect of this application (if so, attach relevant documentation).	Yes	No	
5.3 If no consultation has taken place, or the applicant wishes to refer the Department to specific offices or officials of the Department of Labour and/or Trade and Industry, please provide the relevant indication, which shall not be binding on the Department, in a separate sheet.			

6 UNDERTAKING BY CORPORATE APPLICANT

I, (full name)ID Number in my capacity as of the company/organization known as

.....
understand that the implementation of a corporate permit is a partnership between the corporate applicant and the Department of Home Affairs to ensure compliance with the provisions and the objectives of the Immigration Act and that a corporate permit may be terminated in case of unsatisfactory performance on my side, and on that basis undertake for the above-named applicant and solemnly declare that I am authorized to make this application and enter in the obligations it involves, on behalf of the aforesaid company/organization and that the information contained therein is true and correct. I furthermore undertake to ensure that any foreigner employed in terms of a corporate permit issued to me completes the prescribed application fully, correctly and truly and shall be in possession of a passport valid for no less than 30 days after the expiry date of his or her intended stay and immediately inform the Department of Home Affairs if any of such foreigners is no longer in compliance or is no longer employed or is employed in a different capacity. I, furthermore, undertake responsibility for the removal of any of the foreigners employed in terms of this permit to his/her/their country/countries of residence on expiry of the contract.

.....
Signature of corporate applicant/employer

.....
Signature of witness

Signed at this day of 20...

Annexure 22

**REPUBLIC OF SOUTH AFRICA
CORPORATE PERMIT**
[Section 21 of Act No 13 of 2002 : Regulation 30]

NAME OF CORPORATE PERMIT HOLDER.

DEPARTMENTAL REFERENCE NO.

PHYSICAL ADDRESS (also include the affected branches, affiliated offices & subsidiaries of the corporate in South Africa).

In terms of section 21 of the Immigration Act, 2002 (Act No 13 of 2002) the above-mentioned corporate permit holder is hereby authorised to issue a total of corporate authorization certificates numbered to

Type of position:	Duration (*)	No of workers:
Type of position:	Duration (*)	No of workers:
Type of position:	Duration (*)	No of workers:
Type of position:	Duration (*)	No of workers:
Type of position:	Duration (*)	No of workers:

Duration can be expressed in months or years. The duration of employment runs from date of the workers' first entry into the Republic and relates to the period this authorization is in force, during which time this authorization may be used to employ subsequent workers in the same position. This permit may be issued for open-ended durations.

(*) In the case of seasonal workers, workers can be employed from _____ to _____ every year / until year 20__ / for year 20__ only.

(*) In the case of workers employed in pursuance agreement with a foreign state referred to in section 21(4)(b) of the Act, workers must be citizens / residents of:

(*) The worker(s) must be introduced through the border post/port of entry of

Location of employment :

Type of position:		No of workers:
Type of position:		No of workers:

Type of position:	Location	No of workers:
Type of position:	Location	No of workers:
Type of position:	Location	No of workers:

Regional Director
Department of Home Affairs
Date :

Department's wet seal/stamp

*Delete if not applicable.

CODE NO

REPUBLIC OF SOUTH AFRICA

**PERMIT TO REPORT TO REFUGEE RECEPTION OFFICE
[Section 23 of Act No13 of 2002 : Regulations 32]**

This permit, valid for 14 days from date of admission is
hereby issued solely to enable the holder to report to the
Refugee Reception Office at.....

subject to the following conditions:

The holder of this permit shall not qualify for any other
permit issued in terms of the Immigration Act 2002 (Act 13 of 2002).

.....
.....
.....

Note: Anyone who contravenes the purpose and / or
conditions of this permit shall be guilty of an
offence and liable on conviction to a fine or
imprisonment.

