

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No:** \_\_\_\_\_

In the matter between:

**HELEN SUZMAN FOUNDATION**

Applicant

and

**MINISTER OF HOME AFFAIRS**

First Respondent

**DIRECTOR GENERAL OF THE  
DEPARTMENT OF HOME AFFAIRS**

Second Respondent

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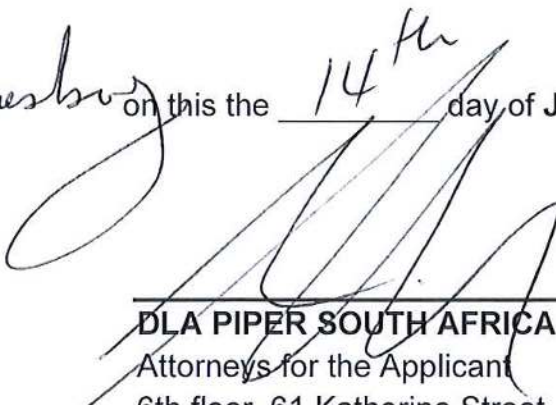
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SIGNED and DATED at Johannesburg on this the 14<sup>th</sup> day of JUNE 2022.

  
DLA PIPER SOUTH AFRICA (RF) INC.

Attorneys for the Applicant  
6th floor, 61 Katherine Street  
Sandown, Sandton, 2196  
Tel: (011) 302 0802  
Email:

[waseeqah.makadam@dlapiper.com](mailto:waseeqah.makadam@dlapiper.com)  
[neil.vanonselen@dlapiper.com](mailto:neil.vanonselen@dlapiper.com)  
[manyaku.thulare@dlapiper.com](mailto:manyaku.thulare@dlapiper.com)

Ref: W Makadam/N v Onselen/M Thulare

**C/O MACINTOSH CROSS &  
FARQUHARSON**

834 Pretorius Street  
Arcadia  
Pretoria

Tel: 012 342 4855

Email to: [al@macintoshcross.co.za](mailto:al@macintoshcross.co.za)

Ref: Anneke Lotter

**TO: THE REGISTRAR OF THE ABOVE COURT  
PRETORIA**

**AND TO: THE MINISTER OF HOME AFFAIRS**

The First Respondent

909 Arcadia Street

Pretoria, 0001

Pretoria

c/o State Attorney, Pretoria

SALU Building

316 Thabo Sehume Street

Corner of Thabo Sehume and Francis Baard Streets

Pretoria Central  
Pretoria  
0001

**AND TO: THE DIRECTOR-GENERAL OF THE DEPARTMENT OF HOME AFFAIRS**

The Second Respondent  
Hallmark Building  
230 Johannes Ramokhoase Street  
Pretoria  
*c/o* State Attorney, Pretoria  
SALU Building  
316 Thabo Sehume Street  
Corner of Thabo Sehume and Francis Baard Streets  
Pretoria Central  
Pretoria  
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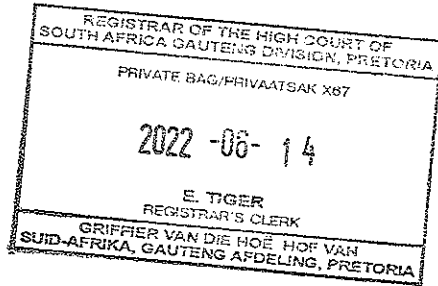
**ORIGINAL**  
**ORSPRONKLIK**  
IN THE HIGH COURT OF SOUTH AFRICA

**GAUTENG DIVISION, PRETORIA**

**CASE NO:** 32823 | 22

In the matter between:

**HELEN SUZMAN FOUNDATION**



**Applicant**

and

**MINISTER OF HOME AFFAIRS**

**First Respondent**

**DIRECTOR GENERAL OF THE DEPARTMENT OF  
HOME AFFAIRS**

**Second Respondent**

---

**NOTICE OF MOTION**

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**KINDLY TAKE NOTICE** that the applicant will make application, on a date to be determined by the Registrar, for an order in the following terms:

1 The First Respondent's decision to terminate the Zimbabwean Exemption Permit (ZEP), to grant a limited extension of ZEPs of only 12 months, and to refuse further extensions beyond 31 December 2022, as communicated in:

1.1 The public notice to Zimbabwean nationals on 5 January 2022;

1.2 Directive 1 of 2021, published as GN 1666 in *Government Gazette* 45727 of 7 January 2022 (Directive 1 of 2021); and

1.3 The First Respondent's press statement on 7 January 2022;

is declared unlawful, unconstitutional, and invalid.

2 The First Respondent's decision referred to in paragraph 1 is reviewed and set aside.

3 The matter is remitted back to the First Respondent for reconsideration, following a fair process that complies with the requirements of sections 3 and 4 of the Promotion of Administrative Justice Act 3 of 2000 (PAJA).

4 Pending the conclusion of a fair process and the First Respondent's further decision, it is directed that:

4.1 Existing ZEPs shall be deemed to remain valid;

4.2 ZEP-holders will continue to enjoy the protections afforded by Immigration Directive 1 of 2021, namely that:

*"1. No holder of the exemption may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of the section 34 of the Immigration Act for any reason related to him or her not having any valid exemption certificate (i.e permit label / sticker) in his or her passport. The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act*

*2. The holder of the exemption may be allowed to enter into or depart from the Republic of South Africa in terms of section 9 of the Act, read together with the Immigration Regulations, 2014, provided that he or she complies with all other requirements for*

*entry into and departure from the Republic, save for the reason of not having valid permit indicated in his or her passport; and*

*3. No holder of exemption should be required to produce-*

*(a) a valid exemption certificate;*

*(b) an authorisation letter to remain in the Republic contemplated in section 32(2) of the Immigration Act when making an application for any category of the visas, including temporary residence visa.”*

5 The First Respondent, and any other parties opposing this application, are directed to pay the costs, jointly and severally, the one paying the other to be absolved.

6 Further and / or alternative relief.

**TAKE NOTICE FURTHER** that the founding affidavit of **NICOLE FRITZ** together with annexures and supporting affidavits, will be used in support of this application.

**TAKE NOTICE FURTHER** that the applicant appoints the address of its attorneys being **DLA PIPER SOUTH AFRICA (RF) INC. C/O MACINTOSH CROSS & FARQUHARSON** at the address and contact details set out below, as the address at which it will accept service of all court documents, pleadings, notices and process in this matter.

**TAKE NOTICE FURTHER** that the applicant consents to accept service of all pleadings, notices and process by electronic mail, transmitted via simultaneous email transmission to [Waseeqah.Makadam@dlapiper.com](mailto:Waseeqah.Makadam@dlapiper.com); [neil.vanonselen@dlapiper.com](mailto:neil.vanonselen@dlapiper.com) and [manyaku.thulare@dlapiper.com](mailto:manyaku.thulare@dlapiper.com).

**TAKE NOTICE FURTHER** that any respondents that wish to oppose the relief sought are required:

- a) Within five (5) days of receipt of this notice of motion and accompanying affidavit, to deliver a notice to the Applicant's attorneys that such Respondents intend to oppose;
- b) Within fifteen (15) days of delivery of the notice of opposition, to deliver such affidavits, if any, in answer to the allegations made by the applicant; and
- c) To appoint in their notice of opposition an address, within fifteen (15) kilometers of the office of the Registrar at which they will accept notice and service of all documents in these proceedings.

**SIGNED and DATED** at *Johannesburg* on this the 15<sup>th</sup> day of **JUNE 2022**.

**DLA PIPER SOUTH AFRICA (RF)  
INC.**

Attorneys for the Applicant  
6th floor, 61 Katherine Street  
Sandown, Sandton, 2196  
Tel: (011) 302 0802  
Email:

[waseeqah.makadam@dlapiper.com](mailto:waseeqah.makadam@dlapiper.com) /  
[neil.vanonselen@dlapiper.com](mailto:neil.vanonselen@dlapiper.com) /  
[manyaku.thulare@dlapiper.com](mailto:manyaku.thulare@dlapiper.com)

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**C/O MACINTOSH CROSS &  
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834 Pretorius Street

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**c/o** State Attorney, Pretoria  
SALU Building  
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**NOTICE IN TERMS OF RULE 41A**

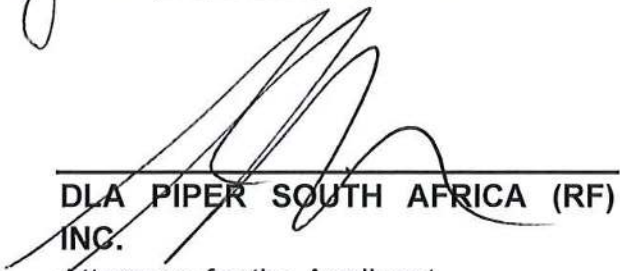
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**KINDLY TAKE NOTICE** the applicant opposes the referral of this matter to mediation.

The applicant does so for the following reason:

- 1 The first and second respondents have opposed any referral to mediation in the *African Amity* matter under case number 51735/2021.
- 2 The need for the final determination of this matter before 31 December 2022 makes mediation inappropriate in the circumstances.

SIGNED and DATED at Johannesburg on this the 13<sup>th</sup> day of June 2022.

  
DLA PIPER SOUTH AFRICA (RF)  
INC.

Attorneys for the Applicant  
6th floor, 61 Katherine Street  
Sandown, Sandton, 2196  
Tel: (011) 302 0802  
Email:

[waseeqah.makadam@dlapiper.com](mailto:waseeqah.makadam@dlapiper.com) /

[neil.vanonselen@dlapiper.com](mailto:neil.vanonselen@dlapiper.com) /

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**RULE 16A NOTICE**

---

**TAKE NOTICE THAT** in this application, the applicant has raised the following constitutional issues:

- 1 Whether, in light of the fact that Zimbabwean nationals were granted exemptions to live in the country for more than 13 years, the decision to terminate the Zimbabwean Exemption Permit (ZEP), to grant a limited extension of ZEPs of only 12 months, and to refuse further extensions beyond 31 December 2022, as reflected in—

- 1.1 The public notice to Zimbabwean nationals on 5 January 2022;
- 1.2 Directive 1 of 2021, published as GN 1666 in *Government Gazette* 45727 of 7 January 2022 (Directive 1 of 2021); and
- 1.3 The First Respondent's press statement on 7 January 2022;

**("the impugned decision")**

is an unjustified limitation of constitutional rights, including the rights to dignity and the best interest of the child principle, and is unlawful, unconstitutional, and invalid.

- 2 Whether the impugned decision is consistent with the state's obligations under section 7(2) of the Constitution.
- 3 Whether the impugned decision ought to be reviewed and set aside in terms of the Promotion of Administrative Justice Act 3 of 2000, alternatively, section 1(c) of the Constitution.
- 4 The further just and equitable relief that ought to be granted, in terms of section 172(1)(b) of the Constitution and section 8 of PAJA.

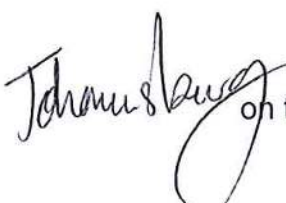
**TAKE FURTHER NOTICE** that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

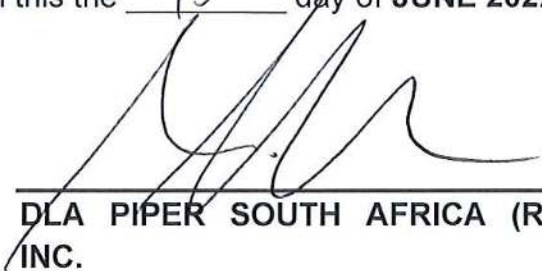
**TAKE FURTHER NOTICE** that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

**TAKE FURTHER NOTICE** that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

**TAKE FURTHER NOTICE THAT** any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

SIGNED and DATED at  on this the 13<sup>th</sup> day of JUNE 2022.

  
DLA PIPER SOUTH AFRICA (RF)  
INC.

Attorneys for the Applicant  
6th floor, 61 Katherine Street  
Sandown, Sandton, 2196  
Tel: (011) 302 0802  
Email:

[waseeqah.makadam@dlapiper.com](mailto:waseeqah.makadam@dlapiper.com) /  
[neil.vanonselen@dlapiper.com](mailto:neil.vanonselen@dlapiper.com) /  
[manyaku.thulare@dlapiper.com](mailto:manyaku.thulare@dlapiper.com)

Ref: W Makadam/N v Onselen/M  
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Tel: 012 342 4855

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**First Respondent**

**DIRECTOR-GENERAL OF HOME AFFAIRS**

**Second Respondent**

---

**FOUNDING AFFIDAVIT**

---

I, the undersigned,

**NICOLE FRITZ**

state under oath as follows:

*M/S  
NWF*

1. I am an adult female with full legal capacity and the Executive Director of the Helen Suzman Foundation (HSF), the applicant herein. I am duly authorised by the applicant to depose to this affidavit and to bring this application on its behalf.
2. The facts contained in this affidavit are within my personal knowledge, unless the context indicates otherwise, and are true and correct, to the best of my knowledge and belief.
3. Where I make submissions on the applicable law I do so on the advice of the applicant's legal representatives.

#### **INTRODUCTION AND OVERVIEW**

4. This application concerns the rights of over 178,000 Zimbabwean nationals who are holders of Zimbabwean Exemption Permits (ZEPs).
5. For more than thirteen years, the Minister of Home Affairs (Minister) has granted exemptions to qualifying Zimbabwean nationals under section 31(2)(b) of the Immigration Act, 13 of 2002 (Immigration Act), affording them the rights to live and work in South Africa.
  - 5.1. In 2009, the Minister introduced the Dispensation of Zimbabweans Project (DZP) to give legal status to over 250,000 Zimbabweans who had fled the economic and political instability in their country.
  - 5.2. In 2014, the DZP was extended and renamed the Zimbabwean Special Permit (ZSP).

MIS  
NWF



- 5.3. In December 2017, the ZSP was then replaced with the ZEP, which was initially due to expire on 31 December 2021.
6. In reliance on these permits, Zimbabwean nationals have established lives, families, and careers in South Africa, which have now been placed in jeopardy.
  7. The Minister has decided to terminate the ZEP programme and to refuse any further extensions beyond 31 December 2022.
  8. That decision is reflected in a public notice to ZEP-holders, dated 5 January 2022; a directive, "Directive 1 of 2021", published in the *Government Gazette* on 7 January 2022; and a further press statement released by the Minister on the same day (decision).
  9. The Minister took this decision without any form of public consultation process. There was no prior notice, no calls for representations from affected ZEP-holders, no public inquiries, no notice and comment process, and no meaningful engagement with civil society on these issues.
  10. The effect is that tens of thousands of Zimbabwean nationals face the real risk of being left undocumented by and from 31 December 2022. This is in circumstances where conditions in Zimbabwe have not meaningfully improved; the majority of ZEP-holders will be unable to obtain alternative visas in time, even if eligible; and the Department of Home Affairs (DHA) will be inundated with applications, causing further backlogs and delays.

11. The HSF bring this application in the public interest to review and set aside the Minister's decision, in terms of the Promotion of Administrative Justice Act, 3 of 2000 (PAJA), the constitutional principle of legality, and the Bill of Rights.
12. This application is based on five (5) primary grounds:
  - 12.1. First, the Minister's decision was procedurally unfair and procedurally irrational, in the absence of any meaningful public consultation process.
  - 12.2. Second, the decision is an unjustified limitation of the constitutional rights of ZEP-holders and their children.
  - 12.3. Third, the decision was taken without any regard to the impact on ZEP-holders.
  - 12.4. Fourth, the decision reflects a material error of fact as to the present conditions in Zimbabwe.
  - 12.5. Fifth, the decision is otherwise unreasonable and irrational.
13. At the outset, it is important to emphasise what this application is about and what it is not about.
14. The HSF does not contend that the Minister is obliged to extend exemptions in perpetuity, nor do we argue that ZEP-holders may never have their permits withdrawn.
15. Instead, this application concerns the manner in which the Minister reached his decision to terminate the ZEP and to refuse any further extensions.

MJ  
NLF

16. In the circumstances of this case, where tens of thousands of people have built their lives in reliance on the ZEPs over many years, a decision to terminate the ZEPs had to be taken following a fair process, for good reason, with a meaningful opportunity for ZEP-holders to regularise their status. The hasty, untransparent and ill-considered manner in which the Minister took his decision fails to satisfy these requirements.
17. The HSF is aware of the pending application in *African Amity NPC and Others v Minister of Home Affairs and Others*, Case Number 51735/2021 pending before this honourable Court, in which the applicants also seek to challenge the Minister's decision. We have carefully considered the amended notice of motion and supplementary founding affidavit which were filed in that application on 15 March 2022. To avoid overburdening these papers, I will provide references to the papers filed on Caselines in the *African Amity* case, where necessary.
18. While the HSF supports many of the arguments advanced by the applicants in *African Amity*, it has become necessary to file a separate application. The relief that the HSF seeks differs substantially from that sought in *African Amity*. The HSF would be unable to obtain such relief as an intervening party or as an *amicus curiae*.
19. Given the need for the swift resolution of these court applications, well before the 31 December 2022 cut-off, the HSF will seek case management and, if appropriate, the consolidation of these applications to avoid unnecessary duplication of court resources.

MJC

20. In the interests of expedition, the HSF waives its rights to obtain a Rule 53 record of the Minister's decision. Nevertheless, the Minister is invited to attach all relevant documents that informed his decision as annexures to his answering affidavit herein.

## **PARTIES AND STANDING**

21. The applicant, HSF, is a non-governmental organisation with a long history of promoting South Africa's commitments to democracy, constitutionalism, rule of law and human rights.

21.1. The decision to terminate ZEPs is one of profound constitutional significance, which threatens the rights of thousands of vulnerable people.

21.2. As an organisation committed to promoting good governance, transparency and accountability, the HSF has a clear interest in the matter and an established record of bringing litigation on matters of public importance such as this.

21.3. The HSF therefore brings this application in the public interest, in terms of section 38(d) of the Constitution.

22. The first respondent is the **MINISTER FOR HOME AFFAIRS**, cited in his official capacity as the member of the executive responsible for granting exemptions under section 31(2)(b) of the Immigration Act.

23. The second respondent is the **DIRECTOR-GENERAL OF THE DEPARTMENT OF HOME AFFAIRS**, in his official capacity as the departmental official responsible for the day-to-day operations of the DHA.

MJ  
NWA

24. The respondents are cited care of the State Attorney, Pretoria at SALU Building, 316 Thabo Sehume Street, Pretoria. Service will also be effected at the Department of Home Affairs' offices in Pretoria.

## BACKGROUND

### *The Minister's powers to grant exemptions*

25. Section 31(2)(b) of the Immigration Act gives the Minister broad powers to grant individuals or categories of non-citizens the rights of permanent residence. Section 31 provides, in relevant part, as follows:

*"31. Exemptions*

...

*(2) Upon application, the Minister may under terms and conditions determined by him or her -*

...

*(b) grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision: Provided that the Minister may -*

*(i) exclude one or more identified foreigners from such categories; and*

*(ii) for good cause, withdraw such rights from a foreigner or a category of foreigners;*

*(c) for good cause, waive any prescribed requirement or form; and*

*(d) for good cause, withdraw an exemption granted by him or her in terms of this section."*

26. The Minister's powers to grant such exemptions exist where there are "special circumstances" which justify this decision.

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### *The History of the ZEP*

27. The ZEP is the latest in a series of exemptions which have been granted to Zimbabwean nationals residing in South Africa. On each occasion, Zimbabwean nationals were granted the rights to live, work and study in South Africa, in recognition of the dire conditions in Zimbabwe, the plight of undocumented Zimbabwean nationals in South Africa, and the need to relieve the burden placed on the DHA's resources.

### The 2009 DZP

28. In April 2009, Cabinet approved the DZP, which allowed Zimbabweans who were already living in South Africa to work, conduct business and study legally. The process of issuing formal documentation under the DZP began in September 2010 and permits emanating therefrom were set to expire at the end of December 2014.

29. In September 2011, the DHA briefed the Portfolio Committee on Home Affairs on the DZP. A summary of that briefing, annexed to this affidavit as Annexure "FA1", reveals the initial rationale behind the DZP.

29.1. The DHA indicated that the DZP was an attempt to "*regularize undocumented Zimbabweans currently residing in RSA [and to] relieve pressure from the Asylum Seeker Management system.*"

29.2. The DHA acknowledged that the DZP was introduced as a response to the pre-existing reality of a "*high inflow of Zimbabweans in South Africa.*"

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30. In a statement released on 12 August 2014, the then Minister of Home Affairs, Malusi Gigaba, reflected on the reasons for the DZP. The statement is annexed to this affidavit as Annexure "FA2".

30.1. The former Minister acknowledged that the inflow of Zimbabweans referred to in the DHA's September 2011 briefing had been the result of "*political and economic instability*" in Zimbabwe and that the DZP represented, "*a significant gesture of support and solidarity with our neighbouring country of Zimbabwe in response.*"

30.2. Minister Gigaba admitted too that the DZP was intended to serve South Africa's interests as well, because it would reduce the pressure that the inflow of Zimbabweans had placed on the DHA. In particular, Minister Gigaba indicated that the DZP would serve the DHA's interest by –

30.2.1. regularising the legal status of Zimbabweans residing in South Africa illegally;

30.2.2. curbing the deportation of Zimbabweans who were in SA illegally;

30.2.3. reducing pressure on the asylum seeker and refugee regime; and

30.2.4. providing amnesty to Zimbabweans who obtained SA documents fraudulently.

30.3. Indeed, in an earlier statement made on 21 May 2014, annexed to this affidavit as Annexure "FA3", Minister Gigaba praised the success of the DZP:

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30.3.1. In the course of assuring that DZP permits would not be revoked, Minister Gigaba insisted that the DZP had, "*enhanced national security and the management of migration and helped to mitigate the widespread abuse of Zimbabweans illegally in the country.*"

30.3.2. He went on to assure DZP permit holders and South Africans alike that the DHA was "committed to providing a secured civic and immigration service ensuring all people in the country are safe."

30.4. Furthermore, in his statement of 12 August 2014, the former Minister recalled that the DZP process had been characterised by "*productive engagement with... stakeholder formations.*"

#### The 2014 ZSP

31. In August 2014, Minister Gigaba announced that the DZP would be replaced by the ZSP. That permit was set to exist for a period of 3 years, until 31 December 2017.

32. Minister Gigaba made a public statement at the time, annexed to this affidavit as Annexure "FA4", in which he set out in detail the rationale behind his decision not to abruptly terminate the DZP.

