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STATUS QUO IN RESPECT OF APPLICATIONS CURRENTLY UNDER CONSIDERATION AT THE DEPARTMENT OF HOME AFFAIRS

The current situation is that the industry is still experiencing delays with the Department of Home Affairs in the processing of all types of temporary and permanent residence applications.

In respect of Embassy lodged applications, we are experiencing less of a delay, as many of these applications are being dealt with at the Embassy/High Commission/Consular Mission of lodgement. However, this is not always the case and delays do creep in.

The average turnaround time through Embassies is currently anywhere between 4 and 6 weeks.

In respect of applications lodged at the Regional Offices of the Department of Home Affairs within the Republic of South Africa, the situation still persists that all these applications are couriered from the office of receipt of such applications to the Central Adjudication Hub of the Department of Home Affairs at its Head Office in Pretoria.

There are logjams in the system both in temporary and permanent residence applications in this regard and whilst there are exceptional cases where permits are dealt handled efficiently, the bulk of these applications are taking anything from 2 to 6 months to finalise.

Nevertheless, we do persist and our applications are coming through with regularity.

PERMANENT RESIDENCE APPLICATIONS

Permanent residence applications are, most unfortunately, currently taking much longer than normal to finalise. This is as a result of new procedures that were implemented by the Department of Home Affairs Head Office during the course of last year.

As a result of additional checks and balances that have been put into place by the Department of Home Affairs Head Office, all permanent residence applications that were in fact already finalised but not yet closed and collected or that were about to be finalised were recalled by Head Office of the Department of Home Affairs and put through the entire assessment process right from the beginning.

The reality is that only a fraction of the normal amount of permanent residence applications that were previously being finalised by the Department of Home Affairs are currently being attended to. This has obviously resulted in a massive backlog of the processing and finalisation of all kinds of permanent residence applications.

We are currently in consultation with Head Office of the Department of Home Affairs in respect of the urgent finalisation of all permanent residence applications that we currently have outstanding.

We do endeavour to finalise applications despite delays, as speedily as possible.

EXCEPTIONAL SKILLS WORK PERMITS

Whilst the Immigration Act made provision for the category of Exceptional Skills Work Permits, it appears that there is a bureaucratic misinterpretation of what constitutes “exceptional skills” and it has come to our notice that in many instances, not necessarily experienced by our offices, officials at the desks of the Regional Offices of the Department of Home Affairs are making judgement calls as to what they believe exceptional skills is or isn't and are in many instances refusing to take in such applications where the applicant is, indeed, suitably qualified.

Rather than take these risks our advice at this time to clients is to take a more cautious approach and to consider seriously applying for a General Work Permit rather than going the uncertain route of applying for Exceptional Skills Work Permits. It does, indeed, force the employer to jump through one or two hoops that they would not have had to jump through in terms of having to advertise the position in the national printed media and provide salary benchmarkings. However, it will lead to a degree of certainty as a proper search would have to have been undertaken to secure the services, or at least attempt to, of a South African citizen or resident for the position.

CORPORATE PERMITS

The provisions of Section 21 of the Immigration Act which allows for an Umbrella Corporate Work Permit to be granted for large numbers of skilled migrants appears to be grinding to a halt.

The Department of Labour has been taking an attitude that South Africans are available in droves to fill such positions, notwithstanding the fact that this is devoid of the realities of the situation.

In many instances, we have advised employers to again consider the possibility of a General Work Permit for such skilled foreigners as a realistic and more certain avenue for acquiring the relevant work permits for such skilled migrants.

Whilst we are still attending to Corporate Permit applications, despite the noncommittal attitude of the Department of Labour – this is only in instances where the company's activities fall within the national interest.

**AS ALWAYS, WE ENDEAVOUR TO KEEP YOU UP TO
DATE ON ALL IMMIGRATION RELATED ISSUES**

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