Issued by

Persal No

Bar Code

Annexure 24

APPLICATION FOR A PERMANENT RESIDENCE PERMIT

[Sections 26 and 27 of Act No 13 of 2002 – Regulation 33]

IMPORTANT:

- (a) To be completed in detail in English. Please print in black ink or type;
- (b) The completed form must be accompanied by the documents listed on pages 11 to 14.
- (c) For the various grounds on which permanent residence may be acquired and list of specific documents required in respect of each ground see pages 13 and 14.
- (d) Applicants are required to undergo an interview. Arrange for an interview with the nearest Regional Office of Home Affairs or South African mission before or when submitting the completed application with the prescribed fee, if applicable.
- (e) In the case of married couples or spousal partners, both the applicant and the spouse must sign and date the form and attend the interview, if the spouse is party to this application.
- (f) Applicants are advised to make and keep copies of documentation submitted.
- (g) It is the applicant's prerogative to retain an immigration practitioner to submit and attend to application of his or her behalf. However, this will not influence the outcome, as any application is considered individually and on its merits.

FOR OFFICIAL USE ONLY
LIST OF APPLICANTS

Ref. No _____

SURNAME	FORENAMES	DATE OF BIRTH	GENDER	RELATIONSHIP	PERMIT NUMBER

Persons interviewed. Applicant Spouse Other
 Date of interview Interviewing officer Rank Peral No
 Application presented by (Officer) Peral No
 Application considered by Peral No
 Date of consideration
 Approved/rejected
 Reasons for rejection
 Signature: Rank
 Date: Office
OFFICE STAMP

1. **Details of applicant:**

1.1 Mr/Ms/Dr/Prof (Surname)

1.2 First Name(s)

1.3 Maiden name

1.4 Other former surnames

1.5 Date of birth: Year Month Day

1.6 Country of birth

1.7 Nationality of birth

1.8 Present nationality

1.9 Passport No Expiry date

1.10 Issued by (Country)

1.10 Marital status : Married : Divorced Widowed

1.11 Date of marriage : Year Month Day

1.12 Present residential address : Country.....

Since: Year Month Day

1.13 Postal Address Suburb City Code

1.14 Tel No : Home : Work: Cell phone No

1.15 Occupation

2. Details of parents :

2.1 Father : Surname

First name(s)

Birth place: City/Town

State/Province

Country

Birth date: Year Month Day

His nationality at birth

2.2 Mother : Surname

First name(s)

Birth place : City/town

State/Province

Country

Birth date: Year Month Day

Her nationality at birth

3. Details of spouse

3.1 Type of spousal relationship

3.2 Mr/Ms/Dr/Prof (Surname)

3.3 First Name(s).....

3.4 Maiden name.....

3.5 Other former surnames



- 3.6 Date of birth: Year Month Day
- 3.7 Birth place: City/Town
- 3.9 Country of birth 3.8 State/Province.....
- 3.10 Nationality of birth
- 3.12 Passport No/ SA Identity No 3.11 Present nationality.....
- 3.13 Issued by (Country)..... Expiry date
- 3.13 Present residential address:
- Suburb/City/Town Country
- Since : YearMonthDay
- 3.14 Postal Address Suburb Code
- 3.15 Tel No ; HomeWork Cell phone No
- 3.16 Occupation

4. Details of parents of spouse, if spouse is party to this application :

- 4.1 Father : Surname
- First name(s)
- Birth place: City/Town
- State/Province
- Country
- Birth date: Year Month Day
- His nationality at birth
- 4.2 Mother : Surname Maiden name
- First name(s)
- Birth place : City/town
- State/Province

Country

Birth date: Year Month Day

Her nationality at birth

5. Details of Children: unmarried children under the age of 21 of both applicant and spouse, if spouse is party to this application, including those born out of previous marriages or out of wedlock and children, if any, of unmarried dependants or persons in permanent spousal relationships.

Surname	Forename(s)	Date of Birth	Relationship to applicant and/or spouse	Country and place (town/city) of birth	Present Nationality	Occupation

6. Names of unmarried children mentioned above and who do not wish to apply for an immigration permit(s).....

7. Names of children over the age of 21 who are still dependent on the applicant for various reasons – please explain

8. Details of previous marriage/s (if any) :

Date and place of marriage date and place of divorce.....