32.1. In his statement, Minister Gigaba recognised that more than five years had passed since the DZP was introduced and evidenced an appreciation for the extreme vulnerability of Zimbabweans who had built lives in South Africa while on the DZP. He noted that "*the approaching expiry date*



*[of the DZP] has caused anxiety for many permit holders, particularly those whose are not ready to return to Zimbabwe, as they contemplate their next steps.”*

- 32.2. Minister Gigaba made a common-sense assessment that Zimbabwe’s recovery would be fraught and protracted, saying that, “*while we note the ongoing political and economic recovery [in Zimbabwe] ... we are aware that it will take time for her to fully stabilise.*”
- 32.3. Indeed, Minister Gigaba explained the decision to create the ZSP, essentially a decision to extend the DZP – and not to abruptly terminate the DZP – as part of South Africa’s commitment to Pan-Africanism and its role in supporting “*Africa’s stability, security, unity and prosperity.*”
- 32.4. In the course of explaining his reasons for the ZSP, the then Minister noted the positive contribution that Zimbabweans had made to South Africa’s economic and social life. In particular, he observed that, “*Zimbabweans have made notable contributions in our education and health sectors... and in many other sectors*”.
- 32.5. Minister Gigaba also clarified the need to “*manage our immigration system... in an efficient manner and according to our own deeply embedded human rights ethos.*”
- 32.6. He concluded by underlining the need to “*continue the productive engagement [with] stakeholder formations during the DZP process four years ago*” and expressed a willingness to “*work with new stakeholders that have emerged since.*”

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The 2017 ZEP

33. In September 2017, the then Minister of Home Affairs, Zweli Mkhize, announced that the ZSP would be replaced by the ZEP. The ZEP programme was set to expire on 31 December 2021.

34. Minister Mkhize made a public statement at the time, annexed to this affidavit as Annexure "FA5", in which he too set out in detail the rationale behind his decision not to abruptly terminate the ZSP but to create the ZEP instead.

34.1. Minister Mkhize framed his reasons for replacing the ZSP with the ZEP with reference to Oliver Tambo and his concern for, *"international solidarity, conscious of the political imperative to build peace and friendship in the continent and in the world as a whole."*

34.2. Minister Mkhize, like Minister Gigaba before him, maintained, *"that migrants play an important role in respect of economic development and enriching [South African] social and cultural life"*.

34.3. Moreover, Minister Mkhize emphasised the importance of special dispensations as part of a well-functioning immigration system that serves South Africa's national security. He noted that, *"these dispensations have assisted in enhancing national security and the orderly management of migration."*

34.4. This was not just Minister Mkhize's personal opinion. It is an obvious echo of the 2017 White Paper on International Migration Policy (White Paper), relevant extracts of which are attached to this affidavit as Annexure "FA6".

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The White Paper speaks about the value of special dispensation programmes in the following terms:

*“National security and public safety depend on knowing the identity and civil status of every person within a country. In addition, the presence of communities and individuals who are not known to the state but for whom the state has to provide, puts pressure on resources and increases the risk of social conflicts. Vulnerable migrants pay bribes and are victims of extortion and human trafficking. This increases levels of corruption and organised crime. Regularising relationships between states, however, improves stability, reduces crime and improves conditions for economic growth for both countries.”*  
(White Paper p 56)

### ***The refusal to extend the ZEPs***

35. The DHA made its first public statement on the fate of the 2017 ZEP on 19 November 2021 – just over a month before the ZEP was set to expire. The statement is annexed to this affidavit as Annexure “FA7”.

35.1. The statement reflected no attempt to preemptively consider the implications of terminating the ZEP, as the DHA had done previously. Rather, it was prompted by the circulation of misleading reports on the government’s stance *vis-à-vis* the continuation of the ZEP programme.

35.2. The statement revealed that by 19 November 2021, *“the matter of the Zimbabwean Exemption Permit [was] still to be considered by Cabinet”* and that *“the next regular Cabinet sitting”* was only scheduled for the following week. This means that the first time that Cabinet sat to consider the fate of the ZEP and the many thousands of people whose lives depended on it, was a mere month before it was set to expire.

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36. It has subsequently emerged that the Minister had already taken a decision in September 2021 to terminate the ZEP programme, although that decision and the Minister's reasons therefor were not made public at the time.
- 36.1. On 20 September 2021, the Director-General made submissions to the Minister motivating for the termination of the ZEP programme. Those submissions were disclosed for the first time in the Minister's answering affidavit in the *African Amity* matter. I attach a copy of these submissions (memorandum), marked Annexure "FA8".
- 36.2. While the Director-General recommended the eventual termination of the ZEP programme, he left it to the Minister to determine the duration of any further extension. The Director-General recommended that the Minister, "*should consider imposing a condition extending the validity of the exemptions for a period of three years, alternatively a period of 12 months and any other period which the Minister deems appropriate*". (paragraph 6).
- 36.3. The Minister approved these submissions, with the handwritten addition that he chose an extension period of only 12 months, without providing any reasons for doing so.
37. On 24 November 2021, Cabinet met to discuss, among many other things, the future of the ZEP. On 25 November 2021, Cabinet released a statement reflecting the decisions made at that meeting. The statement is annexed to this affidavit as Annexure "FA9". The statement simply reflects Cabinet's decision to terminate the ZEP, as one of eleven other decisions taken at the meeting.

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38. On 29 November 2021 the DHA issued Immigration Directive 10 of 2021 (Directive 10), annexed to this affidavit as Annexure "FA10".
- 38.1. In terms of Directive 10, ZEP-holders were to be granted a 12-month "grace period" following the expiry of the ZEP. ZEP-holders were instructed to apply for other mainstream visas provided for in the Immigration Act and its regulations during this grace period.
- 38.2. The Directive further suggested that banks and other service providers should discontinue provision of services to ZEP-holders as from 1 January 2022 unless ZEP-holders could produce receipts of their applications for mainstream visas.
- 38.3. Those who proved unsuccessful in their applications, or failed to apply, would have to leave the country at the expiry of the grace period.
39. On 13 December 2021, the DHA issued Immigration Directive 11 of 2021 (Directive 11). The purpose of Directive 11 was simply to withdraw Directive 10. It is annexed to this affidavit as Annexure "FA11".
40. The next public statement made by the DHA came on 29 December 2021, annexed to this affidavit as Annexure "FA12". That statement was made to announce that the DHA had been successful in litigation brought with the intention of challenging the Minister's decision to terminate the ZEP. My understanding is that the challenge was removed from the urgent roll due following the withdrawal of Directive 10.

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41. At no stage in the forgoing flurry of announcements and directives were any formal attempts made by the DHA to call for representations from affected ZEP-holders or to conduct a public participation process.
42. On 5 January 2022, the DHA published a notice in several newspapers (5 January 2022 Notice), annexed to this affidavit as Annexure "FA13", informing all ZEP-holders that the Minister had exercised his powers in terms of section 31(2)(d) of the Immigration Act and had decided not to extend the ZEP.
43. On 7 January 2022, the Minister published Immigration Directive 1 in the *Government Gazette* (Directive 1 of 2021). The numbering of this directive appears to be an error, but I note that in the *African Amity* litigation the Director-General has insisted that the numbering is correct. This directive is annexed to this affidavit as Annexure "FA14". The directive stated that:
- 43.1. The Minister had "*decided to extend the Zimbabwean exemptions granted to Zimbabwean nationals for a period of 12 months*".
- 43.2. This 12-month extension was "*to allow the holders thereof to apply for one or other visas provided for in the Immigration Act that they may qualify for*".
- 43.3. The Minister directed that no action may be taken against ZEP-holders during the 12-month period.
44. On 7 January 2022, the DHA also issued a press statement, annexed to this affidavit as Annexure "FA15" to "*set the record straight*" and elaborate on the Minister's reasons for his decision not to extend the ZEP. The Minister's reasons

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are based on the following submissions made to him by the Director-General of the DHA –

- 44.1. that the exemptions granted to Zimbabwean nationals have always been a *“temporary measure, pending improvement of the political and economic situation in Zimbabwe”*;
  - 44.2. that the DHA has limited financial and human resource capacity to deal with extending exemptions;
  - 44.3. that South Africa’s unemployment rate is increasing;
  - 44.4. that approximately 1900 ZEP-holders applied for waivers, which were rejected, in violation of the conditions of the ZEP; and
  - 44.5. that some of the ZEP-holders have migrated to other visas provided for in the Immigration Act.
45. It is the Minister’s decision that is reflected in the 5 January 2022 Notice, Directive 1 of 2022, and the Minister’s press statement that is the subject of this application. These are the operative decisions, as the previous Directive 10 has been withdrawn.

***The economic and political conditions in Zimbabwe***

46. The economic and political conditions in Zimbabwe which necessitated the ZEP and its predecessors have not materially changed.

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47. The Minister has failed to disclose what information or sources, if any, he considered in reaching his conclusion that the conditions in Zimbabwe have improved to a point where discontinuing the ZEP is rational or reasonable. This is despite the fact that reports by credible international organisations, such as the World Bank, the IMF, and Human Rights Watch are unanimous that conditions in Zimbabwe remain dire.
48. In 2019, even before its economy was ravaged by the Covid-19 pandemic, Zimbabwe plunged into a recession which saw its economy contract by 8.1% - the greatest economic decline in over a decade.<sup>1</sup> The recession saw Zimbabwe's inflation rate increase to an average of 255% in 2019 and 557% in 2020.<sup>2</sup> The annual average inflation rate in 2021 stood at 98.5%.<sup>3</sup> This is reflected in recent reports by the IMF and the World Bank, relevant extracts of which are attached hereto as Annexures "FA16" and "FA17.1", respectively.
49. The high inflation rate eroded public budgets allocated for health, education and social protection services.<sup>4</sup> As a result, access to these already scarce services became even more difficult, especially for the poor, who will surely include the many thousands of erstwhile ZEP-holders that will have to return to Zimbabwe.
50. This is all the more troubling given that poverty rates in Zimbabwe exhibit an alarming upward trend, with no sign of abating. In 2009 more than 70% of

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<sup>1</sup> World Bank – Zimbabwe Economic Update Overcoming Economic Challenges, Natural Disaster and the Pandemic: Social and Economic Impacts (2021) ("World Bank 2021 Report") at page 2. Annexure "FA17.1".

<sup>2</sup> IMF Press Statement "IMF Executive Board Concludes 2022 Article IV Consultation with Zimbabwe" (IMF Press Statement), Annexure "FA16". In July 2020 the inflation rate peaked at 837%.

<sup>3</sup> Ibid.

<sup>4</sup> World Bank 2021 Report, "FA17.1" at page 30.

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Zimbabweans lived under the national poverty line with 22.8% (approximately 2.8 million people) living in extreme poverty.<sup>5</sup> Extreme poverty increased to 30% of the population in 2017, to 42% in 2019 and 49% in 2020.<sup>6</sup>

51. On top of the dire economic situation in Zimbabwe, political instability, a major driver of migration to South Africa,<sup>7</sup> remains a fixture of Zimbabwean life (see Annexure "FA18"). Since 2002, Zimbabwean political life has been characterised by widespread violence and social upheaval,<sup>8</sup> leaving a legacy of fear among ZEP-holders.<sup>9</sup>
  
52. There was a marked uptick in violence post the 2018 national elections and the protests which followed. Human Rights Watch reported in its World Report 2021 that Zimbabwean security forces had engaged in "*violent attacks, abductions, torture, and other abuses against members of the political opposition and civil society activists.*" This precipitated a call by President-elect, Emmerson Mnangagwa for an independent investigation to take place. A relevant extract from the Human Rights Watch report is attached as Annexure "FA19".
  
53. The ensuing Commission of Inquiry into the 1st of August 2018 Post-Election Violence (Commission) found that "the testimonies and submissions that the Commission received indicated that the scope and consequences of the violence that occurred on the 1st of August 2018 were regarded as unprecedented in the

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<sup>5</sup> World Bank Zimbabwe Economic Policy Dialogue: Policy Notes for the New Government – 2013 (2014) at page 5, Annexure "FA17.2".

<sup>6</sup> World Bank 2021 Report, Annexure "FA17.1" at pages vii and ix.

<sup>7</sup> Jonathan Crush and Abel Chikanda 'The Third Wave: Mixed Migration from Zimbabwe to South Africa' *Canadian Journal of African Studies* Vol. 49 No 2 at 370, Annexure "FA18".

<sup>8</sup> Ibid.

<sup>9</sup> In this regard, see Annexure "FA18".

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history of Zimbabwean elections.”<sup>10</sup> A relevant extract of the Commission’s report is attached as Annexure “FA20”.

54. The Commission went on to make a series of recommendations that were formulated to help prevent future political violence. To date, none of these recommendations have been implemented and no one has been held to account for the human rights abuses which took place after the elections.
55. In its 2021/22 “The State of the World’s Human Rights” report, Amnesty International reported that “[t]he human rights situation [in Zimbabwe] continue[s] to deteriorate, with the government demonstrating hostility to human rights defenders, protestors, political activists and journalists” who have been “harassed, arrested, prosecuted and subjected to prolonged pretrial detention”. A relevant extract from the report is attached as Annexure “FA21”.
56. Amnesty International also reports that as recently as February 2022, the ruling ZANU-PF party threatened to “crush” a coalition of political opponents “like lice”, which threat was followed by the brutal killing and injury of its supporters at a political rally. This report is attached as Annexure “FA22”.

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<sup>10</sup> Report of The Commission of Inquiry Into the 1st of August 2018 Post-Election Violence at viii.

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*The barriers to obtaining alternative visas and permits*

57. The Minister states that the limited extension of the ZEPs to 31 December 2022 has been granted to allow ZEP-holders to apply for “mainstream” visas and permits under the Immigration Act.
58. This fails to acknowledge the legal and practical barriers to obtaining alternative visas in the brief 12-month period, which include the systemic incapacity and backlogs within the DHA. The result is that many Zimbabwean nationals will face the real risk of being rendered undocumented by the end of the year.

Legal barriers

59. The successive exemption programmes for Zimbabwean nationals were created in recognition of the fact that most exemption-holders would not qualify for “mainstream” permanent residence permits and temporary visas under the Immigration Act. The legal barriers to obtaining these visas have not been eased.
60. In respect of permanent residence:
- 60.1. Under section 26 of the Immigration Act, permanent residence may only be granted to a person who has spent five years in the country, either on a work visa (section 26(a)) or as the spouse of a citizen or permanent resident (section 26(b)).
- 60.2. However, the conditions attached to ZEPs state that they, “[do] not entitle the holder the right to apply for permanent residence irrespective of the

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*period of stay in the RSA.*" The DHA appears to interpret this condition as excluding any ZEP-holder from qualifying for permanent residence under section 26, with the result that any application for permanent residence is almost certain to be rejected.

- 60.3. Under section 27 of the Immigration Act, an application for permanent residence can be made immediately, without a qualifying period of residence, in a very narrow set of circumstances. These circumstances include significant wealth – requiring capital investment of over R5 million, net worth of over R12 million, retirement earnings of over R38,000 a month – or if a person satisfies the onerous critical skills requirements. Most ZEP-holders would be unable to satisfy these requirements.
61. In respect of temporary residence, sections 11 to 23 of the Immigration Act provide for a range of visas, subject to different qualifying criteria and conditions. Only a few of these visas afford rights to work in the country, which are more difficult to obtain.
62. General work visas, provided for in section 19 of the Immigration Act read with Regulation 18 of the Immigration Regulations, are subject to stringent requirements.
- 62.1. A person is only eligible if, in terms of Regulation 18(3), the Department of Employment and Labour (Department of Labour) has issued their prospective employer with a certificate confirming, among other things that: (i) despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications

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or skills and experience equivalent to those of the applicant; and (ii) the applicant has qualifications or proven skills and experience in line with the job offer.

- 62.2. Most ZEP-holders and their employers will have difficulty satisfying these requirements. They were not required to obtain these certificates when their employment relationship commenced and may now be unable to provide the necessary proof of qualifications and that no other citizen or permanent resident is suitable for the post.
- 62.3. It is also uncertain whether ZEP-holders who are currently employed would be considered eligible under Regulation 18(3), as the Regulations only speak of “prospective employers”.
- 62.4. Even if a ZEP-holder and their employer can satisfy these requirements, the burden of obtaining a certificate from the Department of Labour, followed by the assessment of a general work visa application, may significantly delay the final determination of their applications until after 31 December 2022. There is no indication that the Department of Labour has put in place any mechanisms to fast-track these applications, or that it has the capacity to do so.
63. Critical skills visas, regulated under section 19(4) of the Immigration Act read with Regulation 18(5), are even more difficult to obtain.
- 63.1. First, an applicant must possess critical skills reflected on the list determined by the Minister. Recent amendments to the list, published in the *Government Gazette* on 2 February 2022, have cut the number of

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qualifying skills significantly. I attach a copy of this list as Annexure "FA23". This would again exclude almost all ZEP-holders.

- 63.2. Second, an applicant must obtain confirmation from relevant professional bodies that they have the necessary skills, qualifications, and experience and, where necessary, their foreign qualifications must be verified by the South African Qualifications Authority (SAQA). These processes are time-consuming and subject to frequent delays. Qualifying ZEP-holders are unlikely to obtain the necessary certifications before the 31 December 2022 cut-off.
64. Business visas, provided for in section 15 of the Immigration Act and Regulation 14, require a minimum capital investment of R5 million from funds sourced from outside the country. This steep capital requirement excludes all but a tiny minority of ZEP-holders. This is not to mention the further regulatory requirements that must be satisfied under Regulation 14, which include obtaining a letter of recommendation from the Department of Trade and Industry and proof of various registrations.
65. Relatives visas, provided for in section 18 of the Immigration Act and Regulation 17, may be issued to members of the immediate family of a citizen or permanent resident. However, these visas do not confer any work rights.
- 65.1. Applicants must provide proof of kinship, in the form of an unabridged birth certificate and, where necessary, a paternity test.

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- 65.2. Citizens or permanent residents must also provide a prescribed financial assurance, per person and per month, which currently stands at R8,500 per month.
- 65.3. In many cases, proof of kinship will be difficult to obtain at short notice. Relatives of ZEP-holders may also not have the means to provide the necessary financial assurances.
- 65.4. Even if these obstacles are overcome, the absence of work rights would put ZEP-holders to an impossible choice: stay on a relatives visa and face unemployment and destitution or leave the country and break up the family unit.
66. Study visas, regulated by section 13 of the Immigration Act and Regulation 12, would only offer limited protection, where available, and do not confer any work rights.
- 66.1. The requirements are again onerous, requiring proof of acceptance to a learning institution, proof of sufficient cover, and proof of financial means, among other requirements.
- 66.2. These visas also carry the significant risk of family separation. Where ZEP-holders are eligible to remain on study visas, these visas would offer no protection to their family members. Equally, where children may be eligible to remain in the country on study visas, but their parents or guardians are not eligible for any visas, families may be forced apart.

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67. Section 31(2)(c) of the Immigration Act further allows the Minister to waive any prescribed requirements or forms “*on good cause*”.

67.1. While it may be legally possible for individual ZEP-holders to seek waivers, these applications have to be motivated on an individual basis, usually requiring specialised legal assistance which would not be available to the majority of ZEP-holders.

67.2. Such an individualised process is also not suited to processing tens of thousands of applications from ZEP-holders in a short period.

67.3. The waiver process has also been historically subject to substantial backlogs and delays, which I address below.

68. Individuals could notionally apply to the Minister for further, individual exemptions under section 31(2)(b) of the Immigration Act. However, the Minister’s decision to terminate the ZEP programme is a clear indication that any further exemption applications from Zimbabwean nationals are likely to be rejected.

#### Practical barriers

69. Even where ZEP-holders may be eligible to obtain other visas or permits, they face substantial practical obstacles, which would make it unlikely that their applications for other visas will be processed by the 31 December 2022 deadline.

70. Applications for visas with work rights, waivers, and exemptions are highly complex matters, generally requiring the assistance of specialist immigration consultants and lawyers. These services are scarce and the costs are

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prohibitive, which would prevent many ZEP-holders from submitting applications in time, or at all.

71. Visa applications are also costly, requiring applicants to pay a fee to the DHA and a service fee to VFS, DHS' agent. I attach the schedule of these fees, marked Annexure "FA24".
72. Most significantly, ZEP-holders will face systemic backlogs in the visa application process, which are well-documented.
73. In *Department of Home Affairs and Others v De Saude Attorneys and Another* [2019] ZASCA 46; [2019] 2 All SA 665 (SCA), the Supreme Court of Appeal addressed the DHA's unreasonable delays in processing hundreds of applications for temporary residence visas, permanent residence, waivers, and internal appeals. The SCA described conditions of "*prolonged and enduring departmental dysfunction*" which had resulted in delays of years rather than months. While the Immigration Act requires expedition in issuing visas and permanent residence permits, the reality, as described by the SCA, was one of "*sloth on a grand scale*".
74. These pre-existing backlogs have now been aggravated by the Covid-19 pandemic and two years of lockdowns, which saw the DHA suspending many immigration services for extended periods. For example, the DHA stopped processing all permanent residence applications from March 2020 until January 2022, contributing to the current delays.

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75. The ongoing effect of these backlogs is reflected in the frequent extensions that have been granted to current visa-holders whose documents have expired, due to the failure to process their applications for new visas timeously. Rolling extensions have been granted since 2020 due to the increasing delays.
76. Most recently, on 1 April 2022, the Minister published a circular titled "*Temporary Measures in Respect of Foreign Nationals in Light of a Backlog Being Experienced in Processing Outcomes on Waiver Applications and Visa Applications*". This circular granted a further blanket extension until 30 June 2022, due to the admitted "*backlog in processing outcomes on waiver- and visa applications.*" I attach a copy of that circular as Annexure "FA25".
77. Given these backlogs, it is unlikely that the DHA could process ZEP-holders' applications for alternative visas and waivers by the end of the year.
78. The prospect of over 178,000 ZEP-holders applying for "mainstream" visas, permits, and waivers also threatens to contribute to the systemic delays in immigration services, further overburdening a strained system.
79. The directives and press statements issued by the DHA in announcing the termination of the ZEP are entirely silent on these practical challenges and the admitted backlogs. In his January press statement, the Minister merely stated that a "special team" had been set up within the DHA to address the "*influx of applications for various visas by the Zimbabwean nationals*". No details have been provided as to how the DHA intends to address this "influx", what resources have been made available, or what impact this diversion of resources will have on existing backlogs in processing visa and permit applications.

