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BREAKING NEWS!!!

Director General of Home Affairs announces his resignation

In a surprise announcement on Monday 23rd July 2018 the Director General of Home Affairs Mr. Mkuseli Apleni announced that he was resigning as Director General in the Department and leaving to pursue interests in the private sector.

It was further announced that he would be leaving the Department at the end of the current month.

Obviously it will take some time for a replacement to be advertised, interviewed and selected and realistically it appear that this process will take about three months.

The possibility exists that one of the Deputy Directors General will fulfil the role in an acting capacity until that appointment indeed takes place.

As news becomes available we will inform our clients and subscribers.

Staff resources shortage within the Department of Home Affairs

In a media release by the Minister of Home Affairs Malusi Gigaba on the 23rd July 2018 it was announced that approximately 8 000 vacancies exist within the Department of Home Affairs.

This would perhaps account for the many backlogs that do exist within the Department and it will be interesting to see what the Minister intends doing about this shortage and further to ensure that only persons skilled in this complex area of Law be recruited into any senior positions.

The situation is being closely monitored.

The requirement for unabridged birth certificates for travelling minors may soon be a thing of the past

The Minister of Home Affairs, during the week of the 9th July 2018 made an announcement that the Department of Home Affairs was initiating its paperless system and that implementation and pilot schemes would begin running shortly.

He also alluded to the fact that a “live capture” process would be assumed in the case of registrations of Births, Deaths, Marriages and that this should speed up the system and facilitate the procurement of all kinds of certifications, including Unabridged Birth Certificates which are required for minors traveling.

You would be aware that in 2014 the Minister of Home Affairs brought into operation the requirement for Unabridged Birth Certificates to be provided in respect of all traveling minors and that in the case of either an unaccompanied minor or a minor only being accompanied by one parent, the necessary consent affidavits would also be obtained. The purpose of this was to take a move in the right direction of curbing and combating child trafficking. One of the unintended consequences of this was that it became incredibly difficult to procure an Unabridged Birth Certificate because of delays on the part of the Department of Home Affairs and for this reason many intended journeys had to be either aborted or were disrupted.

A huge blow was also dealt to tourism in South Africa, especially the Cape Town hub of South African tourism, resulting in tens of thousands of job losses and damage to the economy of the country.

A few days after the Minister’s announcement, the Director General of Home Affairs in a radio interview stated that once the paperless system is in operation, all new Passports issued to minor children would include both parents’ details and the requirement to carry an Unabridged Birth Certificate would therefore no longer be necessary.

However, this is a process which may still take some time.

Until this reality becomes a fact, the current rules of traveling with an Unabridged Birth Certificate and consent of a non-accompanying parent, by way of an affidavit, will have to be adhered to.

Also note that the provisions regarding both parent’s particularity and identity numbers appearing in the child’s passport will only apply to South African passports at this time, although it is hoped that this process and methodology will spread to other countries as well.

As and when information becomes available we certainly will make this available in an updated newsletter.

The drama goes on...

Despite utterances in the media, television and radio and print media, the reality is that very few Permanent Residence applications are being finalized with alacrity.

On a daily basis complaints are received by applicants who have been waiting two or three years or more for their Permanent Residence to be finalized and are still waiting.

Specifically hard hit have been foreign nationals who are married to South African Citizens and have based their Permanent Residence applications on the marriage, after the qualifying five year period of marriage has been reached.

We do not believe that the Department is giving due attention to these applications and it is causing much hardship for the applicants and their South African families and there appears to be no light at the end of the tunnel despite promises in this regard.

Applications in other categories of Permanent Residence are also still taking a long time but there are flashes of excellence every now and then with a Permanent Residence application coming through in a shorter period of time. This is however the extreme exception rather than the rule.

We are monitoring this space and will report further in our subsequent newsletters.

Police clearance certificates – Change in process

A while back we did write an article in one of our newsletters stating that from a date earlier this year and in respect of all types of visas (temporary residence visas, extensions or renewals, change in conditions and permanent residence permits), fingerprinting would be done digitally and electronically at VFS at a cost of R175.00. This meant that one no longer needed to go to a police station and go through that process. This was a welcome move.

For applications lodged through the South African Embassies or Consulates abroad, a paper copy still has to be done with attendances on the nearest police station and the wait that accompanied it.

In order to mitigate this wait our office did offer a service of taking the prints and receipt proving payment of the relevant fee to the Criminal Records Centre in Pretoria, following up on this and collecting same on behalf of the client.

With effect from the 13th July 2018, we have just been informed, this will no longer be possible and the whole process will revert back to what it previously, and unsatisfactorily, was.

In other words the applicant would have to attend on the police station do the fingerprinting and pay the fee and then follow up through the police station and ultimately collect the certificate from that police station.

Our concern at the time was, and this persists up till today, that many fingerprinting sheets were “lost” or “misplaced” thereby causing untold inconvenience to applicants. We can only hold thumbs and pray that this does not happen again.

Waiver application

There are instances where a Waiver petition is brought to the Director General of Home Affairs to waive certain requirements, as the Director General is entitled to do so in terms of The Immigration Act, and to dispense with certain of the regulatory requirements, now a further complication has risen.

By way of example: if a prospective employer wishes to employ a highly skilled foreigner who does not qualify for Critical Skills but makes out an excellent case for a Waiver of, for example, the Department of Labour advertisement requirements, because of the nature of their skills, then they could petition the Director General to waive those two requirements.

Traditionally there was always a reasonable processing time for such Waiver petitions but it was never excessive. At this time, because of the backlog in the Department’s section dealing with this, there are so many Waiver petitions awaiting adjudication that the delay has become long, burdensome and quite frankly unacceptable.

The uncertainties of applying for a General Work Visa dependent upon a Department of Labour report is simply not acceptable and what this means at the end of the day is that if a good case for a Waiver is made but adjudication does not take place in a reasonable time, this skill being sought is almost certainly going to be lost.

We wrote an article in a previous newsletter some time back asking the question as to whether General Work Visas were in fact becoming extinct. The chances are that this may be a very realistic question.

Connect with us

If you would like an assessment done on any Visa, whether Temporary or Permanent Residence, or Citizenship then please feel free to visit our website on www.immigration.org.za to complete the assessment questionnaire. Or e-mail us on enquiries@immigration.org.za for a speedy response.

The initial assessment is at no obligation to you.

For those experiencing summer - have a great one, and for those experiencing winter, as we are in South Africa at the moment - BrRrRrRrRrRrRrR!!!!!!!

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

JULIAN POKROY

AND

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AND

THE TEAM AT JULIAN POKROY ATTORNEYS