Details about any custody/maintenance of children subsequent to such marriage/s.....

9. Details regarding relatives and/or friends resident in South Africa, if any (it is not mandatory to complete this portion):

Name	Address	Relationship Acquaintanceship
1.
ID No PR No.....		
2.
ID No PR No.....		
3.
ID No/PR No.....		

10. Educational School Qualifications

Applicant.....Date obtained

Spouse*Date obtained

Higher Qualifications or Special Training:

Applicant:

Name of College, University or Educational Institution attended:.....
Country

Prescribed duration of course

Period attended

Major subjects.....

Degree, Diploma or certificate obtained.....

Spouse*:

Name of College, University or Educational Institution attended.....
 Country

Prescribed duration of course

Period attended

Major subjects

Degree, Diploma or certificate obtained

Trade/Professional Qualifications

Applicant :

Duration of apprenticeship/training : From to.....
 Profession/Trade in which qualified

Spouse*

Duration of apprenticeship/training : From to
 Profession/Trade in which qualified

11. Employment record (to cover full period of employment):

Name of employer	Address: Town/City	From	To	Nature of work
.....
.....
.....
.....
.....

* if party to this application

Describe briefly your present/last duties.....

 What occupation do you intend following in South Africa?

 What amount of money will you transfer to South Africa if any ?
 Do you receive a pension or do you have a private income? If so, please give details:.....

 Do you have any other assets eg property/investments etc? please give details

 Do you have an offer of employment in South Africa? [Yes/No] If so, attach work offer.

12. Do you have any immediate family members remaining in country of origin [father, mother, sisters, brothers, husband, wife and children]
 [Yes] [No]

Name	Address	Relationship/Acquaintance
.....
.....
.....
.....

13. Full details of previous and current residence (since 18th birthday or during the last ten years to date)
 (Complete in detail including postal district numbers, e.g. Bromley BR68ED, United Kingdom)

	From: (Month/Year)	To: (Month/Year)	Number and street	City/Town	Country
(i)
(ii)
(iii)
(iv)
(v)
(vi)
(vii)
(viii)
(ix)
(x)
(xi)
(xii)
(xiii)
(xiv)
(xv)
(xvi)
(xvii)
(xviii)
(xix)
(xx)

14. Details regarding applicant and (if applicable) spouse and children

The following questions relate to you (the applicant) as well as to any person mentioned under 3 and 5 and must be answered "YES" or "NO".

- (a) Have you or any of the persons concerned ever been –
 - (i) convicted of a criminal offence even if such conviction is no longer on record against you or the persons concerned?
 - (ii) declared insolvent?
 - (iii) the subject of a civil action for failure to fulfil child maintenance obligation?
- (b) Will you or any of the persons concerned leave outstanding debts behind on your departure or, if you are already in South Africa, did you leave any outstanding debts behind abroad? If so, what arrangements have you made to settle them
- (c) Is there a criminal action pending against you or any of the persons concerned?
- (d) Have you or any of the persons concerned previously applied for an immigration permit?
- (e) Have you or any of the persons concerned ever been refused permanent residence in or entry to or been repatriated or deported from South Africa or any other country?
- (f) Have you or any of the persons concerned ever previously been in South Africa? If yes, state period
- (g) Do you or any of the persons concerned suffer, or has any of you suffered from a disease referred to in regulation 34(1)(a) or from any physical or mental condition which may render you a public charge or a threat to others?

N.B. If the answer to any of the questions (a) to (g) above is "YES", give FULL details below. In connection with question (a) (ii) state whether or not you or the persons concerned have been rehabilitated. In respect of question (f) actual periods and addresses of residence must be furnished.

.....

.....

.....

- (h) Have you or any of the persons concerned ever applied for asylum in another country? If so, please state which person(s), the countries of previous immigration, and the year in each case