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*Impact on the asylum application system*

80. In the absence of meaningful access to mainstream visas, many ZEP-holders are likely to apply for asylum under the Refugees Act.
81. As the history of the exemption programmes shows, exemption permits for Zimbabwean nationals were originally introduced, in part, to alleviate the pressure on this asylum system.
82. Thirteen years later, the systemic incapacity in the asylum system remains and will be made worse by the Minister's decision to terminate ZEPs. The existing backlogs in asylum determinations are reflected in the DHA's 2019 and 2020 statistics, provided before the Covid-19 lockdowns, which indicated:
- 82.1. 3,656 outstanding cases before Refugee Status Determination Officers, in which applicants were awaiting either an initial interview or decision;
- 82.2. 124,000 active cases and 29,967 inactive cases in which applicants were awaiting an appeal date or a decision from the Refugee Appeals Authority;
- 82.3. 38,185 active cases at the Standing Committee for Refugee Affairs level in which applicants were awaiting a decision on review.
83. This information was provided by the Minister in response to questions in Parliament (Question NW2488, 17 December 2020), which I attach as Annexure "FA26". Updated numbers were provided to the Portfolio Committee on Home Affairs of 2 March 2021, as summarised by the Parliamentary Monitoring Group, which I attach as Annexure "FA27".

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84. On the most conservative estimate, it would take many years to clear these backlogs. The effect is that asylum seekers frequently wait years for a final decision and it is not uncommon for decisions to take more than a decade.
85. These delays have now been compounded after two years of lockdowns. All Refugee Reception Offices in the country were closed on 26 March 2020 and have only recently reopened in May 2022. During that time, no new asylum applications were processed, with the result that any person who arrived in the country seeking asylum since 2020 will now be attempting to gain access to the few remaining Refugee Reception Offices.
86. There is no legal impediment to ZEP-holders applying for asylum, which will further contribute to the pressure on the asylum system. The fact that ZEP-holders may have delayed in submitting an asylum application is not an obstacle, as recently confirmed by the Constitutional Court in Abore v Minister of Home Affairs [2021] ZACC 50.
87. Even if an existing ZEP-holder may not be successful in their asylum application, the final determination of their status will likely take many years. If their claim is rejected at first instance by a Refugee Status Determination Officer, they will be entitled to an appeal before the Refugee Appeal Authority or a review before the Standing Committee for Refugee Affairs, where backlogs and delays are most acute.
88. In these circumstances, the termination of ZEPs on short notice is likely to contribute to the systemic dysfunction within the asylum system.

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*The impact of the decision on ZEP-holders*

89. The decision by the Minister to terminate the ZEP programme, in circumstances where it is not certain if ZEP-holders can obtain other visas before 12 December 2022, means that thousands of ZEP-holders are at risk of:

89.1. Being left undocumented which, in turn, exposes them to the dangers of xenophobic attacks, human trafficking, extortion, and the threat of arrest, detention and deportation;

89.2. Losing their employment, businesses, and homes;

89.3. Losing access to banking services, pension funds, and other financial services;

89.4. Being separated from their families and children;

89.5. Disrupting the lives of their children, who face the risk of being denied access to schooling, medical care, and social services; and

89.6. Being forced to return to Zimbabwe, where the political and economic conditions there have not materially improved.

90. The impact of the Minister's decision is illustrated by the experiences of four ZEP-holders, who have deposed to affidavits in support of this application.

91. Due to the recent spate of xenophobic attacks and intimidation of foreign nationals in South Africa, the full names and identities of these individuals have been redacted to protect them and their families. Unredacted versions of their affidavits will be provided to the Minister and the court.

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## GN

92. GN is a 50-year-old teacher living in Johannesburg. She was first issued with the DZP in 2012 and is currently a ZEP-holder.
93. GN trained as a teacher in Zimbabwe, before she was forced to flee the country in 2006. She initially worked as a domestic worker for seven years, before having her teaching qualifications accredited in South Africa.
94. Since 2013, GN has worked as a foundation phase teacher. She now holds the position of head of department for the foundation phase at her school.
95. GN fears that if she loses her job, she will leave behind learners and other teachers who have come to depend on her. Teachers are not on the critical skills list, and it would be exceptionally difficult for her to obtain a general work visa, due to the difficulty of proving that there are no other suitably qualified candidates. GN states that, *"my departure will set my students back in their learning and development at a critical age."*
96. *"Teaching children is my passion"*, GN explains, *"I am so grateful that I was able to get back on my feet after nearly seven years as a domestic worker, so that I can once again contribute to the lives of children as a teacher."* If she were forced to return to Zimbabwe, GN would have to abandon a life she has so diligently built in South Africa over fifteen years.
97. Fearing for her safety and livelihood if she were forced to return to Zimbabwe, GN intends to exhaust all available options, including applying for asylum again.

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Due to the backlogs, she fears that she will "*become a part of a very dysfunctional system*".

### **EWS**

98. EWS is a 52-year-old ZEP-holder, residing in Johannesburg. He graduated in industrial engineering from the National University of Science and Technology in Bulawayo. He is married with five children, who remain in Zimbabwe. His wife and children are dependent on him for financial support and day-to-day essentials.
99. EWS arrived in South Africa in 2009, after suffering political persecution in Zimbabwe. He successfully applied for the DZP permit and it was issued to him in August 2012. In 2020, EWS and his three South African partners registered a company that (a) provides commodity broking services in the mining space and (b) offers purchase order financing for government tenders. The company has successfully provided financing to local businesses.
100. EWS reasonably fears that he will not be able to secure an alternative visa before 31 December 2022. He is considering applying for a critical skills visa or a business visa, but he fears that he will be unable to meet the stringent requirements for these visas in time and he cannot afford the lawyers' fees required to pursue these applications. EWS adds that "*even if I could somehow afford to work my way through the visa application system, I am very concerned that the system is so dysfunctional that I could be left in the lurch for many years.*"

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101. EWS also intends to apply for asylum as a last resort, due to his fears for his safety if he were forced to return to Zimbabwe.

**DJN**

102. DJN arrived in South Africa in 2010, at a time when the Zimbabwean economy was in free-fall. Shortly after arriving, DJN applied for, and obtained, a DZP and, subsequently, a ZSP.

103. DJN is a qualified timber merchant who has worked in that capacity both in Zimbabwe and locally here in South Africa.

104. Without a ZEP, DJN will have no choice but to leave behind the life, and business, he has built in South Africa. Although qualified as a timber merchant, DJN does not possess the exceptional skills and qualifications he would require to obtain a work visa under the Immigration Act. Nor does he possess the necessary capital to qualify for a business visa.

105. At the same time, DJN faces dim prospects back in Zimbabwe. The economy he left behind in 2010 remains in tatters. Jobs are scarce and DJN sees little prospect in starting his own timber business back home. Without either employment or entrepreneurial prospects, he will be unable to provide for his family.

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*LM*

106. After his brother was imprisoned for his association with the opposition political party, LM was pressed to make the difficult decision to leave behind the deteriorating political and economic situation in Zimbabwe.
107. When LM first arrived in Cape Town in 2005, he worked as a waiter at a Spur restaurant and was swiftly promoted to full-time manager. After applying for asylum and obtaining an asylum-seeker permit, LM obtained a DZP in 2011. In the intervening period, he met the woman who is now his wife and had two daughters, who live with him in Cape Town and attend school there.
108. In 2018, LM partnered with his wife to buy into a restaurant franchise. When the restaurant shuttered its doors due to the Covid-19 pandemic, LM began work as an Uber-driver in order to support his family. He still has aspirations to start his own business, but is hamstrung by his inability to obtain funding, which is due in part to his uncertain immigration status.
109. Like DJN, LM lacks the critical skills and capital to obtain alternative immigration status under the Immigration Act. To remain in South Africa, LM's only option would be to revert back to asylum-seeker status, knowing full well the logistical and socio-political challenges asylum seekers face in this country.
110. A withdrawal of the ZEP will abruptly terminate the life LM and his wife have known in South Africa and uproot the lives of their children, now denied access to basic education and healthcare in this country.

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111. Relevant supporting affidavits in respect hereof accompany this application.

#### THE LEGAL BASIS OF THIS APPLICATION

112. The Minister's decision to terminate the ZEP and to refuse any extensions beyond 31 December 2022 is subject to scrutiny on three legal bases:

112.1. First, it is administrative action which is reviewable under PAJA.

112.2. Second, even if PAJA does not apply, it is an exercise of public power that is reviewable under the section 1(c) constitutional principle of legality.

112.3. Third, to the extent that it limits constitutional rights, any limitation must be reasonable and justifiable under section 36 of the Constitution.

113. The grounds of review that follow are all applicable regardless of the standard of review that is applied.

#### FIRST GROUND: PROCEDURAL UNFAIRNESS AND PROCEDURAL IRRATIONALITY

114. ZEP-holders, civil society, and the general public were not notified of the Minister's intended decision nor were they afforded a meaningful opportunity to make representations before the Minister took his decision.

115. Tellingly, the Minister's press statement of 7 January 2022 refers to internal discussions between the Minister and "affected units within the DHA"<sup>11</sup> (attached hereto as Annexure "FA28") but is silent on the participation of ZEP-holders and the public in the decision-making process. Indeed, the Minister himself admits

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<sup>11</sup> Annexure "FA28".

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that the only “inputs” into his decision regarding the extension of ZEPs in September 2021 were provided by DHA officials and a submission from the Director-General of the DHA.

116. This decision-making process failed to meet the most basic requirements of procedural fairness under sections 3 and 4 of PAJA. It equally resulted in a procedurally irrational decision, that runs counter to constitutional principles of transparency and accountability.

***Procedural unfairness and irrationality in relation to ZEP-holders and civil society***

117. In terms of section 3 of PAJA, administrative action which materially and adversely affects an individual’s rights or legitimate expectations must be procedurally fair, requiring, at minimum:

117.1. a clear statement of the administrative action;

117.2. adequate notice of any right of review or internal appeal; and

117.3. a reasonable opportunity to make representations.

118. The Minister and Director-General have denied categorically that they bore any duty to consult with ZEP-holders.<sup>12</sup> The Director-General has further expressed the view that there was “no need to respond” to correspondence from affected

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<sup>12</sup> Minister’s Answering Affidavit (AA) in *African Amity*, Caselines p 004-44 para 84.1.

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persons regarding the status of the ZEP renewal on the basis that “*he would revert once the decision has been taken*”.<sup>13</sup>

119. Indeed, in the Director-General’s memorandum to the Minister of 20 September 2021, which formed the basis of the Minister’s decision, there is no mention whatsoever of consultation with ZEP-holders or civil society organisations that represent their interests.<sup>14</sup> Instead, the interests of civil society and ZEP-holders were referred to obliquely in a passing comment, when the Director-General noted that “[*l*]itigation is expected from the Zimbabwean nationals and other interest groups”.<sup>15</sup>

120. Given the grave and lasting impact of the extension decision on the rights of ZEP-holders both individually and as a group, a rational and procedurally fair decision to extend the ZEP until 31 December 2022 would require, at the very least, that ZEP-holders and civil society organisations representing their interests be afforded an opportunity to make representations on the proposed extension before it was approved. ZEP-holders and civil society were well-placed to inform the Minister on:

120.1. Whether the circumstances in Zimbabwe which justified the exemption programme had changed;

120.2. The particular impact that the decision not to extend the ZEPs would have on individual ZEP-holders, as well as their families and children;

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<sup>13</sup> Id p 004-46 para 88.2.

<sup>14</sup> See Annexure “FA8”.

<sup>15</sup> Id at para 18.

120.3. Whether a 12-month extension until 31 December 2022 would provide them with sufficient time to obtain alternative status under a permit or visa under the Immigration Act;

120.4. Whether a longer extension period would be more suitable to protect their rights and interests.

121. The purpose of the Minister's decision to extend until 31 December 2022 was to afford ZEP-holders further protection while they "regularised" their status in line with the Immigration Act. In seeking to take this decision without hearing whether the ZEP-holders require further protection, the Minister acted in a manner that was both procedurally unfair and procedurally irrational in the circumstances.

122. Moreover, the Minister's reasons for not engaging in any form of consultation process with ZEP-holders reflect further irrationality. In the answering affidavit in the *African Amity* matter, the Director-General asserts that because the Minister was dealing with "a category of foreigners" there was "no duty imposed on him to consult with the persons to whom the exemptions are issued."<sup>16</sup> The suggestion that foreign nationals have no entitlement to consultation, where decisions gravely affect their rights and interests, reflects base prejudice. This reason alone renders the decision inherently unlawful, arbitrary, and irrational.

123. The Director-General's notice of 31 December 2021, published on 5 January 2022, notified ZEP-holders of the Minister's decision and invited them to make representations, after-the-fact. In the circumstances, it could hardly have been

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<sup>16</sup> AA p 004-44 para 84.1.

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issued for the purpose of eliciting meaningful representations from affected parties and, indeed, the Minister himself has conceded that press statements and notices were only issued for the more limited purpose of "*clear[ing] the confusion which was existing at the time*".<sup>17</sup>

124. Inviting representation on a decision that has already been taken runs counter to the very purpose of procedural fairness and procedural rationality, which is to ensure that an administrative functionary has an open mind and a complete picture of the facts and circumstances that have a bearing on the administrative action that is being contemplated.

***Procedural unfairness and irrationality in respect of the public at large***

125. Section 4(1) of PAJA stipulates that where administrative action "*materially and adversely affects the rights of the public*" an administrator owes a duty of procedural fairness to the public at large.

126. In those circumstances, the administrator has five options: either hold a public inquiry (which includes a public hearing on the proposed administrative action, and public notification of the inquiry); follow a notice and comment procedure (which involves publishing the proposed action for public comment and written representations on the proposal); follow both the public inquiry and notice and comment procedures; follow a fair but different procedure in terms of an empowering provision; or follow another appropriate procedure which gives

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<sup>17</sup> pp 004-36-7 paras 65.5-6.

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effect to the right to procedural fairness in section 3 of PAJA (for example, granting hearings to the entire group affected by the proposed action).

127. The Minister himself stated in his 7 January 2022 press statement that his decision to extend the ZEP until 31 December 2022 and to refuse to grant further extensions “*impacts on national security, international relations, political, economic and financial matters*”.<sup>18</sup>

128. This statement is not surprising: if no further extensions are granted, it is likely that thousands of productive members of South African society will face the risk of being undocumented at the end of this year. The impact on the economy and society is manifest.

129. The 2017 White Paper further underlines the broad public significance of special dispensation programmes, like the ZEP, noting that these programmes promote national security and public safety, alleviate burdens on public resources, and help to combat corruption, organised crime and human trafficking.<sup>19</sup>

130. In the circumstances, the Minister owed a further obligation of procedural fairness to the public at large. His failure to engage at all with the public also renders the decision to extend the ZEPs procedurally irrational.

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<sup>18</sup> 7 January 2022 press statement, Annexure “FA28”, para 13.

<sup>19</sup> White Paper, Annexure “FA6”, p 56.

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*Openness, accountability and transparency*

131. The fact that the Minister took such consequential decisions behind closed doors, without following a fair and rational public participation process, further violates the fundamental principles of accountability, responsiveness, and openness required in terms of sections 1 and 195 of the Constitution.

*Summary*

132. Accordingly, the Minister's decision falls to be reviewed and set aside in terms of:

132.1. Section 6(2)(c) of PAJA, as the decision was procedurally unfair in the respects described above;

132.2. Section 6(2)(f)(ii) and the principle of legality, as the absence of any fair process rendered the decision procedurally irrational;

132.3. Section 6(2)(e)(iii) and the principle of legality, as the failure to conduct any fair process meant that the Minister failed to take into account relevant considerations;

132.4. Section 6(2)(i) of PAJA and the principle of legality, as this failure is otherwise unconstitutional and unlawful.

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## SECOND GROUND: THE DECISION UNJUSTIFIABLY LIMITS CONSTITUTIONAL RIGHTS

133. In granting exemption permits to Zimbabwean nationals for more than 13 years, the Minister's predecessors recognised that these permits were necessary to protect the rights of vulnerable people. The decision to strip ZEP-holders of this protection from 31 December 2022 amounts to an unjustified limitation of rights.

### *Limitation of rights*

#### The right to dignity and related rights

134. The right to human dignity is a right to a life of dignity. This right encompasses the enjoyment of employment opportunities; access to health, educational and other facilities; being protected from deportation and thus from a possible violation of her or his right to freedom and security of the person; and communing in ordinary human intercourse without undue state interference.

135. The exemption permits make a life of human dignity possible for ZEP-holders. The decision to terminate ZEPs with effect from 31 December 2022 will strip thousands of Zimbabwean nationals of such a life, as it will render them undocumented.

136. A key component of the right to dignity is the right to a meaningful family life. Many Zimbabwean ZEP-holders have started families in South Africa and are now at risk of being separated from their partners and children. As explained above, relatives visas, which do not include work rights, offer a painful choice:

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remain with family and face impoverishment or leave and break up the family unit.

137. Dignity also entails the agency and autonomy to make the choices that shape the trajectory of a life. Since the exemption permits were first granted in 2009, ZEP-holders have forged lives here in South Africa. The four ZEP-holders who have filed supporting affidavits have all been in the country for over a decade, have invested in businesses and careers, have built families, have children, and are breadwinners taking care of their families. Their ambitions and life plans are now intertwined with decisions taken in the expectation that the ZEP would not be terminated without due warning or consultation. The granting of a limited extension of the ZEP for only 12 months, without due warning, and without a proper process, devalues and casts aside the lives and life choices that ZEP-holders have made since they arrived in South Africa.

138. Crucially, the agency to make life choices is rendered nugatory if one is denied due warning of decisions which threaten life-altering consequences. Meaningful engagement and consultation in advance of such decisions not only allows a person the possibility of affecting their outcome – it also affords an opportunity to plan and re-organise one's life in anticipation of the decision being implemented.

#### The rights of children

139. The unconstitutional effect of allowing the ZEP to terminate is not confined to adults, as it also impacts on the rights of dependent children.

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140. This is illustrated by LM and his family. LM and his wife are both ZEP-holders, with two young daughters aged 6 and 10. The children were born in South Africa, attend primary school, and have known no other home. In his supporting affidavit, LM explains that:

*"It is not just me who will lose the rights and privileges that come with the ZEP, my wife and children will also lose their hopes and dreams of a future. We will become undocumented migrants because we do not qualify for any other visa in terms of the Immigration Act. My children will lose access to quality basic services such as education and healthcare."*

141. Section 28(2) of the Constitution provides that *"a child's best interests are of paramount importance in every matter concerning the child."*

142. All proceedings, actions or decisions in matters concerning children must respect the child's right to dignity, treat the child fairly and equitably and protect the child from unfair discrimination on any ground.

143. The decision to terminate ZEPs violates several established principles underpinning the best interests of the child.

143.1. First, it is not in the best interests of children to be undocumented for extended periods or to be separated from their parents and siblings, which, given the legal and factual barriers identified above, is likely to occur if the termination decision is allowed to stand.

143.2. Second, termination of all ZEPs without regard to the individual circumstances of permit holders violates the principle that there should be individualised decision-making in all matters concerning children.

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143.3. Third, and relatedly, it would also violate the principle that children must be seen as individuals with their own inherent dignity and rights, not as mere appendages of their parents or caregivers.

143.4. Fourth, termination without a proper process violates the duty to ensure that children are heard in all matters concerning their interests, either through their parents, representatives or in person, before actions are taken that have an adverse effect on their rights and life prospects.

### ***Section 36 justification analysis***

144. The onus falls on the Minister to demonstrate that these limitations of constitutional rights are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

145. The reasons advanced by the Minister in his press statement on 7 January 2022, accompanying Directive 1 of 2022, fail to establish any justifiable limitation of these rights. In that statement, the Minister has advanced five primary justifications.

146. First, the Minister contends that ZEP “*was and has always been a temporary measure, pending improvement of the political and economic situation in Zimbabwe.*”<sup>20</sup>

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<sup>20</sup> Statement para 10.1.

146.1. The fact that exemptions have been extended over a period of more than 13 years demonstrates that these exemptions are anything but temporary, reflecting the ongoing crisis in Zimbabwe.

146.2. The Minister has failed to provide any evidence to suggest that the conditions in Zimbabwe have improved, nor has he explained how it could be said that the special circumstances that warranted the exemptions for over 13 years have materially changed.

146.3. As demonstrated above, conditions in Zimbabwe have not meaningfully improved, leaving Zimbabwean nationals with the hard choice of remaining in South Africa as undocumented persons or returning to a country in which they cannot sustain themselves and where they may face serious threats to their lives and physical security.

147. Second, the Minister suggests that the exemptions were initially introduced, in part, to alleviate the burden on the refugee status determination system, as thousands of Zimbabwean nationals had applied for asylum. This provides no justification for the withdrawal of the ZEPs at this stage.

147.1. There remain substantial backlogs in the refugee status determination system, as detailed above.

147.2. The termination of the ZEPs will no doubt exacerbate this problem, as there is nothing preventing the majority of ZEP-holders from applying for asylum at this time.

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148. Third, the Minister refers to budgetary constraints within the DHA and states that a decision has been taken to “prioritise” services for South African citizens.<sup>21</sup>

148.1. There is no connection between the refusal to extend ZEPs beyond 31 December 2022 and these alleged budgetary constraints.

148.2. The Minister has already taken a decision to extend existing ZEPs to 31 December 2022, so any costs associated with an extension have already been incurred. No explanation has been furnished as to why a longer extension, beyond the end of 2022, would be more burdensome.

148.3. The decision to discontinue ZEPs will lead to an increased burden on the DHA as ZEP-holders attempt to find other ways of remaining in South Africa legally, which is bound to put more pressure on strained systems. This is not to mention the enormous capacity that will be spent on arresting, detaining and deporting potentially thousands of erstwhile ZEP-holders, and their family members, who may not qualify for other legal means of staying in South Africa.

148.4. Finally, on the figures provided by the Minister himself, the ZEP programme has paid for itself. The alleged R188,7 million cost to the DHA of providing exemptions between 2010 and 2020 would have been far exceeded by the fees paid by permit holders.<sup>22</sup> The ZEP alone would have brought in fees of over R194 million, as all 178,412 ZEP-holders were required to pay a R1090 application fee. This does not include the fees

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<sup>21</sup> Statement para 10.2.

<sup>22</sup> Id para 7.

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earned by the DHA under the DZP and ZSP, for which no figures have been provided by the Minister.

149. Fourth, the Minister cites the unemployment rate in South Africa as a further justification, stating that South Africa's unemployment rate increased by 1.8% bringing the overall rate to 34%.

149.1. The spike in the unemployment rate has nothing to do with the ZEPs, as it is the product of the Covid-19 pandemic, lockdowns, and related economic shocks.

149.2. No evidence has been presented to suggest that the termination of the ZEP will reduce unemployment among South African citizens and permanent residents. The Director-General's submissions to the Minister, which provided the basis for his decision, did not refer to any studies, reports, or other evidence.

149.3. On the contrary, the Minister's predecessors and the government's own White Paper acknowledged that ZEP-holders have made significant contributions to the economy and job creation.

149.3.1. I refer again to the statements of Minister Gigaba in introducing the ZSP in 2014, who acknowledged that *"Zimbabweans have made notable contributions in our education and health sectors... and in many other sectors"*.

