

Time for immigration audits and verification of visas

Eliminating fraudulent identity documents, passports and visas is in line with international governance prescriptions.

By Julian Pokroy

I have written previously in *HR Future* about whether it is necessary for an employer who employs foreign nationals to indeed embark upon an immigration audit to verify permits and visas of foreign nationals in their employ. At the time, I came to the conclusion that it was an absolutely necessary element of employment of foreign nationals and encouraged the practice.

Taking the topic to its next step would be the suggestion that it may also be necessary, if not recommended, that South African identity documents and passports similarly should be audited and verified.

The rationale behind the suggestion stems from the high incidence of fraudulent and fake visas, identity documents and passports that became prevalent over the last decade.

In all fairness, the Department of Home Affairs has introduced new systems in terms of the issuance of passports and also have introduced the Smart Card identity card system. The aforementioned require biographical identification through fingerprinting and probably ultimately retinal scanning. This has certainly closed a lot of the loopholes but it will take a long time for all of this to kick into full operation and so the problem remains.

The next rationale for raising the topic is that it remains an offence in terms of the Immigration Act 13 of 2002 (up to and including the 26 May 2014 amendments) to harbour or employ a foreign national who is not possessed of the requisite valid and proper visas. This, is perhaps the most resounding reason to conduct an immigration audit and verification of visas in the workplace. The penalties accruing in terms of someone being in possession of fraudulent or fake documentation do not only attach to the individual holding the document, but also to the employer who is employing, and therefore perceived to be "harbouring" that person some rather severe and drastic punishments. For

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the holder of the fake or fraudulent document deportation and placement on the "v-list" of the Department of Home Affairs as an "undesirable" would prevent that person from re-entering South Africa for a period of up to five or 10 years.

An employer can be fined up to R50 000 for a first offence for employing or harbouring a foreign national without the requisite and proper visas with progressive penalties for further offences ultimately coupled to imprisonment without the option of a fine.

The further and final rationale for doing an audit or verification couples to identity documents which may have been obtained improperly and fraudulently. In this latter category, the individual will, ex facie the document, appear to be a South African citizen whilst indeed the reality may be very different. This then necessitates a verification process.

The process of an audit would require complete records relating to the visa of the foreign national who is being verified being provided including the copy of the passport and actual visa. The verification is requested and it is often then required to go through the hoops of pressing the department to deal with confirming the authenticity of the visa. This is a tiresome process that sometimes appears never-ending in terms of timeframes.

Very often the document itself, that is, the visa, will be apparent at a glance, to be incorrect in some way. This would also be a first warning to a trained eye that something is amiss.

It is when this happens generally that a formal verification certificate should be obtained.

One of the pitfalls in the process occurs when a request is made for a permanent residence certificate, previously issued, to be verified as authentic.

Here there is no informal process available and the process therefore to be followed is to apply for a "proof of permanent residence". This is a formal application done to the Department of Home Affairs through Visa Facilitation Services (VFS), then transferred on to head office of the Department of Home Affairs and is similarly not time specific. In other words it can take upwards of six to 12 months to finalise.

It is always important to connect with an expert who deals with such verifications and audits and to this end the Law Society of the Northern Provinces can be connected through www.lsnp.org.za in order for referral to a specialist immigration attorney, who would be best geared to assist with such verification and immigration audit.

Not only does the suggestion of an immigration audit and verification exercise make good sense but it is also in line with international corporate governance prescriptions.

In addition, the Department of Labour requires registrations and compliances which are, in the case of foreign nationals, dependent on and linked to the status of the foreign national concerned. ■

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