

Local lodgements versus lodgements abroad

Follow these guidelines when lodging an application for a foreign national.

By Tarryn Pokroy Rietveld

In starting off the immigration process for a foreign national or for an employer, the first question that always needs to be asked is whether the application is going to be lodged locally or lodged through the relevant South African Embassy or High Commission abroad.

For the sake of clarity, I use the words "South African Embassy" as encompassing the South African High Commissions, Consular offices and Liaison offices of South Africa.

Certain countries are visa exempt in terms of Visa Exemption agreements between countries, although not all such agreements are reciprocal, including, to mention a few, Australia, Canada, Namibia and the UK. In the past, it has often been the practice of individuals who hold passports for a visa exempt country to merely enter South Africa and receive a visitor's visa upon arrival. Such foreign national would then change status to an appropriate alternate category of permit once in South Africa. This made the process possible for an applicant to lodge an application for a temporary residence permit from within South Africa as opposed to the relevant South African Embassy abroad where the application should, technically speaking, be lodged. The process applicable in most countries all over the world is that before you leave South Africa you arrange to apply for an appropriate temporary residence permit to conduct the activities you wish to conduct in the foreign country. You then only arrange your travel

plans to that country once in receipt of the relevant permit. South Africa should be no different.

However, severe gaps in our law have certainly made it possible for the above process to be possible. Imminent amendments to the Immigration Act and its Regulations will ensure that a change of status will no longer be possible in the future where an applicant enters South Africa on a visitor's visa. They will have to return to their country of origin in order to make the application through the South African Embassy there.

In the meantime, it is important to note the differences between lodging an application locally as opposed to lodging it through our South African Embassies abroad, some advantageous and some disadvantageous.

For an application lodged from within South Africa, any temporary residence permit is currently taking anywhere between two and four months to finalise an application as from date of lodgement. This is as a result of delays in backlogs within our local Home Affairs offices. With the ability to be able to enter South Africa on a visitor's visa and change status here, this is often the preferable option to a foreign national who does not wish to wait abroad for the application to be processed and finalised there. Much of the delay is as a result of the regional offices of the Department of Home Affairs not being able to attend to the processing of the large number of temporary residence or permanent residence applications. The regional office is utilised in order for the foreign national to lodge an application at and the regional office ensures that all documentation is received for purposes of the specific residence process. The application is then sent to Head Office of the Department of Home Affairs to the adjudication hub that has been created. All applications for temporary and permanent residence

are processed and finalised through the hub at Head Office. Once the application is finalised the permit is then sent back to the regional office where it is then possible for the foreign national to arrange collection of the permit.

In respect of an application that is lodged through our South African Embassies abroad, dependent on the Embassy applicable, the application generally takes between two to eight weeks to finalise as from date of lodgement. Due to the fact that our Embassies are not as backlogged as our local Home Affairs offices are, our Embassies are able to provide a much quicker turnaround time in respect of the processing and finalisation of temporary residence permit applications.

Furthermore, the Embassies still retain their rights to process and finalise applications for temporary residence permits themselves. This obviously also assists with the speedy finalisation of applications done abroad.

In respect of passports and travelling while the application is being processed, when the application is lodged locally the passport is returned to the applicant once the application has been lodged and the foreign national can travel in and out of South Africa as may be necessary while the application is in process.

In respect of applications lodged abroad, certain

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Embassies do require that the passport remain with the Embassy during the course of processing of the application. Furthermore, our Embassies generally frown upon the foreign national travelling into South Africa while the application is being processed. This is often perceived to be an attempt to circumvent our immigration laws as the foreign national should await the outcome in their country of origin before travelling to South Africa.

In respect of the amendments mentioned above relating to changes of status being prohibited from

within South Africa, this would mean that even where a visitor's visa is obtained by a foreign national, either upon entry into South Africa or upon obtaining the same through the relevant South African Embassy abroad, for an applicant to then require a work permit or other temporary residence permit further down the line they would have to return to their country of origin in order to make an application for the appropriate permit through the relevant South African Embassy there. While extensions will most certainly still be able to be made within South Africa in respect of temporary residence permits, it is only where an applicant's status needs to be changed from being on a visitor's visa that they will need to return to their country of origin.

The situation with regard to the requirements for each category of temporary or permanent residence often differs from office to office at our local Home Affairs offices but this is also the same in respect of our South African Embassies abroad. The basic requirements involved in respect of different categories of permits are contained in our Immigration Act and its Regulations but there are certain offices, both locally and abroad, that do have their own additional or specific requirements that need to be complied with over and above the norm. It is always a good idea to check with the specific office where the application will be lodged as to the requirements from that Home Affairs office or Embassy before attending to lodgement of any application.

When problems are incurred with the application for temporary or permanent residence in respect of an application lodged within South Africa, the matter needs to either be dealt with through the regional office where the application was lodged or, if the application has already been sent to Head Office of the Department of Home Affairs, the matter should be taken up directly with Head Office.

In respect of applications that are lodged through our Embassies abroad, the appropriate and responsible authorities to deal with in respect of these matters would be the foreign office co-ordination and support desk within the Department of Home Affairs and also the Department of International Relations and Co-operation. It is only where either of these parties cannot be of assistance that Head Office of the Department of Home Affairs should then be contacted. ■

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