149.3.2. Equally, in introducing the ZEP in 2017, Minister Mkhize emphasised that *"[w]e believe that migrants play an important role*

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*in respect of economic development and enriching social and cultural life.” He added that the ZEP programme “will assist greatly in advancing the objectives of the National Development Plan, Vision 2030 particularly in respect of the focus on the economy, attracting critical skills into the country and ensuring transfer of skills to our citizens for better employment prospects.”*

149.3.3. This is in accordance with the 2017 White Paper, which emphasised that special dispensations, such as the ZEP, contribute to economic growth.<sup>23</sup>

150. The Minister’s justifications say not one word about the impact of the termination of the ZEP on affected Zimbabwean nationals and their families, nor is there any effort to explain why the alleged purposes justify the severe limitation of their rights.

151. This silence on the impact, coupled with the absence of any meaningful justification, threatens to reinforce and entrench xenophobic attitudes toward Zimbabwean nationals. It suggests that their lives and rights are of lesser concern, and may be disregarded entirely in pursuit of political expediency. It is also seemingly at odds with the Immigration Act’s preamble, which expresses a commitment to promote “a human-rights based culture of enforcement”.

152. This unavoidable impression is reinforced by the Minister’s press statement, in which he claimed to have received “overwhelming support of the decision by the

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<sup>23</sup> White Paper, Annexure “FA6” p 56.

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*South African citizens*” expressed in messages “widely circulated on social media.”<sup>24</sup> The Minister regarded this public support as somehow demonstrating that his decision was lawful and reasonable.

153. A brief search of social media posts responding to the Minister’s announcements turns up countless messages expressing xenophobic attitudes, crude stereotypes, and hate speech directed at Zimbabwean nationals. I attach, as Annexure “FA29”, a small sample of these messages. The Minister could not have been unaware of this outpouring of prejudice. His silence on the matter comes dangerously close to an endorsement.

154. In any event, public sentiment and majoritarian impulses, no matter how strongly felt, can never count as valid justifications for the violation of fundamental rights. This is particularly so when the victims of rights violations are foreign nationals, who are a vulnerable minority group who lack any political muscle in South Africa.

155. There are ample, less restrictive means available to government to achieve its stated objective of winding down the ZEP programme while protecting the rights of ZEP-holders. At minimum, this required:

155.1. Prior notification of the Minister’s intentions and ample warning;

155.2. A fair public consultation process;

155.3. Sound justification, requiring a proper assessment of the conditions in Zimbabwe and the impact that this decision will have on ZEP-holders;

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<sup>24</sup> Statement para 18.

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155.4. A meaningful opportunity for ZEP-holders to regularise their status, given the well-documented backlogs and delays within the Department of Home Affairs.

156. The Minister's decision is therefore an unjustified limitation of rights, which must be declared unconstitutional and invalid in terms of section 172(1)(a) of the Constitution. It also stands to be reviewed and set aside in terms of section 6(2)(i) of PAJA, as it is unconstitutional and unlawful.

### **THIRD GROUND: FAILURE TO CONSIDER THE IMPACT ON ZEP-HOLDERS AND THEIR CHILDREN**

157. As already noted, the Minister's public statements indicate that no attempt was made to assess the impact on ZEP-holders and their children before taking the decision to terminate the ZEP. This is reinforced by the Director-General's September 2021 submissions to the Minister, which are entirely silent on this impact.

158. A decision of this consequence, impacting over 178,000 ZEP-holders, required proper information on who would be affected, to what degree, and what measures were in place to ameliorate this impact. It also required careful assessment of the current conditions in Zimbabwe.

159. Without this information, the Minister would plainly have ignored relevant considerations. It would also render any decision irrational and unreasonable.

160. Accordingly, the impugned decisions also fall to be set aside in terms of:

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160.1. Section 6(2)(e)(iii) of PAJA and the principle of legality, as relevant considerations were not considered.

160.2. Section 6(2)(f)(ii) and the principle of legality, as the absence of this information rendered the decision irrational.

160.3. Section 6(2)(h) of PAJA, as a decision taken in the absence of such inquiries is unreasonable;

160.4. Section 6(2)(i) of PAJA and the principle of legality, as this failure is otherwise unconstitutional and unlawful.

#### **FOURTH GROUND: CONDITIONS IN ZIMBABWE**

161. The stated purpose of the exemptions for Zimbabwean nationals was to afford protection "*pending improvement of the political and economic situation in Zimbabwe*".

162. In his September 2021 submissions to the Minister, the Director-General justified the termination of the ZEP programme on the basis that "*[t]he political and economic situation has improved in Zimbabwe since 2009*".<sup>25</sup>

163. The Minister approved the Director-General's submissions in full and adopted the Director-General's reasons in his press statement on 7 January 2022.

164. As outlined above, conditions in Zimbabwe have not improved and, in many respects, have become worse. By 2020, the percentage of Zimbabweans living

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<sup>25</sup> Director-General's Submissions attached as Annexure "FA8" para 4.10.

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in extreme poverty in 2009 had more than doubled. Political violence, instability, and social upheaval have also remained constant.

165. Therefore, the Minister's decision is based on a material error of fact as to the conditions in Zimbabwe. In failing to consider the true facts, the Minister has also overlooked relevant considerations and has taken irrelevant considerations into account.

166. The decision to terminate the ZEP programme, while conditions in Zimbabwe remain dire, is also irrational and unreasonable, as it bears no connection to the stated protective purpose of the ZEP programme.

167. Accordingly, the Minister's decision also falls to be set aside in terms of:

167.1. Section 6(2)(e)(iii) of PAJA and the principle of legality, as the decision was based on a material error of fact as to the present conditions in Zimbabwe, relevant considerations were overlooked, and irrelevant considerations were taken into account.

167.2. Section 6(2)(f)(ii) of PAJA and the principle of legality, as the decision was not rationally connected to the purpose for which it was taken or the reasons given by the Minister;

167.3. Section 6(2)(h) of PAJA, as the decision is otherwise unreasonable.

#### **FIFTH GROUND: THE DECISION IS OTHERWISE UNREASONABLE AND IRRATIONAL**

168. The Minister's decision was also irrational and unreasonable in a range of further respects.

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169. First, the Minister has failed to offer any explanation for why he chose a limited extension of only 12 months, as opposed to the period of three years initially suggested by the Director-General in his September 2021 submissions. The absence of any explanation itself renders the decision irrational and unreasonable.

170. Second, once the Minister acknowledged that some form of extension was necessary to allow ZEP-holders a measure of protection, it was necessary for the Minister to apply his mind to whether, and for how long, ZEP-holders require that protection. The Minister nevertheless took the decision without affording ZEP-holders an opportunity to place their personal circumstances before the Minister, and without any investigation into the practicalities of migrating ZEP-holders to permits and/or visas under the Immigration Act. His failure to do so rendered his decision to extend the permits by only 12 months arbitrary and irrational.

171. Third, there is also a clear disjuncture between the Minister's professed reasons for the decision and the impact that a limited 12-month extension will have.

171.1. Although intended to address budgetary and capacity constraints within the DHA, the refusal to extend ZEPs beyond 31 December 2022 is poised to increase backlogs at the DHA.

171.2. Moreover, to the extent that the 12-month extension is intended to afford ZEP-holders sufficient time to regularise their status in line with the Immigration Act, it is in fact capable only of thrusting ZEP-holders back into an overburdened immigration system, whose applications for

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alternative immigration status are unlikely to be determined within the 12-month extension window. In the process, the immigration system will only become more overburdened.

172. Finally, the decision to wind down the entire ZEP programme is not rationally related to the broader purpose of the Immigration Act, which is to promote “a *human rights-based culture of enforcement*” and the stated purpose of the exemption regime, which is to provide Zimbabweans with rights to live and work in South Africa pending improvement in the political and economic situation in Zimbabwe.

173. Apart from being irrational, the decision was also unreasonable in the circumstances. In view of the barriers to obtaining a new visa or permit under the Immigration Act, extending the ZEP until 31 December 2022 is not reasonably capable of achieving its objective of alleviating burdens on the DHA and affording ZEP-holders sufficient time to regularise their status in line with the Immigration Act.

174. Accordingly, the Minister’s decision also falls to be set aside in terms of:

174.1. Section 6(2)(f)(ii) of PAJA and the principle of legality, as the decision was not rationally connected to the purpose for which it was taken or the reasons given by the Minister;

174.2. Section 6(2)(e)(iii) of PAJA and the principle of legality, as relevant considerations were overlooked and irrelevant considerations were taken into account;

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174.3. Section 6(2)(h) of PAJA, as the extension is not reasonably capable of achieving its purpose and is therefore unreasonable; and

174.4. Section 6(2)(i) of PAJA and the principle of legality, as this irrationality and unreasonableness are otherwise unconstitutional and unlawful.

## REMEDY

175. The applicants seek a declaration that the Minister's decision is unconstitutional, unlawful and invalid. That is the mandatory relief that is required under section 172(1)(a) of the Constitution.

176. It is just and equitable to set aside the decision and to remit it back to the Minister to make a fresh decision, following a proper, procedurally fair process that complies with the requirements of sections 3 and 4 of PAJA.

177. I stress that this order is not intended to interfere with the extension of ZEP permits until 31 December 2022 or the further protections afforded by the Minister's Directive 1 of 2021. This order is solely directed at the Minister's decision to terminate ZEPs and not to grant any further extensions beyond 31 December 2022.

178. It is further just and equitable to grant an appropriate interim order, to protect the rights of ZEP-holders while the Minister conducts a fair process and makes a fresh decision.

179. This interim relief would entail that pending the conclusion of a fair process and the Minister's further decision:

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179.1. Existing ZEPs shall be deemed to remain valid;

179.2. ZEP-holders will continue to enjoy the protections afforded by Directive 1 of 2022, namely that:

*"1. No holder of the exemption may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of section 34 of the Immigration Act for any reason related to him or her not having any valid exemption certificate (i.e permit label / sticker) in his or her passport. The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act*

*2. The holder of the exemption may be allowed to enter into or depart from the Republic of South Africa in terms of section 9 of the Act, read together with the Immigration Regulations, 2014, provided that he or she complies with all other requirements for entry into and departure from the Republic, save for the reason of not having valid permit indicated in his or her passport; and*

*3. No holder of exemption should be required to produce-*

*(a) a valid exemption certificate;*

*(b) an authorisation letter to remain in the Republic contemplated in section 32(2) of the Immigration Act when making an application for any category of the visas, including temporary residence visa."*

180. This interim order is necessary to ensure effective relief that will adequately protect the rights of ZEP-holders, their families, and their children.

## CONCLUSION

181. For the reasons set out above, the applicant seeks the relief set out in the notice of motion.

A handwritten signature in black ink, appearing to read 'Nicole Fritz', is written over a horizontal line. To the right of the signature, the initials 'm/s' are written in a smaller, cursive hand.

**NICOLE FRITZ**



Signed and sworn before me at Parkview on this the 10 day of June 2022, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no objection to taking the prescribed oath and that she considers such oath to be binding on his her conscience.

*[Handwritten signature]* Sgt

*[Handwritten signature]*  
7115713-9

COMMISSIONER OF OATHS

TITLE / OFFICE: *Sgt*  
FULL NAMES: *Moruti John Maledaba*  
ADDRESS: *71 Dundalk Avenue*  
*Parkview 6713*



NWE

## Zimbabwean Documentation Project: briefing by Department of Home Affairs

Home Affairs

19 September 2011

Chairperson: Ms M Maunye (ANC)

### Meeting Summary

The Committee received a briefing from the Department of Home Affairs on the progress of the Zimbabwean Documentation Project.

The Department highlighted that a special Dispensation for Zimbabwean Nationals was introduced in April 2009 to respond to the high inflow of Zimbabweans into South Africa. Amongst some of the key points in the agreement to carry out the Project was the promise that South Africa would issue permits to qualifying Zimbabwe Nationals in terms of the Immigration Act on relaxed requirements. After the Special Dispensation which ended in May 2010, the Documentation of Zimbabweans Project commenced on 20 September 2010 and sought to regularise undocumented Zimbabweans currently residing in South Africa. It also sought to relieve pressure from the Asylum Seeker Management system.

Within the Documentation of Zimbabweans Project, three categories of permits were considered by the Department namely Business, Work and Study Permits. Relaxed requirements and shortened processes were implemented in December 2010 to document Zimbabweans with a target date of 31 December 2010, for receiving applications. Those relaxed requirements allowed for applications to be submitted without all the relevant supporting documents and without the taking of fingerprints. During December 2010, applications were also received from the Zimbabwean Consulate, identified NGO's and the farmers to ensure achievement of the set target date.

The Department had received a total of 275 762 applications for permits under the Dispensation. The DHA had approved and issued 134 369 permits and had pre-adjudicated and check listed 141 393 applications. In lieu of the SMS initiative, the Department had sent out 131 658 text messages to applicants and 43 133 of those contacted had responded with 7 163 applications matched to applications. 6 243 applicants under the Dispensation had applied for amnesty and 49 255 had surrendered their asylum seeker status in applying for permits under the Dispensation. There had been a total of 116 960 incomplete applications received by the Department. There were still some phasing-out initiatives which were in progress with the final closing report to be presented to the Minister with a clear direction to be pronounced by her.

Members asked when the Documentation Project would be complete. They sought clarity on the role of the South African Defence Forces in assisting with permitting. They asked when the amnesty period for the Project expired. They asked how long business and work permits issued under the Project were valid for. They asked whether the Department had statistics on how many Zimbabweans had opted not to apply for permits under the Project.

Members asked who had been responsible for the issuance of fraudulent documents and what could be done to punish the people responsible. They asked whether the Department traced illegal immigrants in the country and had a record of how many illegal migrants there were in the country. They commented that it was important to take into account international conventions when drafting policy on migrants and refugees; he noted the importance of the 1951 United Nations Convention on Refugees to which South Africa was a signatory.

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Meeting report

## Department of Home Affairs Briefing on the Zimbabwean Dispensation

Mr Jack Monedi, Acting Chief Director for Permits: Department of Home Affairs (DHA) briefed the Committee on progress made on the Zimbabwean Dispensation.

The Department highlighted that a special dispensation for Zimbabwean Nationals was introduced in April 2009 to respond to the high inflow of Zimbabweans into South Africa. A bilateral meeting of Ministers had been held on 17 June 2010 and the meeting had agreed amongst others on the following:

- The moratorium on deportations and special dispensation should come to an end following the positive socio-political development in Zimbabwe;
- That both countries should work jointly to regularise Zimbabwe nationals.
- A joint Project to document Zimbabwe Nationals;
- Zimbabwe will issue passports to all its nationals;
- South Africa would issue permits to qualifying Zimbabwe Nationals in terms of the Immigration Act on relaxed requirements

After the Special Dispensation which ended in May 2010, the Documentation of Zimbabweans Project (DZP) commenced on 20 September 2010 and sought to regularise undocumented Zimbabweans currently residing in South Africa. It also sought to relieve pressure from the Asylum Seeker Management system. When the Project commenced, the Department did not have accurate and reliable data on the number of undocumented Zimbabweans in South Africa which posed a serious challenge for the country and for the migrants as well.

Within the Documentation of Zimbabweans Project, three categories of permits were considered by the Department namely:

- Business Permits
- Study Permits
- Work Permits

Relaxed requirements and shortened processes were implemented in December 2010 to document Zimbabweans with a target date of 31 December 2010, for receiving applications. Those relaxed requirements allowed for applications to be submitted without all the relevant supporting documents and without the taking of fingerprints. During December 2010, applications were also received from the Zimbabwean Consulate, identified NGO's and the farmers to ensure achievement of the set target date. The deadline of 31 December 2010 was closed with a total number of 275 762 received applications. After 31 December 2010 all applications were dispatched to Head Office regardless of unavailability of supporting documents.

Amongst some of the key issues to be taken forward from the DZP programme the Department listed the re-instatement of the teleconference which would improve compliance issues from Frontline Offices. There would be continuation of the DHA Short Messaging System (SMS) to give notice to Zimbabwean applicants to submit outstanding supporting documentation and fingerprints to permitting with matching of SMS response to the applications and verification/validation of compliance in order to issue permits. A Zimbabwean stakeholder forum meeting was scheduled for the 19 September to mobilise applicants to respond to SMS and to submit outstanding documents and taking fingerprints. Amnesty applications and intention to surrender asylum would receive focused attention. Applicants who applied for Amnesty were contacting the Department to ensure that the Amnesty confirmation forms were completed. Clients whose pre-adjudicated forms have been matched with submitted supporting documents would be issued with Permits.

The Department stated that all incomplete applications dispatched to Head Office were sorted according to the following criteria:

- Applicants who applied using other Zimbabwean identification such as Identity Documents, Birth Certificates, Drivers Licenses or expired Zimbabwean Passports;
- Applicants that applied with no supporting documents;
- Complete applications with only fingerprints outstanding.

The details of applicants awaiting Zimbabwean Passports and applicants without documents have already been provided electronically to the Zimbabwean Consulate. Discussion with Financial Institutions had taken place in respect of applicants who applied for amnesty. Engagement had also taken place with the Department of Transport on the issue of verifications for Drivers Licenses. That

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Department should also be provided with access to the online verification database. Development and testing of the DHA Short Messaging System (SMS) had been finalised and activated from 4 April 2011.

The Department had received a total of 275 762 applications for permits under the Dispensation. The DHA had approved and issued 134 369 permits and had pre-adjudicated and check listed 141 393 applications. In lieu of the SMS initiative, the Department had sent out 131 658 text messages to applicants and 43 133 of those contacted had responded with 7 163 applications matched to applications. 6 243 applicants under the Dispensation had applied for amnesty and 49 255 had surrendered their asylum seeker status in applying for permits under the Dispensation. There had been a total of 116 960 incomplete applications received by the Department.

There were still some phasing-out initiatives which were in progress with the final closing report to be presented to the Minister with a clear direction to be pronounced by her.

### **Discussion**

Ms A Lovemore (DA) asked what role the South African Defence Force (SANDF) was playing in assisting the DHA with the DZP and why they were being used. She asked how long business and work permits issued under the DZP were valid for. She asked whether the DHA had statistics on how many Zimbabweans had opted not to apply for permits under the DZP. She asked what sort of documents had been fraudulent as referred to in the presentation. She asked what the timeframe for the ending of the DZP was. She asked what happened to people who had given up their asylum seeker status in applying for the Dispensation and then were denied a permit under the DZP.

Mr Mkuseli Apleni, Director General: DHA replied that the DHA had integrated SANDF personnel because it was important to promote coordination in government and if the skills needed to do the job could be procured within the government then they would be. The Department was attempting to save money and to prevent backlogs by working with the SANDF. Use of the SANDF also countered the threat of corruption as the Department was less reliant on contract workers who had not undergone vetting. The deadline for receiving applications for the DZP had been 31 December 2010 and the deadline for processing the remaining applications was the end of September 2011. There were no statistics on how many Zimbabweans had failed to apply for the Dispensation outside of the statistics that were in the presentation. The documents which were fraudulent as presented in the briefing varied from ID documents to permits. People who had applied for permits under the Dispensation and subsequently relinquished their claims to asylum status were informed that permits were granted on a merit basis and they applied for those with that understanding.

Mr Menedi replied that the business and work permits granted under the DZP were valid for four years. He reiterated that the documents which were fraudulent were widespread and varied as stated by the DG.

Adv A Gaum (ANC) asked when the DZP would be finished. He asked what the timeline for the amnesty period was in the DZP.

Mr Apleni responded that the deadline for receiving applications for the DZP had been 31 December 2010 and the deadline for processing the remaining applications was the end of September 2011. The amnesty period had also ended at the end of December last year.

Mr M Mngqasela (DA) asked whether the Department traced illegal immigrants in the country and had a record of how many illegal migrants there were in the country. He raised the issue of two Zimbabwean teachers who were working in a Khayelitsha school and were awaiting work permits; he asked whether the Department had any further information on the issue. He commented that it was important to take into account international conventions when drafting policy on migrants and refugees; he noted the importance of the 1951 United Nations Convention on Refugees to which South Africa was a signatory.

Mr Apleni replied that the Department did not know how many illegal immigrants were in the country and had no record of them. The Department was working to improve the processes it had in order to be able to monitor people coming into the country and the DZP was part of that effort.

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Ms S Rwexana (COPE) asked what the timeframe for the DZP was. She asked who had been responsible for the issuance of fraudulent documents and what could be done to punish the people responsible.

Mr Apleni replied that the deadline for receiving applications for the DZP had been the 31 December 2010 and the deadline for processing the remaining applications was the end of September 2011. Some officials within the Department had been responsible for the issuance of fraudulent documents. Those who were caught were dealt with within the ambit of the law.

The Chairperson sought clarity on the role of the SANDF in the permitting process. She asked whether the Dispensation applied to other immigrants in the country.

Mr Mkuseli Apleni, Director General: DHA replied that the DHA had integrated SANDF personnel because it was important to promote coordination in government and if the skills needed to do the job could be procured within the government then they would be. The Department was attempting to save money and to prevent backlogs by working with the SANDF. Use of the SANDF also countered the threat of corruption as the Department was less reliant on contract workers who had not undergone vetting. The DZP had been solely aimed at Zimbabwean immigrants but other such initiatives may be undertaken by the Department in the near future.

Ms Lovemore asked what the permit stabilisation project noted in the presentation was. She asked whether there were any rejected applications for the Dispensation and why they were not noted in the presentation.

Mr Apleni responded that the permit stabilisation project was an attempt by the Department to centralise permitting so as to control the permitting system and manage it better. The rejected applications would only be reflected after the Dispensation was complete at the end of September and the official figures had been approved by the Minister. The Department would brief the Committee on those figures once the process was complete.

Mr Mnqasela reiterated that UN Conventions should be acknowledged in the creation of policy on migration and the Department needed to comment on the issue. He asked whether the DG thought the Dispensation had been a success in the Department's view.

Mr Apleni responded that the Department considered the Dispensation a success. The main goal of the project was to provide rights to those Zimbabweans who had been employed in the country but were not granted protections due to their permit status. The people who had applied had gotten a chance at receiving fair treatment and at regularising and legitimising their stay in the country.

Mr Major Kobese, Head of Policy in the Office of the Director General: DHA replied that the Department was not opposed in principle to the 1951 UN Convention on refugees. The challenge for the Department was ensuring that future policy on migration encompassed human rights and provided protections for the country so that its laws were not abused.

Ms G Bothman (ANC) commented that the purpose of the meeting was to discuss the Dispensation specifically and not to discuss UN Conventions.

Mr Mnqasela reiterated the importance of noting the UN Convention on Refugees.

Ms Lovemore commented that it was important that the Committee and the Department not take on a negative stance towards immigrants as that was detrimental to the work on migration.

