

Julian Pokroy

ATTORNEYS AT LAW – SINCE 1980
Immigration and Nationality Law Practice

NOVEMBER 2018

BREAKING NEWS!!!

MINISTER OF HOME AFFAIRS, MALUSI GIGABA, “RESIGNS” – DID HE JUMP OR WAS HE PUSHED?

It was announced on Wednesday 14th November 2018, that the Minister of Home Affairs Malusi Gigaba had resigned.

This was shortly followed by the announcement that Minister Blade Nzimande would be appointed as acting Minister of Home Affairs as an interim move.

Malusi Gigaba served twice as Minister of Home Affairs and quite frankly a huge question mark hangs over his running of the Department of Home Affairs as the Political Head of the Department.

His current tenure has been mired in controversy surrounding various aspects including the granting expedited basis of Citizenship to members of the Gupta family, a scenario that is still being investigated by Parliament.

In addition to this his disastrous decision regarding Unabridged Birth Certificates caused immeasurable harm to the Tourism Industry in South Africa, which at this time has still not yet recovered. The Minister recently, to a degree, backtracked on that but damage has been done and will take some time to recover, if it recovers at all. The unfortunate reality of this move is that many Foreign Nationals have elected to spend their holidays and their Dollars, Euros and Pounds at other holiday destinations simply because they do not have to go through as many hoops to achieve the relevant Visas on landing.

We will be watching this situation very carefully and will follow up with a series of further articles in this regard.

ZIMBABWE EXEMPTION PERMITS (ZEP).

According to a media release last week, the backlog in the Zimbabwe Exemption Permits has almost been caught up.

The media report stated that more than 200 000 applications were received and whilst it was reported last month that about 60 000 of the applications had still not yet been finalized, last week's media report indicates that less than 2 000 applications are still outstanding and the expectation was that they would be finalized by the end of November 2018.

This is a particularly difficult situation as many of these applications are already a year old and a simple straightforward exemption procedure was in place and there is simply no explanation given as to why this has taken so long. Hopefully this saga can now be put to rest.

What is of particular concern is the amount of applications that were refused on spurious grounds.

As further information becomes available we certainly will communicate this.

REFUGEES AND ASYLUM SEEKERS – CHANGE OF STATUS TO MAINSTREAM VISAS.

We previously reported that the Constitutional Court Order on 9th October 2018 empowered this category of applicant to apply from inside South Africa for a change of status to a mainstream visa under the Immigration Act.

At the time of writing this newsletter the Director General has not yet issued a departmental directive instructing on the process and neither has VFS been given any instructions to accept lodgement of applications for such status.

We will keep our clients updated as events unfold.

REGISTRATIONS OF BIRTH OF FOREIGN NATIONALS BORN IN SOUTH AFRICA – PROCEDURE TO BE CHANGED.

If the amendments to the Births, Deaths and Marriages Registration Act come into operation, and it certainly appears that they will, as the amendments have apparently now been passed by Parliament, Foreign Nationals who have a child whilst in South Africa will no longer be able to get a Formal Birth Certificate.

The amendments provide for a "Confirmation of Birth" process which the applicant can then utilise to register their child with their own Embassy.

One of the problems arising from this amendment, if it does come into operation, is that the children of Refugees are left in an invidious situation.

Whilst they will be able to get a confirmation of the child's birth, they obviously cannot approach their country of prior residence's Embassy, as they are Refugees who have fled from that country and an approach to that Embassy can almost certainly result in their Asylum process or Refugee Status to be revoked as they were "seeking" help from the Embassy of the country from which they fled.

The implications of this on that child are immeasurable.

When it comes to schooling the child will not be able to register, the parents of that child will not be able to claim any benefits in any system for that child, as that child will not have an Identity Number.

Lawyers for Human Rights (LHR) have indicated that they are looking at challenging this in the Constitutional Court due to the harmful effects of this amendment.

We will keep our finger on the pulse of this and further information will follow in a later newsletter.

ANNUAL CLOSURE OF OUR OFFICE.

Each year our office has an annual shutdown during the Festive period. This is motivated predominantly by the fact that very little happens in South Africa during the Holiday Season.

Government Departments literally come to a halt during that period and it therefore makes logical sense not to operate over that period.

Our office will be contactable in emergency and urgent matters on the e-mail address: enquiries@immigration.org.za but our office will be closed from close of business on Friday 14th December 2018 and will re-open on Monday 7th January 2019.

We wish to take this opportunity of wishing all our clients all that is good over the Festive period and also to take the opportunity of thanking you for your continued support and patience during what has been a very trying year dealing with the Department of Home Affairs.

We wish you every success for 2019.

The Team At Julian Pokroy Attorneys