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PERMIT WOES AND REPATRIATION DEPOSITS

This year I really hope we get more legal certainty on a number of pressing immigration issues. Not just because of the new legislation, but also because of the practical interpretation and daily implementation that has made obtaining permits difficult.

With regards to the new general work visa, my fear that involving the Department of Labour will slow down the process, has become a reality. We have many cases that are taking longer than four months for them to process. The Department of Labour certificate is required for applicants to submit their application at either VFS or the mission abroad meaning that a general work visa takes now six months on average to be processed. Who will wait that long to employ a foreigner? But perhaps this is the political intention. Mr. Mangosuthu Buthelezi, South Africa's former Minister of Home Affairs (1994–2004), seems to agree in his online

opinion piece that the new process is not

working. In another interesting development, the Department of Home Affairs has published a notification regarding repatriation deposits. Since the implementation of the Immigration Amendment Act, 2011 on 26 May 2014, foreigners can travel to South Africa without paying a repatriation deposit as a guarantee of their return.

In line with the new regulation the Department of Home Affairs has decided to lapse deposits to the State as unclaimed, if the refund is not claimed by the deadline which is 28th February 2015.

All granted South African permanent residency holders need to submit their claim in South Africa before the cut-off date to avoid losing it. The deposit will also be forfeited if an applicant applied for change of status before 26th May 2014 and has not applied for a refund of the repatriation deposit before the deadline.

Those who changed their visa status from within South Africa and lodged the deposit when applying for the permit, are eligible to apply for the refund. This includes foreigners who entered on a Visitor's Visa and then received a Study, Work or Own Business Permit. You may also apply for a refund if you have changed your status from Traveller, Study, Work Permit to Scarce Skill/ Critical Skill Permit and the new expiry date is beyond the deadline.

The Deadline is however not applicable for foreign students. They will not forfeit their funds if their permits are still valid and can claim them from the embassy where the application was lodged on completion of their studies. Similarly

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retirement permit applicants will not lose their repatriation deposit if they do not claim it before 28th February 2015. Their permit conditions are still valid and effective until the permit expires, they apply for a change of status or have been granted permanent residence status.

It is important to note that there is no requirement for people to fly back home to claim their refund from their country of origin. Travellers with valid permits with expiry dates beyond 28th February 2015 and who apply for their refunds before the deadline will not forfeit their deposits.

Those who have overstayed their permit are not qualified for a refund, because of the violation of the terms and conditions of their temporary residence permit.

The following documents are required for the claimant:

- Completed application form
- Original passport (not a copy)
- Original receipt of the deposit
- Proof of banking details/ warrant vouchers (cheques)
- Reason for the refund, example:
 1. Proof of final departure from South Africa on or before the expiry of the temporary residence permit for which a condition of a deposit was attached, or
 2. Proof of permanent residence permit

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