Adv Gaum asked whether the Department had received cooperation from Zimbabwean authorities through the Dispensation. He asked whether the Department would have follow-up interviews with applicants under the Dispensation.

Mr Apleni responded that the Department had received cooperation from Zimbabwean authorities both at a Consular level and Ministerial level. The Department would follow-up on people who had applied for permits under the Dispensation and would ensure that what had been stated on applications was true.

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Ms N Mnisi (ANC) asked why there had been a low number of permits issued by the Department.

Mr Monedi replied that the low number of issued permits was due to capacity issues and was one of the reasons the DHA had brought in the services of the SANDF.

The Chairperson said that on a recent oversight visit the Committee had been appalled by the situation at the Lesotho border with Maseru, she asked the Department what it was doing to alleviate the situation.

Mr Apleni responded that it was important for the Committee to get firsthand insight into what was happening at posts such as Maseru. The Department was working to stringently enforce the border there and ensure that people entering the country went through the proper channels before doing so.

The meeting was adjourned.

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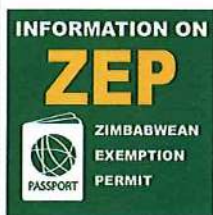
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([/index.php/immigration-services/gazetted-extension-of-zep](https://index.php/immigration-services/gazetted-extension-of-zep))



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## REMARKS BY MINISTER MALUSI GIGABA, ON THE ANNOUNCEMENT OF THE ZIMBABWEAN SPECIAL DISPENSATION PERMIT IN PRETORIA, 12 AUGUST, 2014

### Details

Published: 12 August 2014

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Good morning fellow South Africans, members of the media, and interested stakeholders.

In April 2009, the Cabinet of the Republic of South Africa approved the Dispensation of Zimbabweans Project – or 'DZP' – allowing Zimbabwean holders of this special permit to work, conduct business and study in South Africa.

The objectives then were to:

- Regularize Zimbabweans residing in South Africa illegally
- Curb the deportation of Zimbabweans who were in SA illegally
- Reduce pressure on the asylum seeker and refugee regime, and
- Provide amnesty to Zimbabweans who obtained SA documents fraudulently

This was a significant gesture of support and solidarity with our neighboring country of Zimbabwe in response to the large number of Zimbabweans residing illegally in South Africa due to political and economic instability there.

Approximately 295 000 Zimbabweans applied for the permit.

Just over 245 000 permits were issued, with the balance being denied due to lack of passports or non-fulfillment of other requirements.

These permits begin expiring on 31 December 2014.

The approaching expiry date has caused anxiety for many permit-holders, particularly those who are not ready to return to Zimbabwe, as they contemplate their next steps.

The Department of Home Affairs has been considering this matter for some time.

I recently met with my Zimbabwean counterpart, Minister Kembo Mohadi, to discuss matters of mutual concern, including the imminent expiry of the DZP.

While we note the ongoing political and economic recovery in Zimbabwe, consistently supported by the South African government, we are aware that it will take time for her to fully stabilize.

As you will know, the Department of Home Affairs is mandated to manage immigration effectively, to promote our country's development, enhance its security, and fulfill its international obligations.

Our management of immigration is also informed by our foreign policy, one feature of which is Pan-Africanism.

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South Africa recognizes itself as an integral part of the African continent and therefore understands its national interest as being intrinsically linked to the continent's stability, unity, and prosperity.

Finally, we are committed to manage immigration in a way which treats all visitors humanely, in an efficient manner and according to our own deeply-embedded human rights ethos.

We are appreciative of the many contributions made by Zimbabweans in our society and economy.

Zimbabweans have made notable contributions in our education and health sectors for example as teachers and health professionals, and in many other sectors.

In general, we appreciate the contribution of the immigrants in our country in terms of enhancing our social, cultural and economic life.

We are aware that Zimbabwe will need this rich human capital to further advance its own development, but accept that for the time being, many DZP permit-holders would prefer to continue their stay in South Africa.

It is in this context, that in recent weeks I have taken note of this anxiety and promised to outline a way forward, after consultation with Cabinet.

The Department of Home Affairs developed a proposal, refined in recent months, which was accepted by Cabinet on 6 August 2014.

Section 31(2) of the Immigration Act states that: "upon application, the Minister may under terms and conditions determined by him:

- grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision. Provided that the Minister may

- (i) exclude one or more identified foreigners from such categories,
- (ii) or with good cause, withdraw such rights from a foreigner or category of foreigners."

The Act further empowers the Minister to: "for good cause, withdraw an exemption granted by him or her in terms of this section.

Accordingly, I announce today, the closure of the Dispensation for Zimbabwe Project, as of 31 December, 2014.

As a result, it is important to note that the expiry date of all DZP permits which expire before 31 December 2014 is accordingly delayed until 31 December 2014. The expiry date of those DZP permits which expire after December 2014, is being brought forward to 31 December 2014.

Furthermore, I hereby announce the creation of the new Zimbabwean Special Dispensation Permit of 2014, or to use the acronym, the 'ZSP'.

All relevant and available details are outlined in the media packs accompanying this announcement, but I will give an overview of the most important details.

DZP permit-holders who wish to remain in South Africa after the expiry of their permits, can reapply for the ZSP, subject to certain conditions.

These conditions include, but are not limited to: a valid Zimbabwean passport; evidence of employment, business or accredited study; and a clear criminal record.

The ZSP will allow permit-holders to live, work, conduct business and study in South Africa, for the duration of the permit, which is valid until 31 December, 2017.

Applications will open on 01 October 2014, and close on 31 December 2014.

Applications will be managed by our partner VFS, and adjudicated by the Department of Home Affairs.

VFS will open four new offices in provinces where we anticipate large numbers of applicants, namely Gauteng, Western Cape, Limpopo and Mpumalanga.

These are in addition to the eleven offices already open, all of which will deal with ZSP applications.

In line with the new, improved process for all visa and permit applications, applications will begin online, with appointments given for in-person finalization at a visa facilitation center.

Therefore there will be no queues as experienced in the past, and we trust applicants will enjoy a pleasant and efficient application experience.

An administration fee will apply, which we will communicate once it has been decided, after the completion of discussions between the Department and VFS.

ZSP permit-holders who wish to stay in South Africa after the expiry of the ZSP, must return to Zimbabwe to apply for mainstream visas and permits under the Immigration Act, subject to the relevant requirements.

These applications will be considered within 12 months of the expiry of the ZSP permits, so from January 2017.

We will now embark on an extensive stakeholder engagement process, to inform DZP permit-holders and other interested parties about the ZSP process.

We will continue the productive engagement we enjoyed with stakeholder formations during the DZP process four years ago, but of course are open to work with new stakeholders which may have emerged since then.

The Department of Home Affairs, on behalf of the government and people of South Africa welcomes visitors from Zimbabwe, SADC, Africa and the rest of the world.

We welcome Zimbabwe's return to a path of stability and prosperity, and remain committed to cooperation and partnership with our valued neighbor.

The ZSP is a temporary bridge to the near future when all Zimbabweans will reenter the mainstream immigration process in South Africa.

I thank you.

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◀ [Prev \(/index.php/statements-speeches/508-speech-by-the-minister-of-home-affairs-malusi-gigaba-mp-on-the-occasion-of-the-service-excellence-awards-of-the-department-of-home-affairs-at-st-george-s-hotel-pretoria-on-04-july-2014\)](/index.php/statements-speeches/508-speech-by-the-minister-of-home-affairs-malusi-gigaba-mp-on-the-occasion-of-the-service-excellence-awards-of-the-department-of-home-affairs-at-st-george-s-hotel-pretoria-on-04-july-2014)

Next ▶ [\(/index.php/statements-speeches/505-home-affairs-minister-malusi-gigaba-to-brief-media-on-the-zimbabwean-special-project\)](/index.php/statements-speeches/505-home-affairs-minister-malusi-gigaba-to-brief-media-on-the-zimbabwean-special-project)

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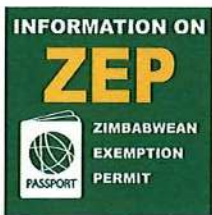


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## Home Affairs clarifies status of special permits for Zimbabweans

### Details

Published: 21 May 2014

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Pretoria – The Department of Home Affairs has noted recent reports in print and online media on the coming expiry of permits issued to Zimbabwean nationals under the special dispensation, from 2009. This was to document those who were in South Africa illegally as a result of the political and socio-economic situation in their country.

The permits will expire approximately December 2014. In this context, Cabinet approved the approach on the expiry of permits issued under the Special Dispensation for Zimbabweans in terms of which permit-holders will be expected to re-apply for permits. As per Cabinet decision, the Minister of Home Affairs will in due course provide more clarity on the process to be followed and the date of commencement. It is not South Africa's intention to reverse the benefits of the dispensation.

The special dispensation allowed close to 250 000 Zimbabwean nationals to be regularized through South Africa's permitting regime. It enhanced national security and the management of migration and helped to mitigate widespread abuse of Zimbabweans illegally in the country, by corrupt employers and officials. The department will continue to combat illegal migration, crime, fraud and corruption. It is committed to providing a secured civic and immigration service ensuring all people in the country are safe.

Enquiries: David Hlabane at 071 527 9463 / 083 399 0125.

Issued by Department of Home Affairs

20 May 2014

◀ Prev (/index.php/statements-speeches/465-minister-malusi-gigaba-s-address-on-new-immigration-regulations-pretoria-28-may-2014)

Next ▶ (/index.php/statements-speeches/462-minister-naledi-pandor-s-tribute-to-the-late-mrs-sophia-masefako-motlanthe)

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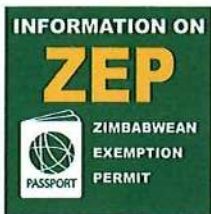


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## REMARKS BY MINISTER MALUSI GIGABA, ON THE ANNOUNCEMENT OF THE ZIMBABWEAN SPECIAL DISPENSATION PERMIT IN PRETORIA, 12 AUGUST, 2014

### Details

Published: 12 August 2014

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Just over 245 000 permits were issued, with the balance being denied due to lack of passports or non-fulfillment of other requirements.

These permits begin expiring on 31 December 2014.

The approaching expiry date has caused anxiety for many permit-holders, particularly those who are not ready to return to Zimbabwe, as they contemplate their next steps.

The Department of Home Affairs has been considering this matter for some time.

I recently met with my Zimbabwean counterpart, Minister Kembo Mohadi, to discuss matters of mutual concern, including the imminent expiry of the DZP.

While we note the ongoing political and economic recovery in Zimbabwe, consistently supported by the South African government, we are aware that it will take time for her to fully stabilize.

As you will know, the Department of Home Affairs is mandated to manage immigration effectively, to promote our country's development, enhance its security, and fulfill its international obligations.

Our management of immigration is also informed by our foreign policy, one feature of which is Pan-Africanism.

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South Africa recognizes itself as an integral part of the African continent and therefore understands its national interest as being intrinsically linked to Africa's stability, unity, and prosperity.

Finally, we are committed to manage immigration in a way which treats all visitors humanely, in an efficient manner and according to our own deeply-embedded human rights ethos.

We are appreciative of the many contributions made by Zimbabweans in our society and economy.

Zimbabweans have made notable contributions in our education and health sectors for example as teachers and health professionals, and in many other sectors.

In general, we appreciate the contribution of the immigrants in our country in terms of enhancing our social, cultural and economic life.

We are aware that Zimbabwe will need this rich human capital to further advance its own development, but accept that for the time being, many DZP permit-holders would prefer to continue their stay in South Africa.

It is in this context, that in recent weeks I have taken note of this anxiety and promised to outline a way forward, after consultation with Cabinet.

The Department of Home Affairs developed a proposal, refined in recent months, which was accepted by Cabinet on 6 August 2014.

Section 31(2) of the Immigration Act states that: "upon application, the Minister may under terms and conditions determined by him:

- grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision. Provided that the Minister may

- (i) exclude one or more identified foreigners from such categories,
- (ii) or with good cause, withdraw such rights from a foreigner or category of foreigners."

The Act further empowers the Minister to: "for good cause, withdraw an exemption granted by him or her in terms of this section.

Accordingly, I announce today, the closure of the Dispensation for Zimbabwe Project, as of 31 December, 2014.

As a result, it is important to note that the expiry date of all DZP permits which expire before 31 December 2014 is accordingly delayed until 31 December 2014. The expiry date of those DZP permits which expire after December 2014, is being brought forward to 31 December 2014.

Furthermore, I hereby announce the creation of the new Zimbabwean Special Dispensation Permit of 2014, or to use the acronym, the 'ZSP'.

All relevant and available details are outlined in the media packs accompanying this announcement, but I will give an overview of the most important details.

DZP permit-holders who wish to remain in South Africa after the expiry of their permits, can reapply for the ZSP, subject to certain conditions.

These conditions include, but are not limited to: a valid Zimbabwean passport; evidence of employment, business or accredited study; and a clear criminal record.

The ZSP will allow permit-holders to live, work, conduct business and study in South Africa, for the duration of the permit, which is valid until 31 December, 2017.

Applications will open on 01 October 2014, and close on 31 December 2014.

Applications will be managed by our partner VFS, and adjudicated by the Department of Home Affairs.

VFS will open four new offices in provinces where we anticipate large numbers of applicants, namely Gauteng, Western Cape, Limpopo and Mpumalanga.

These are in addition to the eleven offices already open, all of which will deal with ZSP applications.

In line with the new, improved process for all visa and permit applications, applications will begin online, with appointments given for in-person finalization at a visa facilitation center.

Therefore there will be no queues as experienced in the past, and we trust applicants will enjoy a pleasant and efficient application experience.

An administration fee will apply, which we will communicate once it has been decided, after the completion of discussions between the Department and VFS.

ZSP permit-holders who wish to stay in South Africa after the expiry of the ZSP, must return to Zimbabwe to apply for mainstream visas and permits under the Immigration Act, subject to the relevant requirements.

These applications will be considered within 12 months of the expiry of the ZSP permits, so from January 2017.

We will now embark on an extensive stakeholder engagement process, to inform DZP permit-holders and other interested parties about the ZSP process.

We will continue the productive engagement we enjoyed with stakeholder formations during the DZP process four years ago, but of course are open to work with new stakeholders which may have emerged since then.

The Department of Home Affairs, on behalf of the government and people of South Africa welcomes visitors from Zimbabwe, SADC, Africa and the rest of the world.

We welcome Zimbabwe's return to a path of stability and prosperity, and remain committed to cooperation and partnership with our valued neighbor.

The ZSP is a temporary bridge to the near future when all Zimbabweans will reenter the mainstream immigration process in South Africa.

I thank you.

ISSUED BY DEPARTMENT OF HOME AFFAIRS

◀ [Prev \(/index.php/statements-speeches/508-speech-by-the-minister-of-home-affairs-malusi-gigaba-mp-on-the-occasion-of-the-service-excellence-awards-of-the-department-of-home-affairs-at-st-george-s-hotel-pretoria-on-04-july-2014\)](/index.php/statements-speeches/508-speech-by-the-minister-of-home-affairs-malusi-gigaba-mp-on-the-occasion-of-the-service-excellence-awards-of-the-department-of-home-affairs-at-st-george-s-hotel-pretoria-on-04-july-2014)

Next ▶  [\(/index.php/statements-speeches/505-home-affairs-minister-malusi-gigaba-to-brief-media-on-the-zimbabwean-special-project\)](/index.php/statements-speeches/505-home-affairs-minister-malusi-gigaba-to-brief-media-on-the-zimbabwean-special-project)

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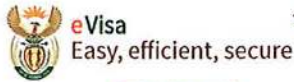
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Department:  
Home Affairs  
REPUBLIC OF SOUTH AFRICA

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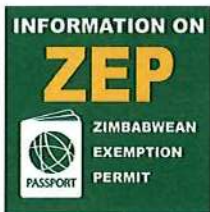
click to apply



• Visa - Online VISA applications open for Nationals from KENYA, CAMEROON, IRAN, EGYPT, PHILIPPINES, SAUDI ARABIA, ETHIOPIA, PAKISTAN, DRC, MEXICO, INDIA, CHINA, NIGERIA and UGANDA who will land at OR Tambo International airport



(<https://ehome.dha.gov.za/epermit>)



([/index.php/immigration-services/gazetted-extension-of-zep](https://index.php/immigration-services/gazetted-extension-of-zep))



(<https://services.dha.gov.za/#!/authenticate/identity>)



([/index.php/contact-us/service-queries](https://index.php/contact-us/service-queries))



([/index.php/statements-speeches/621-updated-advisory-new-requirements-for-children-travelling-through-south-african-ports-of-entry](https://index.php/statements-speeches/621-updated-advisory-new-requirements-for-children-travelling-through-south-african-ports-of-entry))



(<https://www.vfsglobal.com/dha/southafrica/>)

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## STATEMENT BY MINISTER MKHIZE ON THE CLOSURE OF THE ZIMBABWEAN SPECIAL PERMIT (ZSP) AND THE OPENING OF THE NEW ZIMBABWEAN EXEMPTION PERMIT (ZEP)

### Details

Published: 08 September 2017

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8 September 2017

Ladies and gentlemen, good day, and once more welcome, and thank you for attending. The purpose of the media briefing is to announce the expiry, on 31 December 2017, of the Zimbabwean Special Permit (ZSP) which started in 2014, and was issued for a period of three years. The total number of ZSP permits issued was 197 941.

We hereby announce the opening of the new Zimbabwean Exemption Permit (ZEP). Learning from the wisdom of the finest son of the South African revolution, OR Tambo, we do this in the spirit of international solidarity, conscious of the political imperative to build peace and friendship in the continent and in the whole world.

### CONTEXT OF THE NEW ZEP DISPENSATION

We believe that migrants play an important role in respect of economic development and enriching social and cultural life.

We remain conscious of the value of this approach. For instance, these dispensations have assisted in enhancing national security and the orderly management of migration.

This dispensation will assist greatly in advancing the objectives of the National Development Plan, Vision 2030 particularly in respect of the focus on the economy, attracting critical skills into the country and ensuring transfer of skills to our citizens for better employment prospects.

This approach is in line with the new White Paper on International Migration Policy which was approved by Cabinet early this year.

The White Paper on International Migration Policy provides a roadmap towards the implementation of the African Union Agenda 2063 in relation to the facilitation of movement of persons on the continent for the promotion of trade, development, transfer of skills and social cohesion through cultural integration.

These efforts will assist in addressing the flows of labour from our neighbours in the SADC region.

This process adds to our goal of developing a new national identity system which will require that, through a secure population register, we know for certain who is in the country. This will help government in dealing with issues of irregular migration.

### CONDITIONS OF THE NEW ZIMBABWEAN EXEMPTION PERMIT DISPENSATION

- Entitles the holder to work/ study and/or conduct business.
- Does not entitle the holder the right to apply for permanent residence irrespective of the period of stay in the Republic of South Africa.
- Will not be renewable / extendable.
- Does not allow a holder to change conditions of his/her permit while in South Africa.

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- ZSP permit holders who wish to convert their status to any other mainstream visa should apply timeously for such visa from within SA provided they meet all the requirements for that visa.
- A ZSP applicant will be allowed to travel using the ZEP receipt and the expired ZSP permit until such time as the ZEP permit is issued, without being declared undesirable.

#### Implementation of ZEP is as follows:

- The new Zimbabwean Exemption Permit (ZEP) project will begin on 15 September 2017.
- The ZEP is open for valid ZSP permit-holders only.
- We advise prospective applicants to submit applications online, from 15 September 2017, through the VFS website: [www.vfsglobal.com/ZEP/SouthAfrica/com](http://www.vfsglobal.com/ZEP/SouthAfrica/com) (<http://www.vfsglobal.com/ZEP/SouthAfrica/com>)
- Cut-off date for submission of applications is 30 November 2017.
- An administrative fee of R1090 will be charged.
- ZEP permits will be issued for a maximum period of Four (4) years, effective from 01 January 2018 and expiring on 31 December 2021, notwithstanding the date of application.
- Thereafter applicants will be allocated appointments for the required submission of fingerprints and supporting documents to VFS, from 01 October 2017. The relevant VFS offices are listed at the end of the statement.
- An applicant will be required to submit the following:
  - A valid Zimbabwean passport.
  - Evidence of employment – in the case of an application for work rights.
  - Evidence of business – in the case of an application for business rights.
  - Evidence of an admission letter from a recognised learning institution – in the case of an application for study rights.

#### CONCLUSION

I trust that the ZEP will go a long way in assisting the Zimbabweans to rebuild their lives as they prepare, at work, in business and in educational institutions, for their final return to their sovereign state – Zimbabwe – in the near future.

I thank you.

*[Below is a list of VFS Offices where ZSP holders may apply for the ZEP]*

LOCATIONS/OFFICES WHERE ZSP HOLDERS MAY APPLY FOR THE ZIMBABWEAN EXEMPTION PERMIT (ZEP)	
LOCATION	ADDRESS
Durban	Musgrave towers, Musgrave Shopping mall, 5th Floor Musgrave, Durban
Cape Town	2 Long street, 7th Floor, Cape Town
Port Elizabeth	Office 7C, 1st floor Moffet and Main, Corner 17th Ave & Main Road, Walmer, Port Elizabeth
Johannesburg	The Link, Old Pretoria Road, Half Way House, Midrand
Rustenburg	Cnr of Boom and Fatima Bayet street, Rustenberg
Kimberly	Unit 3 Building 2, Agri Office Park, N12 Kimberly
Polokwane	Thornhill Shopping Centre, Veldspaat and Munnik Avenue Bendor Park, Polokwane
Nelspruit	Office 5 F, Nedbank Building, 30 Brown Street, Nelspruit
Bloemfontein	Suite 4, The Park, 14 Reid Street Westdene, Bloemfontein
George	Unit 5 Eagle View, Progress Street, George

◀ [Prev \(/index.php/statements-speeches/1035-statement-by-minister-mkhize-on-the-precautionary-suspension-of-the-home-affairs-director-general-mr-mkuseli-apleni\)](#)

[Next \(/index.php/statements-speeches/1033-minister-mkhize-to-brief-media-on-zimbabwean-special-permit\)](#)

Mr  
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## WHITE PAPER ON INTERNATIONAL MIGRATION – FINAL VERSION

declare fraudulently acquired documents and who do not have criminal records. Such dispensations take different forms in different countries but in general they have both security and developmental objectives. National security and public safety depend on knowing the identity and civil status of every person within a country. In addition, the presence of communities and individuals who are not known to the state but for whom the state has to provide, puts pressure on resources and increases the risk of social conflicts. Vulnerable migrants pay bribes and are victims of extortion and human trafficking. This increases levels of corruption and organised crime. Regularising relationships between states, however, improves stability, reduces crime and improves conditions for economic growth for both countries.

