



## ays to acquire Critical Skills

Welcome relief for Foreign National Graduates graduating from South African tertiary institutions in the areas of Critical Skills.

In any emerging economy in this huge global village in which we live, retention of skills must always follow the obtaining of qualifications for such skills.

In the current era, skills and qualifications have become more easily and readily transportable in the global village.

It is therefore of paramount importance that every effort should be made to retain skills.

Whilst first prize must always be and remain the qualification and professionalisation of South African Citizens in the reservoir and pool of Foreign Nationals who have studied and qualified in South Africa, every effort should always be made to accommodate them.

Many of the new graduates wish to stay on in our beautiful country and, to this end, are sometimes thwarted in their efforts to do so, because of red tape within our Immigration Law system.

An elevation of the situation occurred with the creation in 2014 of the Critical Skills Visa category, which gave a level of priority to Foreign Nationals who have qualified in the specified trades, professions and occupations as listed in the Critical Skills Visa list. This category was previously known as the Quota Category of work visa.

For ease of reference this list, i.e. the current list, can be viewed by clicking on the following link: [immigration-sa.com/wp-content/uploads/2014/07/JPA-Critical-Skills-List.pdf](http://immigration-sa.com/wp-content/uploads/2014/07/JPA-Critical-Skills-List.pdf).

It immediately becomes apparent that, in order to actually obtain a Visa in this category, one would have to firstly fall into one of the listed Critical skills but that you would also have to have a Professional Registration with a SAQA Accredited Professional Body and have five years of post-qualification experience in that field of expertise.

For a newly graduated student in one of the Critical Skills Visa categories, this can become a negative fact in their future plans, and the country was previously potentially losing a lot of these individuals who simply could not wait out the period and comply with the Professional Registrations within a reasonable time.

The situation obviously needed a kick-start in the right direction and this came with the announcement a while back by the Minister of Home Affairs at the time, that Foreign National Graduates from South African Tertiary Institutions in one of the Critical Skills areas would now qualify, upon having received their qualifications from the Tertiary Education or Institution, to apply in terms of Section 27(b) of the Immigration Act 13 of 2002 (as amended) without having to comply with certain of the rigorous

requirements.

These were generally the requirements which simply could not be complied with, except through passage of time and certain onerous Professional Registrations.

Rather than let that remain a deterrent with the sequential possible loss of that much needed skill, the Declaration by the Minister and the Exemptions that go with it are a welcome move.

In essence, what this Dispensation will now mean, is that the requirement for submission of the certificate from the Professional Body, Council or Board recognised by SAQA in terms of Section 13(i) of the National Qualifications Framework or relevant department of Government confirming the skills or qualifications of the applicant is now waived.

The second waiver relates to the requirement that proof shall be submitted in terms of the Immigration Regulations of at least five years of post-qualification experience.

Finally, the third leg of the waiver is the requirement that, in terms of Section 27(b) of the Immigration Act, testimonials from previous employers and a comprehensive Curriculum Vita must be submitted, as this would in any event be impossible in respect of this category of applicants. With that under the belt, Foreign National Graduates qualifying in the Critical Skills Visa category may now apply immediately for Permanent Residence in South Africa in the Critical Skills category, forthwith.

If an applicant believes he or she qualifies then they must feel free to visit [immigration.org.za](http://immigration.org.za) and complete the Immigration Questionnaire, giving the particularity. This would allow a free assessment of viability of such application.

Hopefully, this will make a dent in the dearth of certain Critical Skills in South Africa.

It is also important to note that there are Immigration Act amendments in formulation at the moment, as well as potentially new or amended Immigration Regulations, and that it is therefore conceivable that the Critical Skills Visa list may be adjusted or altered in the foreseeable future and this must be factored in to any forward planning. ■

**Julian Pokroy** is one of South Africa's leading immigration specialist attorneys, [immigration.org.za](http://immigration.org.za), and currently heads the Law Society of South Africa's Immigration and Refugee Law Specialist Committee and the Immigration, Nationality and Refugee Law Committee of the Law Society of the Northern Provinces. He is a member of the South African Law Reform Commission Committee.