- The policy objectives of the Zimbabwe special dispensation have been realised to a significant degree (over 300 000 special visas were issued) and the Lesotho special dispensation is being rolled out. However, although the broad policy objectives are the same, the relationship between South Africa and each of its neighbours has complex features that will impact on each process and its outcomes.

### Specific policy interventions

South Africa should expand its visa regime to cater for some carefully managed economic migration from immediate and regional neighbours. In doing so, there must be due regard for the shorter and longer term socio-economic impact in South Africa, and in migrants' home countries. This option will allow some managed legal migration by economic migrants from Southern African Customs Union (SACU)<sup>16</sup> countries, as well as Zimbabwe, Mozambique and Malawi, as major source countries.

The recommended approach includes three main elements: regularisation of existing regional migrants currently residing in South Africa; introduction of special visas for various categories of migrants from the region; and improved enforcement of immigration and labour laws and regulations.

- **Regularisation programme.** The new SADC visas should be tied to a programme to regularise existing undocumented SADC migrants *currently residing in South Africa*, along the same lines as the ZSP, LSP and other amnesties South Africa has conducted over the years. Applicants must fulfil certain requirements: have a valid passport from their home country; prove they have no criminal record; and prove they have a valid basis for residing in South Africa, such as employment, ongoing study, or business ownership.
- **Introduction of new visa options:** The visa regime must be expanded to cater for some economic migration from our neighbours, so prospective migrants will not migrate to South Africa by irregular means. What is important here is that we accept the need to do

<sup>16</sup> Botswana, Lesotho, Namibia and Swaziland.

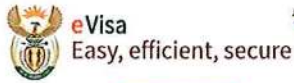


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asure for refurbishment from 29 March 2022, no booking will be allowed during this time | The DHA and its officials do not render services outside of DHA



• Visa - Online VISA applications open for Nationals from KENYA, CAMEROON, IRAN, EGYPT, PHILIPPINES, SAUDI ARABIA, ETHIOPIA, PAKISTAN, DRC, MEXICO, INDIA, CHINA, NIGERIA and UGANDA who will land at OR Tambo International airport

click to apply



(https://ehome.dha.gov.za/epermit)

**INFORMATION ON ZEP**  
ZIMBABWEAN EXEMPTION PERMIT

(/index.php/immigration-services/gazetted-extension-of-zep)

**BOOK AN APPOINTMENT ONLINE**  
IN PILOT PHASE

**BRANCH APPOINTMENT BOOKING SYSTEM (BABS)**

(https://services.dha.gov.za/#/authenticate/identity)

**CLICK HERE FOR SERVICE QUERIES**

(/index.php/contact-us/service-queries)

**UPDATED ADVISORY: REQUIREMENTS FOR CHILDREN TRAVELLING THROUGH SOUTH AFRICAN PORTS OF ENTRY**

(/index.php/statements-speeches/621-requirements-for-children-travelling-through-south-african-ports-of-entry)

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## No decision has been made on the Zimbabwe Exemption Permit

### Details

Published: 19 November 2021

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### 19 November 2021

The Department of Home Affairs has noted a misleading online news article, purportedly emanating from Zimbabwe, which has subsequently been followed by social media posts claiming that Zimbabwe Exemption Permits have been extended for a period of five years.

This is patently untrue. Padding this untruth is obviously aimed at pressuring the South African Government into making a particular decision in relation to these permits.

Secondly, in South Africa, there is nothing called a Home Affairs Ministerial Committee on Zimbabwe Permits. Such a committee has never existed at Home Affairs.

The matter of the Zimbabwe Exemption Permit is still to be considered by Cabinet. The next regular Cabinet sitting is scheduled for next week.

Communication on this will be made through the regular post Cabinet communications protocols.

ISSUED BY DEPARTMENT OF HOME AFFAIRS

◀ Prev (/index.php/statements-speeches/1498-the-department-of-home-affairs-temporarily-extends-operating-times-at-front-offices-and-ports-of-entry-to-ease-congestion-associated-with-the-festive-season)

Next ▶ (/index.php/statements-speeches/1494-speaking-notes-for-minister-motsoaledi-at-the-lebombo-border-post-operation)

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# home affairs

Department:  
Home Affairs  
REPUBLIC OF SOUTH AFRICA

SECURITY CLASSIFICATION		PRIORITY	
None		Standard	
Confidential		High	
Secret		Very High	X
Top Secret	X		

## SUBMISSION

### ENQUIRIES:

Name:	L. T. MAKHODE
Designation:	DIRECTOR-GENERAL
Unit:	OFFICE OF THE DIRECTOR-GENERAL
Contact Numbers:	
Tel:	012 405 2815
Fax:	

File Number: Zimbabwe Nationals' Exemption Permit

SUBJECT: WITHDRAWAL AND/OR NON-EXTENSION OF THE ZIMBABWEAN NATIONALS' EXEMPTIONS IN TERMS OF SECTION 31 (2) (d) OF THE IMMIGRATION ACT 13 of 2002.

RECIPIENT: MINISTER OF HOME AFFAIRS

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**PURPOSE**

1. To provide the Minister of Home Affairs ("Minister") with recommendations regarding the withdrawal and/or non-extension of the exemptions granted to Zimbabwean nationals in terms of section 31 (2) (d) of the Immigration Act.

**BACKGROUND**

2. As you are aware, the exemptions granted to the Zimbabwean nationals commenced in April 2009. Over the years, successive Ministers of Home Affairs extended the exemptions. The current exemptions were granted in 2017 expiring on 31 December 2021. There are currently 178 412 Zimbabwean nationals granted exemptions.

**DISCUSSION**

3. I have received various inputs from Immigration Services, Civic Services, Asylum Seeker Management Unit and Chief Financial Officer ("CFO") during meetings and consultations with the said units and officials. All the inputs without any exception, are recommending that the exemptions granted to Zimbabwean nationals should not be extended and/or be withdrawn.

4. I share their sentiments and reasons advanced are, *inter alia*, the following:

- 4.1 The exemptions granted to the Zimbabwean nationals was and has always been a temporary measure, pending improvement of the economic situation in Zimbabwe. In 2008 approximately

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200 000 people arrived in South Africa seeking asylum, the majority of whom were Zimbabwean nationals. Again in 2009 another 207 000 arrived also seeking asylum. Similarly, the majority of them were Zimbabwean nationals. The increased number of asylum applications by Zimbabwean nationals between 2008-2009 overwhelmed the administrative capacity of the Department's Asylum Seeker Management Unit, and resources were over-stretched. This status has been exacerbated in prevailing years with an accumulation of appeals and referrals within the statutory bodies responsible for rejected or failed asylum applications.

- 4.2 The Department of Home Affairs ("DHA") has encountered limited capacity to respond to such challenges by virtue of its constrained budget. This was more pronounced in 2020 with the outbreak of Covid-19 and other economic factors in South Africa. This resulted in the budget of the DHA being significantly reduced. First, in the 2020/21 financial year, R562 million was cut during the Special Adjustment Budget and a further R301 million during the Medium-Term Expenditure Framework. Second, in the financial year 2021/22, the DHA baseline was cut by R969 million, the bulk of which was for Compensation of Employees (R671 million). The Compensation of Employees ("COE") ceiling for 2021/22 was set at R3,4 billion. The DHA had to prioritise the budget, as the COE ceiling is insufficient to cover the existing staff compliment. As matters stand, the DHA is unable to employ more staff members in the Immigration Services. Therefore, it had to prioritise the budget and allocate more resources to civic services, which in essence deals with the rights of South African citizens.

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- 4.3 According to Statistics South Africa ("Stats SA") Quarterly Labour Force Survey "QLFS" quarter 2 of 2021, South Africa's unemployment rate increased by 1.8% bringing the overall rate to 34%. This is the largest recorded since the start of the QLFS in 2005.
- 4.4 The DHA came to realise that some of the Zimbabwean exemptions' holders were violating the conditions in that about 1 900 were somehow able to apply for waivers in terms of the Immigration Act. Their applications were rejected.
- 4.5 Some of the Zimbabwean nationals have already migrated to one or other visas provided for in the Immigration Act. The statistics will be provided to the Minister in due course.
- 4.6 There is already an outcry from citizens that the exemption regime granted to Zimbabwean nationals continue to strain the already shrinking budget of the DHA and country.
- 4.7 The staff compliment of the DHA will be unable to cope with the exemptions' applications, should the exemptions regime be extended again.
- 4.8 Some of the Zimbabwean nationals have been deported and/or charged with obtaining fraudulent identity documents. The recent cases being those of Mr Masango, Mr Mazibuko, a senior official of the Airports Company of South Africa ("ACSA") and many other Zimbabwean nationals who had the brush with the law. More information will be provided by the Inspectorate: Immigration Services.

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- 4.9 Other nationals from other countries are already demanding to be granted similar status as that of the Zimbabwean nationals. The DHA and country cannot afford to entertain these demands. There is criticism by South African citizens that the DHA is failing the country by not enforcing the immigration laws much more vigorously.
- 4.10 The political and economic situation has improved in Zimbabwe since 2009 and contribution of the Zimbabwean nationals (exemptions holders) is required in the building of a new and prosperous Zimbabwe.

#### RECOMMENDATIONS

5. It is recommended that the Minister exercises his powers in terms of section 31 (2) (d) of the Immigration Act to withdraw and/or not extend the exemptions granted to the Zimbabwean nationals.
6. The Minister should consider imposing a condition extending the validity of the exemptions for a period of three years, alternatively a period of 12 months and any other period which the Minister deems appropriate. The condition to include allowing the holders of the exemptions to apply for one or other visas provided for in the Immigration Act while in South Africa.

#### IMPLEMENTATION OF THE DECISION OF THE MINISTER

7. In the event, the Minister approves the recommendation, the implications will be as follows:

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- 7.1 The applications for one or other visas will be dealt with by the duly delegated officials of the DHA;
- 7.2 A special team will be set up to deal with the anticipated influx of applications;
- 7.3 Appeals are expected for the rejections in terms of section 8(6 of the Immigration Act;
- 7.4 Adjudicators will make recommendations to me. Appeals to the Minister should be considered after receiving advice from outside attorneys, who will be appointed after the necessary deviation is approved by the National Treasury.

**ASYLUM SEEKER MANAGEMENT UNIT ("ASMU")**

8. The ASMU has been requested to identify the Zimbabwean exemptions holders who have applied for asylum and/or refused refugee status. The ASMU and the relevant statutory bodies will be requested to prioritize the applications and/or appeals of Zimbabwean nationals.

**COMMUNICATION TO THE AMBASSADOR OF ZIMBABWE**

9. Once the Minister has taken a decision and an announcement made, it is recommended that the Minister through the Minister of International Relations and Cooperation communicate the decision to the Ambassador of Zimbabwe.

**NATIONAL EXECUTIVE (CABINET)**

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10. The decision of the Minister will have an impact on security, international relations, economic and financial matters.
11. Successive Ministers of Home Affairs have submitted their decisions on exemptions and extensions to Cabinet for its support.
12. Furthermore, the applications for other visas involve the Departments of Trade, Industry and Competition and and Labour and Employment.
13. It is strongly recommended that the Minister seek support of the Cabinet. A submission to Cabinet will be prepared for the Minister's approval.

#### **POLICY FRAMEWORK AND IMPLICATIONS**

14. Minister's decision

#### **LEGISLATIVE, REGULATORY FRAMEWORK AND IMPLICATIONS**

15. Immigration Act and Immigration Regulations.
16. Refugees Act and Refugee Regulations.

#### **FINANCIAL FRAMEWORK AND IMPLICATIONS**

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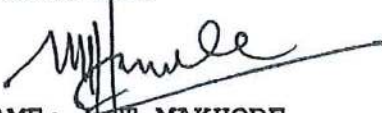
17. There will be financial implications regarding the appointment of outside attorneys, junior and Senior Counsel. Publication in the newspapers of the notice regarding the decision of the Minister.

18. Litigation is expected from the Zimbabwean nationals and other interest groups.

**SUPPLY CHAIN MANAGEMENT FRAMEWORK AND IMPLICATIONS**

19. Each Unit that forms part of this process will ensure that there is compliance with Supply Chain Management processes and procedures as far as their areas of responsibility are concerned.

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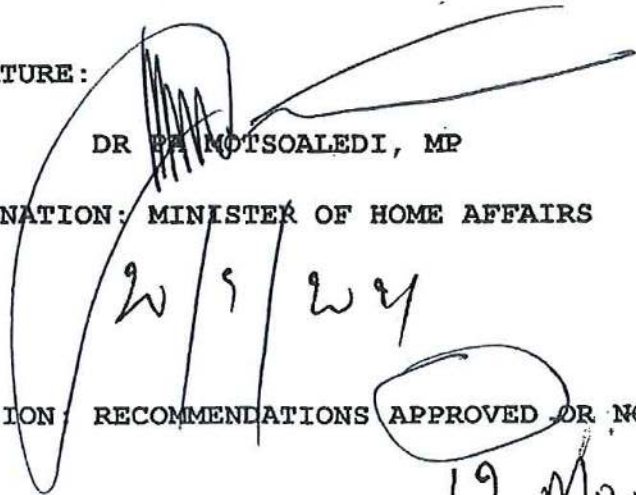


NAME: H. T. MAKHODE

DESIGNATION: DIRECTOR-GENERAL

DATE: 20 September 2021.

SIGNATURE:



NAME: DR P. MOTSOALEDI, MP

DESIGNATION: MINISTER OF HOME AFFAIRS

DATE: 20/9/21

DECISION: RECOMMENDATIONS APPROVED OR NOT APPROVED

12 Months

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Republic of South Africa



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# Statement on the Cabinet Meeting of 24 November 2021

25 Nov 2021

## A. Issues in the environment

### 1. Vaccination against the Coronavirus Disease (COVID-19) pandemic

1.1. Cabinet was pleased that over 260 000 people vaccinated during the second Vooma Vaccination Weekend held countrywide from 12 to 14 November 2021.

1.2. We must remember that the virus has not been eradicated and vaccination protects us from serious illness, hospitalisation or death.

1.3. Vaccination is free to all people living in South Africa, and anyone aged 12 years and older is encouraged to vaccinate. Let us vaccinate to ensure a safe and joyful festive season with our families and friends.

### 2. District Development Model (DDM)

2.1. Cabinet welcomed the visit by President Cyril Ramaphosa to the Ugu District in KwaZulu-Natal on Friday, 12 November 2021, which highlighted the development of the Eastern Seaboard that encompasses 600 kilometres of the coastline between KwaZulu-Natal and the Eastern Cape.

2.2. The Eastern Seaboard Development is a flagship project of the DDM, which sets out to build



inclusive local economies to overcome the legacy of apartheid spatial planning. The project aims to harness the potential of the vast natural endowments of the area for economic growth.

### 3. Medium Term Budget Policy Statement (MTBPS)

3.1. Cabinet fully supported the financial path set out in the MTBPS presented by Finance Minister Enoch Godongwana in Parliament, Cape Town on Thursday, 11 November 2021, which sends a strong message of our commitment to prudent fiscal discipline.

3.2. As part of our social commitments, 60% of our budget was allocated to housing development, free basic services, employment programmes, health, education and social grants.

3.3. The initiatives outlined in the MTBPS demonstrate that government has a clear plan to guide the economy through the turmoil created by the COVID-19 pandemic and place our nation on a long-term growth path.

### 4. Intra-African Trade Fair 2021 (IATF2021)

4.1. The successful IATF2021 – held at the Inkosi Albert Luthuli International Convention Centre in Durban from 15 and 21 November 2021 – has helped deepen cooperation and boost intra-African trade and investment.

4.2. The IATF brought together business leaders to share trade, investment, market information and broaden investment opportunities on the continent. South African goods and services were also profiled and marketed to build networks and partnerships to increase exports into the continent.

### 5. Household safety

5.1. Cabinet expressed concern about the safety of children following recent sporadic cases of child kidnappings in different parts of the country. During the upcoming festive season, parents and caregivers must be extra vigilant regarding the safety and whereabouts of children in their care.

5.2. Parents and caregivers are urged to discuss general safety precautions with children in their care, including on COVID-19 risks and protocols. We also urge parents and caregivers to consider which activities their children, especially the youth, can safely participate in.

5.3. Events such as matric rage parties and matric farewell after-parties are potential COVID-19 superspreaders. Large gatherings, especially those which involve the consumption of alcohol, are a major risk and undermine our efforts to contain the spread of the virus.

### 6. Formation of local government coalitions

6.1. Cabinet thanked all eligible voters who cast their vote in the 2021 Local Government Elections (LGE) held on Monday, 1 November 2021 to determine who should govern at local government. It also noted the coalition arrangements recently announced on those hung municipalities where there was no outright winner.

6.2. Cabinet congratulated all newly elected mayors and councillors, and wished them success in their important task of providing municipal services to all communities, irrespective of their political affiliation. It also applauded political parties for the decorous manner in which they conducted themselves during the LGE and coalition negotiations.

## 7. Social cohesion

7.1. Cabinet noted the rising xenophobic sentiments and stereotypes in some parts of the country against foreign nationals.

7.2. The onslaught of COVID-19 has affected all people in South Africa and the negative sentiments being perpetuated by a handful of people do not reflect the true state of cordial relations between foreigners living and working within our communities and our citizens.

7.3. Cabinet called on communities to be vigilant and avoid being coerced into hating other fellow human beings. It called on everyone to act responsibly and within the bounds of the law. Report any act of lawlessness such as intimidation and public violence to law-enforcement agencies.

## B. Cabinet decisions

### 1. Outcomes of the 26th session of the Conference of the Parties (COP26) to the United Nations Framework Convention on Climate Change (UNFCCC)

1.1. Cabinet was briefed by Minister of Forestry, Fisheries and the Environment, Ms Barbara Creecy, on the outcomes of the 26th session of the COP to the UNFCCC held in Glasgow, Scotland, United Kingdom (UK) from 31 October to 13 November 2021.

1.2. South Africa's participation was anchored on its commitments to the Paris Agreement on Climate Change of 2015 to reduce greenhouse gas emissions and to build climate resilience of its society and economy. The country's move to renewable energy hold many benefits for both our environment and the economy.

1.3. Cabinet welcomed the historic Just Transition Partnership established by South Africa with France, Germany, the UK, the United States and the European Union, which was announced at COP26.

1.4. Cabinet acknowledged the offer of the partnership to mobilise R131 billion over the next three to five years to support South Africa's Just Transition plans. The offer is in line with the commitment under the Paris Agreement by the developed countries to support developing

countries' climate actions, including those of South Africa.

1.5. An Inter-Ministerial Committee chaired by President Ramaphosa will coordinate further work on the country's Just Transition plan and on the financial offers made to South Africa in the context of the partnership.

1.6. Cabinet further mandated government to appoint a financial team consisting of National Treasury; Industrial Development Corporation; Department of Forestry, Fisheries and the Environment; Eskom and other finance experts to consider the technical aspects of the partnership and offer.

## 2. Extension of the National State of Disaster

2.1. In line with the terms of Section 27(5) (c) of the Disaster Management Act, 2002 (Act 57 of 2002), Cabinet approved the extension of the National State of Disaster to 15 December 2021. These measures continue to assist in the country's fight to stop the spread of COVID-19.

## 3. Disability Rights Awareness Month

3.1. Cabinet approved the concept approach to this year's commemoration of Disability Rights Awareness Month, which is commemorated annually from 3 November to 3 December. The theme for 2021 is: "The Year of Charlotte Manny Maxeke – Create and Realise an Inclusive Society Upholding Rights of Persons with Disabilities".

3.2. The campaign focuses on raising awareness on persons with disabilities in our society, and also celebrates the progress we have made as a country to provide space for the active participation of people with disabilities in our drive for economic growth. The Minister in The Presidency for Women, Youth and Persons with Disabilities, Ms Maite Nkoana-Mashabane, will soon unpack the weekly thematised programmes.

3.3. South Africa ratified the UN Convention on the Rights of Persons with Disabilities.

## 4. National Child Rights Status Report

4.1. Cabinet approved the publication of the annual National Child Rights Status Report. It is the first comprehensive status of the child report for the country that has been developed using the country's National Plan of Action for Children 2019-2024.

4.2. The report outlines progress on the implementation of legislation and policies that are meant to protect and promote the rights of children as provided for in the Bill of Rights.

## 5. State Party Report to the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

5.1. Cabinet approved South Africa's State Party Report to be submitted to the ACERWC of the African Union (AU).

5.2. This is the third report that South Africa is submitting to the ACERWC, in line with the country being the signatory to AU obligations on the welfare and protection of children in the continent. The current report, which is due to be tabled in March 2022, responds also to the observations made by the ACERWC in our 2016 report.

## 6. Special Zimbabwean Exemption Permit (ZEP)

6.1. Cabinet considered the much talked about ZEP and also noted the fake news being spread on these permits. The first Zimbabwean special dispensation started in 2009 and was called the Dispensation for Zimbabwe Permit. It provided for the documentation of qualifying Zimbabweans for a five-year period.

6.2. In 2014, the dispensation was extended by three years and called the Zimbabwean Special Permit. The current ZEP was initiated in 2017 and comes to an end on 31 December 2021.

6.3. Following its deliberations, Cabinet decided to no longer issue extensions to the Zimbabwean special dispensations. However, it decided on a 12 months grace period at the expiry of the current ZEP.

6.4. During this period, the holders of this permit should apply for other permits appropriate to their particular status or situation. At the expiry of this 12-month period, those who are not successful will have to leave South Africa or be deported.

## 7. Reconfiguration of the South African electoral system to include independent candidates

7.1. Cabinet approved that the report of the Ministerial Advisory Committee (MAC) on Electoral Systems Reforms be submitted to Parliament. The electoral reforms were initiated after the Constitutional Court judgment declared in 2020 that the Electoral Act, 1998 (Act 73 of 1998) was unconstitutional as it only provided for the elections of members of the National Assembly and provincial legislatures to be done through political parties.

7.2. The MAC report presents policy options that can remedy the unconstitutional aspects of the Electoral Act of 1998.

## 8. Sectoral Emission Targets (SETs) Framework

8.1. Cabinet approved the SETs Framework in line with South Africa's implementation of the Paris Agreement signed by the Conference of the Parties to the UN Framework Convention on Climate Change in 2015. The framework will guide the lead government department's approach in coordinating the process towards allocating and implementing SETs with sister departments.

8.2. The national departments' planning instruments or Policies and Measures (PAMs) seek to

mitigate emissions from the sector in line with the sectoral emissions target. Sectoral PAMs are critical for implementing sectoral emission targets. They will be defined and allocated as soon as the Climate Change Bill becomes law. These will be determined for three rolling five-year periods and reviewed every five years.

## 9. Company-level carbon budgets

9.1. Cabinet approved the Company-Level Carbon Budget Allocation Methodology approach for implementation. A mandatory carbon budget system targeting high emitting companies will be implemented in 2023. The carbon budgets system will compel high-emitting companies to adopt assigned amounts of greenhouse gas emissions as five-year commitment allocations.

9.2. The carbon budget allocation methodology sets out the scope of mandatory carbon budget implementation and details operational frameworks to be used to calculate and allocate company-level carbon budgets for the first mandatory phase and beyond.

## 10. Rationalisation of magisterial districts

10.1. Cabinet welcomed the finalisation of the rationalisation of the remaining four provinces' (Eastern Cape; Free States; KwaZulu-Natal and Western Cape) magisterial districts. The process, which gives effect to the Constitution of the Republic of South Africa of 1996, commenced in 2014 with magisterial districts of Gauteng and North West being rationalised. Limpopo and Mpumalanga were finalised in 2016 and Northern Cape in 2018.

10.2. Prior to 1994, the country's magisterial districts were determined along racial lines, perpetuating inferior judicial services to black people living in the defunct homelands, self-governing states and townships.

10.3. The proposed reconfigured courts' jurisdiction boundaries ensure equal access to the justice system by all South Africans. The process to finally come up with these boundaries was an all-inclusive process that included the magistracy, South African Police Service; National Prosecuting Authority; Legal Aid Board, Municipal Demarcation Board and all relevant stakeholders in the respective provinces.

## 11. State litigation management, mediation and state legal representation policies

11.1. Cabinet approved three policies pertaining to the management of state litigation, mediation and state legal representation. These policies seek to promote a professionally empowering and cost-effective management of state litigation cases.

11.2. The policies provide general principles to be observed and the approach to be adopted by the Office of the State Attorney (OSA) when dealing with state litigation matters. Also, the policies establish uniform procedures and provide a framework to assist the OSA. The mediation

policy also introduces alternative interventions on cases that can be resolved at less costly court processes.

11.3. These approved policies will operate as a transitional mechanism whilst the State Attorney Act, 1957 (Act 56 of 1957), as amended, is being reviewed.

## C. Bills

### 1. Basic Education Laws Amendment Bill

1.1. Cabinet approved the submission to Parliament of the Basic Education Laws Amendment Bill. The Bill amends the South African Schools Act, 1996 (Act 84 of 1996) and the Employment of Educators Act, 1998 (Act 76 of 1998).

1.2. The proposed amendments seek to strengthen the systems of learning in education as envisaged in the Constitution of the Republic of South Africa of 1996. The amendments, amongst others, give effect to the universal access to the two years of early childhood development.

1.3. The Bill also enforces accountability within school governing bodies, and clarifies the admission, language and code of conduct policies in schools. The proposed amendments will improve access to education for all learners across the country.

1.4. The Bill has gone through public consultation and also with all relevant stakeholders.

### 2. Financial Sector Levies Bill of 2021

2.1. Cabinet approved the submission of the Financial Sector Levies Bill of 2021 to Parliament. The Bill gives effect to the Financial Sector Regulation (FSR) Act, 2017 (Act 9 of 2017).

2.2. The Bill imposes levies on the financial sector to be used for funding the operations and functioning of the financial-sector bodies established in terms of the FSR Act of 2017. It also imposes a compulsory deposit insurance premium on registered members of a corporation to provide a safety net for the depositors in the event of the bank's failure.

2.3. The Bill also amends the Pension Funds Act, 1956 (Act 24 of 1956); the Banks Act, 1990 (Act 94 of 1990); Mutual Banks Act, 1993 (Act 124 of 1993) and the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002) and aligns them with the FSR Act of 2017 in respect of financial-sector bodies.

### 3. Electoral Amendment Bill

3.1. Cabinet approved the much-awaited Electoral Amendment Bill for submission to Parliament. The Bill amends the Electoral Act of 1998 to make provision for the election of independent candidates to the National Assembly and provincial legislatures.

3.2. In June 2020 the Constitutional Court ordered Parliament to remedy the defect in the current Electoral Act of 1998 to ensure independent candidates can stand for election to the National Assembly and provincial legislatures.

3.3. Cabinet further approved the submission of the MAC report that set out options to remedy the aspects of the Electoral Act that were found to be unconstitutional.

#### A. Upcoming event

##### 1. 16 Days of Activism for No Violence against Women and Children 2021

1.1. Cabinet approved the conceptual approach to the 16 Days of Activism for No Violence against Women and Children campaign. The public awareness campaign will be marked under the theme: "The Year of Charlotte Manna Maxeke: 16 Days of Activism – moving from awareness to accountability". The campaign forms part of the government's comprehensive 365 Days of Activism for awareness and advocacy work on stopping violence against women and children.

1.2. Cabinet urges all of us to condemn and commit to stop the violation of women and children in the country. The recent crime statistics on gender-based violence and femicide released by the Ministry of Police should concern all peace-loving and law-abiding South Africans.

1.3. Cabinet calls on all South Africans to work together to ensure that the campaign takes the country closer to achieving the right to safety of women and children. Minister Nkoana-Mashabane will today, 25 November, launch the start of this campaign.

#### D. Messages

##### 2. Congratulations

Cabinet extended its congratulations and well-wishes to:

- Mr Damon Galgut, the author who won the prestigious 2021 Booker Prize for his novel, *The Promise*, and the third South African to win the Booker Prize.
- Mamelodi Sundowns Ladies for winning the inaugural Confederation of African Football Women's Champions League held in Cairo, Egypt. Their ground-breaking achievement is sure to spur on the further development of women's football in South Africa.

##### 3. Condolences

Cabinet expressed condolences to the family and friends of:

- Mr FW de Klerk (85), the former pre-democracy President of South Africa who also served as Deputy President in the Government of National Unity in 1994. He shared the Nobel Peace Prize in 1993 with former President Nelson Mandela for their work for the peaceful termination of the apartheid regime, and for laying the foundations for a new democratic South Africa.
- Mr Wilbur Smith (88), the acclaimed international author who sold more than 140 million books. He was a celebrated writer and storyteller who ranks among our nation's literary giants.
- Mr Tubby Reddy (62), the former Chief Executive Officer (CEO) of the South African Sports Confederation and Olympic Committee, who steadfastly worked for the betterment of sport in South Africa.

## E. Appointments

All appointments are subject to the verification of qualifications and the relevant clearance.

1. Mr Lucky Charles Mohalaba as CEO of the Inkomati-Usuthu Catchment Management Agency.
2. Prof Azwihangwisi Edward Nesamvuni as Chairperson of the Board of the South African National Biodiversity Institute.
3. Mr Lemogang Pitsoe as CEO of the African Exploration Mining and Finance Corporation.
4. Mr Nasele Nathan Mehlomakulu as Deputy Director-General: Food Security and Agrarian Reform in the Department of Agriculture, Land Reform and Rural Development.

### 5. Board of Directors of the Compensation Fund:

- (i) Mr Paul Serote (Chairperson);
- (ii) Mr Gerald Boitumelo Mokgoro;
- (iii) Mr Tibor Szana;
- (iv) Ms Valerie Manamane Rennie;
- (v) Dr Zukiswa Pinini;
- (vi) Ms Ndivhuwo Manyonga;
- (vii) Ms Gys Myburgh McIntosh;
- (viii) Mr Mandla Shezi;
- (ix) Mr Adam Letshele;
- (x) Dr Sethole Reginald Legoabe;
- (xi) Ms Elma Mary Burger;
- (xii) Rev Ntombizine Madyibi;
- (xiii) Ms Vuyiswa Miya;



- (xiv) Mr Fani Xaba;
- (xv) Ms Sumaya Hoosen;
- (xvi) Mr Kevin Cowley;
- (xvii) Dr Hilko Johannsmeier;
- (xviii) Mr Jan Mahlangu;
- (xix) Ms Naledi Tsipane;
- (xx) Mr Janek Wilimiec;
- (xxi) Mr Edward Malometje Thobejana; and
- (xxii) Ms Desugee Pillai.

#### 6. Board of Directors of the South African Weather Service:

- (i) Ms Feziwe Yolanda Renqe;
- (ii) Ms Mmapula Moreen Kgari;
- (iii) Ms Sandika Daya;
- (iv) Ms Moipone Edith Magomola;
- (v) Mr Mmaphaka Ephraim Tau;
- (vi) Mr Itani Phaduli;
- (vii) Prof Ndivhudzanyyi Sylvester Mpandeli; and
- (viii) Dr Grant Reagon Son.

#### 7. Board of Directors of the Construction Industry Development:

- (i) Mr Khulile Vuyisile Nzo (Chairperson);
- (ii) Prof Susanna Gertruida Bouillon (Deputy Chairperson);
- (iii) Ms Yvonne Deliwe Mbane;
- (iv) Mr Tumelo Gopane;
- (v) Mr Sibusiso Makhanya;
- (vi) Ms Karabo Joyce Siyila;
- (vii) Ms Moloko Benadette Rabosiwana;
- (viii) Ms Ertia Boitumelo Mokgatle;
- (ix) Ms Celeste Margo le Roux;
- (x) Mr Danny Lesiba Masimene;
- (xi) Ms Thuthuka Siphumezile Songelwa;
- (xii) Ms Bongekile Zulu; and
- (xiii) Mr Khuliso Kennedy Maimela.

#### 8. Board of Directors of the Community Schemes Ombud Service:

- (i) Ms Marvellous Phindile Mthethwa (Chairperson);
- (ii) Mr Sediko Rakolote;
- (iii) Ms Julia Ramataboe;
- (iv) Ms Deshni Subbiah;
- (v) Mr Mthokozisi Daluxolo Xulu;
- (vi) Mr Donovan Vincent Goliath; and
- (vii) Ms Ntombikayise Sithole.

#### 9. Board of Directors of the Property Practitioners Regulatory Authority:

- (i) Mr Steven Piet Ngubeni (Chairperson);
- (ii) Ms Pamela Nonkululeko Makhubela;
- (iii) Adv Mxolisi Sphamandla Nene;
- (iv) Mr Terry Kevin Johnson;
- (v) Mr Thato Ramaili;
- (vi) Me Thokozani Radebe;
- (vii) Ms Thuthuka Siphumezile Songelwa;
- (viii) Mr Shaheed Peters;
- (ix) Ms Nokulunga Makopo; and
- (x) Ms Pamela Beatrice Snyman.
- (xi) Ms Veruska Gilbert (Representative from the Department of Trade, Industry and Competition)

#### 10. Board of Directors of the National Home Builders Registration Council:

- (i) Ms Nomusa Mufamadi (Chairperson);
- (ii) Mr Francois Beukman;
- (iii) Mr Kganki Matabane;
- (iv) Ms Nontuthuko Chiluvane;
- (v) Ms Mandy Jayakody;
- (vi) Mr Refilwe Lediga;
- (vii) Ms Morwesi Ramonyai;
- (viii) Ms Siphindile Memela;
- (ix) Ms Nomthandazo Lucia Ncalane-Ngcobo;
- (x) Ms Kedibone Tsiloane;
- (xi) Mr Roy Mnisi;
- (xii) Ms Shelly Huntley;
- (xiii) Ms Sasa Subaban; and
- (xiv) Ms Zodwa Matiwane.

**11. Members of the Council of the Social Housing Regulatory Authority:**

- (i) Ms Busisiwe Nzo (Chairperson);
- (ii) Ms Pulani Thobejane-Mogotsi
- (iii) Ms Lahlane Malema;
- (iv) Ms Sanele Masiza;
- (v) Ms Yvonne Deliwe Mbane;
- (vi) Ms Lebogang Shole;
- (vii) Ms Ayanda Olifant;
- (viii) Ms Zimbini Hill;
- (ix) Ms Confidence Tshilande;
- (x) Mr Kevin Kiewitz;
- (xi) Mr Ashley Latchu; and
- (xii) Mr Mashukudu Maboja.

**12. Board of Directors of the Housing Development Agency:**

- (i) Dr Tshilidzi Ratshitanga (Chairperson);
- (ii) Ms Marina Dumakude (Deputy Chairperson);
- (iii) Dr Manqoba Soni;
- (iv) Ms Nalini Maharaj;
- (v) Mr Rajesh Makan; and
- (vi) Ms Magdeline Tshabalala.

Enquiries:

Ms Phumla Williams – Cabinet Spokesperson

Cell: 083 501 0139

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**TRANSLATIONS**

English

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Statement on the Cabinet Meeting of 24 November 2021 | South African Government

isiNdebele

isiXhosa

isiZulu

Sesotho

Sepedi

Setswana

Siswati

Tshivenda

Xitsonga

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home affairs

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"FA10"<sup>DHA-57</sup>

230 Johannes Ramokhoase Street, Private Bag X114, Pretoria, 0001  
Parliamentary Office, 120 Ploin Street, Private Bag X9048, Cape Town, 8000

Tel: (012) 406-4592

E-mail: [Yogie.Travers@dha.gov.za](mailto:Yogie.Travers@dha.gov.za)

DEPARTMENT OF HOME AFFAIRS:

HEAD OFFICE

VISA FACILITATION CENTRES

## IMMIGRATION DIRECTIVE NO 10 OF 2021

## ZIMBABWEAN EXEMPTION PERMIT HOLDERS (ZEP)

Cabinet decided to no longer issue extensions to Zimbabwean nationals who are holders of the Zimbabwean Exemption permit (ZEP), but a 12 (twelve) month grace period following the expiry of the current ZEP on 31 December 2021 within which these ZEP holders need to regularise their status within South Africa in terms of the Immigration Act, 2002 (Act No. 13 of 2002) ("the Immigration Act") and the Immigration Regulations, meaning 31 December 2022.

During the said 12 (twelve) month period, holders of the ZEP should apply for mainstream visas that they qualify for and ensure that their applications comply with the provisions and requirements of the Immigration Act and Immigration Regulations. At the expiry of this 12 (twelve) month period, those who are not successful will have to leave South Africa or be deported.

**Organisations:** All Companies, Employers, Learning Institutes and Banks are too kindly note that applicants who are in possession of a ZEP expiring on 31 December 2021 must be allowed to continue with their services, provided they submit proof of application for a main stream visa in terms of the Immigration Act and Immigration Regulations. Proof of application must be a VFS receipt.

**Travel Conditions:** All applicants with a ZEP must be allowed to travel freely in and out of South Africa until 31 December 2022, when the 12 (twelve) month grace period ends, after which they will only be allowed to travel in and out of South Africa if in possession of a valid visa.

The contents of this Immigration Directive must please be brought to the attention of all officials concerned.

L. T. MAKHODE  
DIRECTOR-GENERAL

DATE: 29 November 2021

This Immigration Directive follows Immigration Directive No 9 of 2021 which deals with: Declaration of Undesirability: Foreigners whose Visas/ Permits have expired

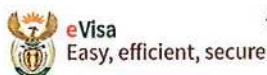


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(1)

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### Withdrawal of Immigration Directive on the Zimbabwean Exemption Permit (ZEP)

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#### IMMIGRATION DIRECTIVE NO. 11 OF 2021

#### ZIMBABWEAN EXEMPTION PERMIT HOLDERS (ZEP) (WITHDRAWAL)

Kindly note that Immigration Directive No 10 of 2021 is hereby withdrawn.

The contents of this Immigration Directive must please be brought to the attention of all officials and applicants concerned.

This Immigration Directive follows Immigration Directive No 10 of 2021 which deals with: ZIMBABWEAN EXEMPTION PERMIT HOLDERS (ZEP)

*Handwritten signature/initials*

Siya Qoza – 082 898 1657 (spokesperson for the Minister of Home Affairs)

David Hlabane – 071 342 4284 (media manager for the Department of Home Affairs)

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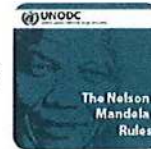
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**INFORMATION ON ZEP**  
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## Minister Motsoaledi welcomes the decision of the High Court: Gauteng Local Division, Pretoria to struck from the roll urgent applications by Zimbabwe Exemption Permit holders for lack of urgency.

### Details

Published: 30 December 2021

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### 29 December 2021

In a desperate bid to overturn the decision taken by the Minister of Home Affairs Department (supported by Cabinet) not to renew the Zimbabwe Exemption Permits (ZEP), various interest groups connected to the holders of ZEP are trying every trick in the book.

Late on Friday, 24 December 2021 (Christmas Eve) two organisations claiming to be representing the interests of ZEP holders, one calling itself African Amity, launched urgent applications in the High Court, Gauteng Division, Pretoria. The other group is led by a Bongani Nyathi, Gaston Ngulube and Njabulo Ncube.

At the heart of the dispute is the decision taken by the Minister of Home Affairs not to renew the ZEP and impose a condition giving a 12-month grace period during which time ZEP holders need to regularise their stay through normal immigration laws of the country. The Minister took the decision as he is empowered to do so in terms of the relevant provisions of the Immigration Act, 2002.

The relief sought by these two groups was basically to be granted permanent residency and that the Court should instruct the Department to issue ZEP holders with visas, pending the review of the Minister's decision by the courts.

The so-called urgent applications of these two groups were heard in Court yesterday, 28 December 2021.

The Minister and Department rigorously defended both applications and argued that the applicants in both matters failed to comply with the practice manual and directives and lack of urgency.

The Court ruled in favour of the Minister and removed the African Amity's matter from the roll. Costs were reserved. The Minister and Department intend to insist on punitive costs against African Amity.

In the matter of Bongani Nyathi, Gaston Ngulube and Njabulo Ncube, the Court ordered the applicants to pay the Minister and Department's costs.

"We are determined to defend any spurious court actions aimed at undermining the lawful and reasonable decision which I took in my capacity as the Minister of the Department. We are doing this while we acknowledge the rights of individuals and groups to approach the Courts to seek remedies if they feel aggrieved," said Minister Motsoaledi.

It is common cause that there are many other groupings who are poised to take on review the decision on ZEP in the courts of law in the New Year. And as a result, the Department will defend the lawful, rational and reasonable decision taken in my capacity as the Minister of the Department" said Minister Aaron Motsoaledi.

Media enquiries:

*NkF*



Siya Qoza – 082 898 1657 (spokesperson for the Minister of Home Affairs)

David Hlabane – 071 342 4284 (media manager for the Department of Home Affairs)

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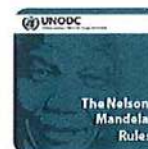
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## NOTICE TO ALL ZIMBABWEAN NATIONALS GRANTED EXEMPTIONS IN TERMS OF SECTION 31(2)(b) OF THE IMMIGRATION ACT 13 OF 2002

### RE: NON-EXTENSION OF EXEMPTIONS IN TERMS OF SECTION 31(2)(d) OF THE IMMIGRATION ACT 13 OF 2002

1. By the direction of the Minister of Home Affairs, I address this notice to all Zimbabwean nationals' exemptions holders on his behalf.
2. Kindly note that the Minister of Home Affairs has exercised his powers in terms of section 31(2)(d) of the Immigration Act 13 of 2002 not to extend the exemptions granted in terms of section 31(2)(b) of the Immigration Act from 2017.
3. The Minister has also imposed a condition giving the exemption holders a period of 12 months in order to apply for one or more of the visas provided for in the Immigration Act. In other words, the permits which are due to expire on 31 December 2021 will be regarded as valid until 31 December 2022.
4. The Minister has issued a directive dated 29 December 2021 to the Immigration services and all officials to the effect that no action should be taken against the Zimbabwean exemptions' holders in terms of sections 29, 30, 32 and 34 of the Immigration Act.
5. The exemption holders are required to make use of the 12 months' period to apply for one or more of the visas set out in the Immigration Act.
6. The Minister has also directed that a special team be set up to deal with the anticipated applications for various visas by Zimbabwean nationals.
7. The decision of the Minister was taken due to, inter alia, the following reasons:
  - 7.1 The exemptions granted to the Zimbabwean nationals was and has always been a temporary measure, pending improvement of the economic situation in Zimbabwe. In 2008 approximately 200 000 people arrived in South Africa seeking asylum, the majority of them were Zimbabwean nationals. Again in 2009 another 207 000 arrived also seeking asylum. Similarly, the majority of them were Zimbabwean nationals. The extensive nature of asylum applications by Zimbabwean nationals between 2008-2009 overwhelmed the administrative capacity of the Department's Asylum Seeker Management Unit, and resources were overstretched. This status has been exacerbated in prevailing years with an accumulation of appeals within the statutory bodies responsible for rejected or failed asylum applications.
  - 7.2 The Department of Home Affairs ("DHA") has encountered limited capacity to respond to such capacity constraints by virtue of its constrained budget. This was more pronounced in 2020 with the outbreak of Covid-19 and other economic factors in South Africa. This resulted in the budget of the DHA being significantly reduced. First, in the 2020/21 financial year, R562 million was cut during the Special Adjustment Budget and a further R301 million during the Medium-Term Expenditure Framework. Second, in the financial year 2021/22 the DHA baseline was cut by R969 million, the bulk of which was for Compensation of Employees (R671 million). The Compensation of Employees ("COE") ceiling for 2021/22 was set at R3,4 billion. The DHA had to prioritise the budget, as the COE ceiling is insufficient to cover the existing staff complement. As matters stand, the DHA is unable to employ more staff members in the Immigration services. Therefore, it had to prioritise the budget and allocate more resources to civic services, which in essence deals with the rights of South African citizens.
  - 7.3 According to Statistics South Africa ("Stats SA") Quarterly Labour Force (QLFS) quarter 2 of 2021, South Africa's unemployment rate increased by 1,8% bringing the overall rate to 34%. This is the largest recorded since the start of the QLFS in 2008.
  - 7.4 The DHA came to realise that some of the Zimbabwean exemptions' holders were violating the conditions in that about 1 900 were somehow able to apply for waivers in terms of the Immigration Act. Their applications were rejected.
8. It goes without saying that a combination of factors led to the lawful, rational and reasonable decision of the Minister.
9. Should any exemption holder have any representations to make regarding the non-extension of exemptions and the 12 months' period, he/she may forward such representations to Mr Jackson McKay: Deputy Director-General: Immigration Services, E-mail ZEPonqulrios@dha.gov.za

Sincerely

L.T. MAKHODE  
DIRECTOR-GENERAL  
DEPARTMENT OF HOME AFFAIRS  
DATE: 31 DECEMBER 2021

Issued by Sigogo Attorneys  
5 January 2022

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# Government Gazette Staatskoerant

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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF HOME AFFAIRS**

NO. 1666

7 January 2022



**MINISTER OF  
HOME AFFAIRS  
REPUBLIC OF SOUTH AFRICA**

Private Bag X741, Pretoria, 0001, Tel: (012) 432 6635 Fax: (012) 432 6675  
Private Bag X9102, Cape Town, 8000, Tel: (021) 469 6507, Fax: (021) 461 4191

**DEPARTMENT OF HOME AFFAIRS: HEAD OFFICE  
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PROVINCIAL OFFICES  
REGIONAL AND DISTRICT OFFICES  
IMMIGRATION OFFICERS: PORT CONTROL  
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PERMITTING SECTIONS  
CIVIC SERVICES**

**MINISTER'S IMMIGRATION DIRECTIVE NO 1 OF 2021****IMPLEMENTATION OF THE DECISION TO EXTEND ZIMBABWEAN NATIONALS'  
EXEMPTIONS GRANTED IN TERMS OF SECTION 31(2)(b), READ WITH SECTION  
31(2)(d) OF THE IMMIGRATION ACT 13 OF 2002**

I, Dr PA Motsoaledi, MP, Minister of Home Affairs having, with the powers bestowed upon me in terms of section 31(2)(b), read with section 31(2)(d) of the Immigration Act, decided to extend the Zimbabwean exemptions granted to Zimbabwean nationals for a period of 12 months in order to allow the holders thereof to apply for one or other visas

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provided for in the Immigration Act that they may qualify for, hereby direct that this decision should be implemented as follows, during the 12 months' period, ending 31 December 2022:

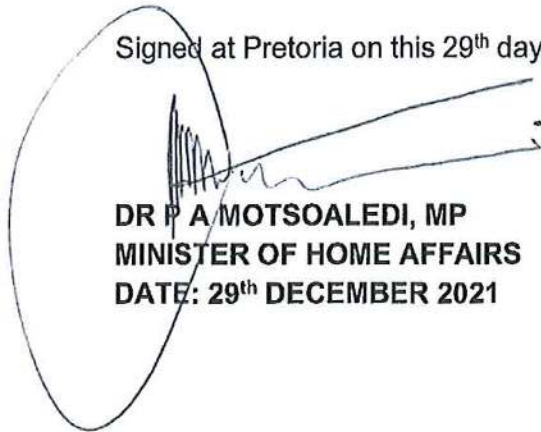
1. No holder of the exemption may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of the section 34 of the Immigration Act for any reason related to him or her not having any valid exemption certificate (i.e permit label / sticker) in his or her passport. The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act
2. The holder of the exemption may be allowed to enter into or depart from the Republic of South Africa in terms of section 9 of the Act, read together with the Immigration Regulations, 2014, provided that he or she complies with all other requirements for entry into and departure from the Republic, save for the reason of not having valid permit indicated in his or her passport; and
3. No holder of exemption should be required to produce—
  - (a) a valid exemption certificate;
  - (b) an authorisation letter to remain in the Republic contemplated in section 32(2) of the Immigration Act when making an application for any category of the visas, including temporary residence visa.

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Any enquiry related to the contents of this Directive, should be directed to Mr Jackson Mckay, Deputy Director-General: Immigration Services,

E-mail [ZEPenquiries@dha.gov.za](mailto:ZEPenquiries@dha.gov.za)

Signed at Pretoria on this 29<sup>th</sup> day of December 2021.



**DR P A MOTSOLEDI, MP**  
**MINISTER OF HOME AFFAIRS**  
**DATE: 29<sup>th</sup> DECEMBER 2021**

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**MINISTER OF  
HOME AFFAIRS  
REPUBLIC OF SOUTH AFRICA**

Private Bag X741, Pretoria, 0001, Tel: (012) 432 6635 Fax: (012) 432 6675  
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**MINISTER OF HOME AFFAIRS' PRESS STATEMENT: ZIMBABWEAN  
NATIONALS GRANTED EXEMPTIONS IN TERMS SECTION 31(2)(b) OF THE  
IMMIGRATION ACT 13 OF 2002**

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1. Due to the confusion and disinformation circulating in both print and social media, it has become necessary that I issue this Press Statement in order to set the record straight.

Background

2. The issue of exemptions granted to Zimbabwean and other nationals has a long history. It all started in 2008, when South Africa experienced an influx of asylum seekers from Southern African Development Community ("SADC"). The majority of them were Zimbabwean nationals. The Department of Home Affairs ("DHA") Asylum Seeker Management Unit ("ASMU") was unable to cope with the numbers. By way of an example, the Musina Refugee Reception Office was receiving in excess of 1000 asylum seeker applications daily. It had neither the staff compliment and financial resources to deal with the influx.

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3. This led to the DHA approaching National Treasury requesting financial assistance to start the process of granting exemptions to the SADC nationals, including Zimbabwean nationals in terms of section 31(2)(b) Immigration Act, 2002.
4. The DHA requested National Treasury to make available an amount of R145 803 928.00 available to start a special project of granting exemptions by the Minister of Home Affairs.
5. National Treasury decided only to approve an amount of R15 million to deal with the exemptions process for SADC nationals.

#### Granting of exemptions

6. In 2009, the then Minister with the support of National Executive (Cabinet) granted exemptions to the SADC nationals, the majority of whom were Zimbabwean nationals.
7. Between the financial years 2010 to 2020, the DHA has spent approximately an amount of R188 700 000. 00 relating to the costs of processing and extensions of the exemptions granted to Zimbabwean nationals in terms of section 31(2)(b) of the Immigration Act, 2002. The above figure excludes costs involved for processing of the applications by VFS Visa Processing (SA) Pty LTD ("VFS"), printing and other administrative costs. The applications had to be considered by the Director-General and/or delegated officials. The exemptions were granted and extended three times by the erstwhile Ministers from time to time. The last extension of the exemptions was in 2017 expiring on 31 December 2021.
8. There are currently approximately 178 412 Zimbabwean nationals who were granted exemptions.

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Internal inputs.

9. Between the period June and July 2021, various affected units within the DHA started discussing the feasibility of recommending to me whether the exemptions should be extended or not.

Submission by the Director-General.

10. This culminated in the Director-General making a submission to me in September 2021, recommending that the exemptions granted to the Zimbabwean nationals should not be extended anymore. I duly and carefully applied my mind to the reasons advanced by the Director-General which, *inter alia*, include:

10.1 The exemptions granted to the Zimbabwean nationals was and has always been a temporary measure, pending improvement of the political and economic situation in Zimbabwe.

10.2 The DHA has now limited capacity to deal with the extensions of the exemptions by virtue of its constrained budget. The outbreak of Covid-19 and other economic factors facing South Africa resulted in the budget of the DHA being cut twice in the amount of R1, 8 billion in 2020/21 and 2021/2022 financial years. In fact, the base line was cut by R969 million and R671 million was for Compensation of Employees. This resulted in the insufficient funds to cover the existing staff compliment. A decision had to be taken, to prioritise the budget to allocate more resources to Civic Services which deals with the rights of South African citizens.

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- 10.3 It is documented that South Africa's unemployment rate increased by 1.8% bringing the overall rate to 34%. This rate is the largest since the start of Quarterly labour Force Survey in 2008.
- 10.4 Approximately 1 900 Zimbabwean nationals' exemptions holders applied for waivers in terms of the Immigrations Act and their applications were rejected. These applications were in violation of the conditions of the exemptions which are:
- (a) *"ZEP permit entitles the holder to conduct work/employment;*
  - (b) *ZEP permit does not entitle the holder the right to apply for permanent residence irrespective of the period of stay in RSA;*
  - (c) *ZEP permits will not be renewable/ extendable; and*
  - (d) *ZEP permit holder cannot change conditions of his/her permit in South Africa".*
- 10.5 According to the records of the DHA, some of the Zimbabwean nationals' exemptions holders have already migrated to one or other visas provided for in the Immigration Act.
11. In or about September 2021, I decided to approve the recommendation made by the Director-General not to extend the exemptions to the Zimbabwean nationals.
12. I have also imposed a condition that all the Zimbabwean nationals' exemptions holders will be given a period of 12 months to apply for one or other visas provided for in the Immigration Act. In other words, the validity of the expired permits has been extended to 31 December 2022.
13. As my decision impacts on national security, international relations, political, economic and financial matters, I decided to seek support of the National

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Executive (Cabinet) which support was given during November 2021. The approach to Cabinet has been the customary practice since the exemption regime was introduced in 2009.

13. I have also issued an Immigration Directive to the Border Management Authority, Immigration Officers: Port Control; Immigration Officers: Inspectorate and Permitting sections by virtue of the powers bestowed on me in terms of section 31(2)(b), read with section 31(2)(d) of the Immigration Act, 2002, that I have decided to extend the exemptions granted to Zimbabwean nationals for a period of 12 months and directed that:
  - (a) No holder of the exemption may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of section 34 of the Immigration Act;
  - (b) The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act.
14. The Directive has already been published in the *Government Gazette*.
15. I have also taken the liberty to send a communication to the Minister of International Relations and Cooperation for her to convey to the Honourable Ambassador of the Republic of Zimbabwe my decision and the steps that have been taken in order to protect the rights of the Zimbabwean exemptions' holders.
16. We take this opportunity to urge all the Zimbabwean exemptions' holders to make use of the 12 months period to apply for other visas.
17. We have also set up a special team within the DHA to deal with the expected influx of applications for various visas by the Zimbabwean nationals.

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18. We are humbled by the overwhelming support of the decision by the South African citizens. These messages were widely circulated on social media. This demonstrates that the decision taken is lawful and reasonable.
  
19. We make use of this opportunity to extend our sincere appreciation to the Government of the Republic of Zimbabwe for supporting the decision as reported in the media.

Media enquiries:

Siya Qoza - 082 898 1657 (Spokesperson for the Minister of Home Affairs)

David Hlabane - 071 342 4284 (Media Manager for the Department of Home Affairs)

**Dr PA Motsoaledi, MP**

**Minister of Home Affairs**

**Date: 7 January 2021**

(Electronically transmitted without a signature)

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## "FA16"

Figure 1. Zimbabwe's economy was in a deep recession in 2019 ...



Figure 2. ... and saw the deepest decline in GDP per capita in Sub Saharan Africa

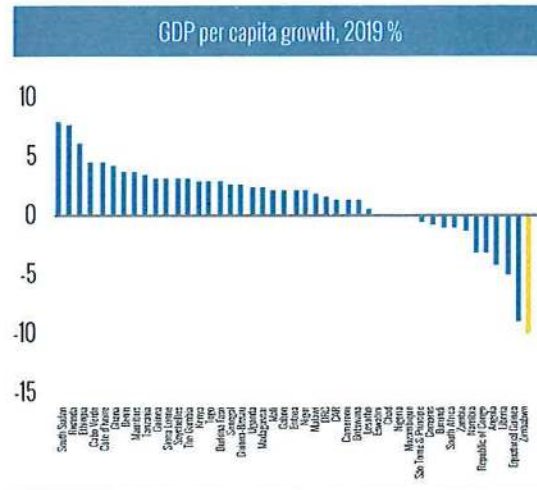


Figure 3. The country experienced the worst drought in a decade alongside existing economic challenges

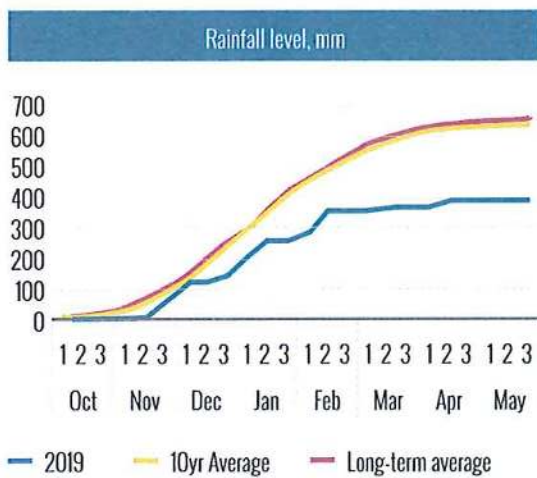
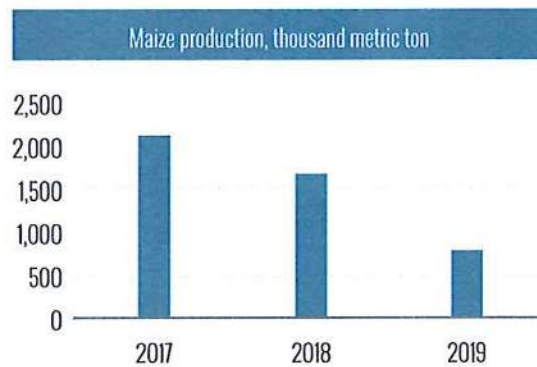


Figure 4. A sharp decline in agriculture production, especially of maize, pushed nearly 8 million into food insecurity and led to a humanitarian appeal



Source: FAO, ZIMSTAT, and World Bank World Development Indicators (WDI).

**Efforts to correct domestic imbalances suppressed domestic demand and worsened household welfare in 2019.** Private consumption was strained by a sharp fall of real income as food prices reached hyperinflationary levels, formal employment declined, and food insecurity rose, affecting nearly half of the population by the end of the year. Tightened fiscal spending led to a double-digit decline in government consumption and investment and contributed to further contraction of GDP. Levels of private investment also fell to a fraction of previous years as rapid depreciation of the local currency increased uncertainty and limited access to imported equipment and critical inputs, while also negatively affecting investor sentiment. As a result, in 2019 Zimbabwe saw the steepest decline of GDP per capita among all Sub-Saharan African countries (Figure 2).

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PRESS RELEASE NO. 22/88

## IMF Executive Board Concludes 2022 Article IV Consultation with Zimbabwe

March 24, 2022

**Washington, DC** : The Executive Board of the International Monetary Fund (IMF) concluded the Article IV Consultation [\[1\]](file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#_ftn1) (file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#\_ftn1) with Zimbabwe on March 21, 2022.

Zimbabwe experienced severe exogenous shocks (cyclone Idai, protracted drought, and the COVID-19 pandemic) during 2019-20, which along with policy missteps in 2019, led to a deep recession and high inflation. Real GDP contracted cumulatively by 11.7 percent during 2019-20 and inflation reached 837 percent (y/y) by July 2020. The authorities' swift response to the pandemic, including through containment measures and economic and social support, helped contain its adverse impact. Pandemic-related spending, equivalent to 2 percent of GDP, in 2020 was financed by reallocation within the budget. In 2021, such outlays represented about 1.6 percent of GDP, partially financed by the SDR allocation. In addition, expenditures were increased to bolster food security and farm inputs to vulnerable households. The Reserve Bank of Zimbabwe introduced a medium-term bank accommodation lending facility and private sector lending facility.

Real GDP rose by 6.3 percent in 2021 reflecting a bumper maize harvest, strong pickup in mining, and buoyant construction. A tighter policy stance since mid-2020 (relative to 2019) has contributed to lowering inflation to 60.7 percent (y/y) at end-2021. Fiscal policy was tightened in 2020-21, reflecting increased revenues and lowered spending. The current account balance turned into a surplus during 2019-21, reflecting favorable metals' prices, lower imports, and a surge in remittances. However, high double-digit inflation and wide parallel foreign exchange market premia have persisted. Poverty has risen and about a third of the population is at risk of food insecurity.

The output recovery that resumed in 2021 is expected to continue, albeit at a slower pace, with growth projected at about 3½ percent in 2022 and 3 percent over the medium term in line with Zimbabwe's growth potential. The authorities aim to limit the 2022 budget deficit at 1½ percent of GDP, and below 2 percent of GDP over the medium-term. At the same time, the current account surplus is expected to decline over the medium term, reflecting a pickup in imports and slowdown in remittances. The effects from the COVID-19 pandemic and protracted drought have compounded existing structural constraints and would lead to scarring on the economic outlook.

International reengagement has lagged as stakeholders seek political and economic reforms. The 2019 Staff-Monitored Program experienced significant policy slippages and elapsed without a review. Since then, the authorities have made

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significant progress towards restoring macroeconomic stability, though the implementation of past IMF policy advice has been mixed. The authorities have developed a debt resolution strategy and started token payments to creditors in a bid to make progress on reengagement.

**Executive Board Assessment [2]** ([file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#\\_ftn2](file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#_ftn2))

Executive Directors welcomed the positive signs of economic recovery following two years of deep recession. Directors commended the authorities for their swift response to the COVID-19 pandemic and for stronger efforts to address macroeconomic imbalances while prioritizing social support. Noting that substantial challenges remain, including extreme poverty and longstanding structural constraints, they urged the authorities to implement the necessary reforms that would foster higher, more inclusive growth and pave the way for reengagement with the international community.

Directors agreed that fiscal policy should aim to restore macroeconomic stability and create fiscal space for priority spending. They emphasized the need to enhance revenue mobilization, including through broadening the tax base and improving tax administration and compliance. On the spending side, accelerating reforms of state-owned enterprises and enhancing fiscal controls will be critical to limit fiscal risks. Directors also encouraged the authorities to use the SDR allocation prudently and transparently.

Directors noted that Zimbabwe remains in debt distress, with large external arrears to official creditors. They welcomed the authorities' commitment to re-engage with external creditors, including by resuming token payments and preparing a debt resolution strategy. Directors encouraged further efforts to enhance debt management and transparency.

Directors recommended further monetary tightening, given the persistently high inflation. In this context, they emphasized the need to increase the operational independence of the central bank, discontinue its quasi-fiscal operations, and improve its coordination with the fiscal authorities. Concerted efforts are needed toward greater exchange rate flexibility by allowing a more transparent and market-driven price process. Directors called on the authorities to phase out exchange restrictions and multiple currency practices as soon as conditions permit.

Directors emphasized the need for continued vigilance to ensure financial stability, including by addressing remaining banking sector weaknesses. They welcomed the removal of the country from the FATF grey list and progress on strengthening the AML/CFT framework, and encouraged further efforts to address the remaining deficiencies.

Directors noted that addressing institutional weaknesses is instrumental in supporting growth and social development. They looked forward to further progress on implementing the 2020 National Anti-Corruption Strategy. Directors underscored the importance of prioritizing structural reforms to improve the business climate and build resilience to climate change.

Directors encouraged the authorities to advance reforms, noting that a new Staff Monitored Program could help establish a track record of sound policies and provide further impetus to their re-engagement efforts.

**Table 1. Zimbabwe: Selected Economic Indicators, 2017–26**

	2019	2020	2021	2022	2023
	Est.			Proj.	
	<i>(annual percentage change, unless otherwise indicated)</i>				
<b>Output and prices</b>					
Real GDP growth <sup>1/</sup>	-6.1	-5.3	6.3	3.5	3.0
Nominal GDP (US\$ millions)	22,600	21,670	24,124	26,425	27,963
GDP deflator	440.5	569.0	128.5	68.1	39.8

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CPI (annual average)	255.3	557.2	98.5	56.4	46.3
CPI (end-of-period)	521.1	348.6	60.7	55.0	42.0
<b>Money and credit</b>					
Money supply (M2)	249.4	481.3	142.4	77.4	50.6
Money Base	217.0	81.7	38.4	35.0	30.0
Credit to the private sector	173.8	571.8	158.9	74.3	40.8
Credit to the central government	40.7	65.5	115.2	138.7	112.5
Money supply ( <i>in percent of GDP</i> )	18.6	17.0	17.0	17.3	18.1
Credit to the private sector ( <i>in percent of GDP</i> )	5.9	6.3	6.7	6.7	6.6

*(ZWL\$ per US\$)*

#### **Official Exchange rate**

ZWL:USD exchange rate (annual average)	8.2	51.3	88.6	...	...
ZWL:USD exchange rate (end-of-period)	16.8	81.8	107.0	...	...

*(percent of GDP)*

#### **Central government <sup>2/</sup>**

Revenue and grants	12.3	15.4	17.2	17.0	17.0
Expenditure and net lending	13.5	14.9	18.7	18.9	18.8
Overall balance	-1.3	0.5	-1.5	-1.9	-1.9
Primary balance	-0.9	0.8	-1.1	-1.2	-1.2

*(US\$ millions, unless otherwise indicated)*

#### **Balance of payments**

Exports of goods and services	5,267	5,263	6,448	6,607	6,818
<i>(annual percentage change)</i>	1.7	-0.1	22.5	2.5	3.2
Imports of goods and services	5,398	5,489	6,771	7,127	7,588
<i>(annual percentage change)</i>	-29.4	1.7	23.3	5.3	6.5
Current account balance (excluding official transfers)	920	1,096	1,170	866	413
<i>(percent of GDP)</i>	4.1	5.1	4.8	3.3	1.5
Gross international reserves	151	34	716	540	540
<i>(months of imports of goods and services)</i>	0.3	0.1	1.3	0.9	0.9

#### **Public debt <sup>3/</sup>**

Consolidated public sector debt	10,415	14,915	17,855	18,373	19,031
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<i>(percent of GDP)</i>	93.2	102.7	66.3	69.5	68.1
Public and publicly guaranteed external debt	9,609	14,485	17,290	17,468	17,594
<i>(percent of GDP)</i>	86.0	99.8	64.2	66.1	62.9
<i>Of which: Arrears</i>	6,406	10,022	12,722	12,912	13,102
<i>(percent of GDP)</i>	57.3	69.0	47.2	48.9	46.9
PPG external debt (percent of GDP) from DSA <sup>4/</sup>	87.5	106.6	86.6	73.8	70.6

Sources: Zimbabwean authorities; IMF staff estimates and projections.

<sup>1/</sup> At constant 2009 prices.

<sup>2/</sup> Includes SDR spending and financing of 1.0 percent of GDP and 0.5 percent of GDP in 2021 and 2022, respectively.

<sup>3/</sup> Debt ratios in the macroframework are based on the official exchange rate up to 2021 and on the implied exchange rate over 2022-2026. The latter takes into account the conversion factor used in national account statistics.

<sup>4/</sup> DSA debt ratios differ from the ones in the macroframework due to the fact that GDP in the DSA does not take into account the conversion factor used in national account statistics (for the historical figures) and differences between avg. and e.o.p. exchange rates (for the projections).

[1] ([file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#\\_ftnref1](file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#_ftnref1))  
Under Article IV of the IMF's Articles of Agreement, the IMF holds bilateral discussions with members, usually every year. A staff team visits the country, collects economic and financial information, and discusses with officials the country's economic developments and policies. On return to headquarters, the staff prepares a report, which forms the basis for discussion by the Executive Board.

[2] ([file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#\\_ftnref2](file:///Q:/COM/MR/Press%20Releases/2022/PR2288%20-%20Zimbabwe%20-%20IMF%20Executive%20Board%20Concludes%202022%20Article%20IV%20Consultation%20with%20Zimbabwe.docx#_ftnref2))  
At the conclusion of the discussion, the Managing Director, as Chairman of the Board, summarizes the views of Executive Directors, and this summary is transmitted to the country's authorities. An explanation of any qualifiers used in summings up can be found here: <http://www.IMF.org/external/np/sec/misc/qualifiers.htm> (<http://www.imf.org/external/np/sec/misc/qualifiers.htm>).

## MEDIA RELATIONS

**PRESS OFFICER:** NICOLAS MOMBRIAL

**PHONE:** +1 202 623-7100 | **EMAIL:** MEDIA@IMF.ORG

 [@IMFSpokesperson \(https://twitter.com/IMFSpokesperson\)](https://twitter.com/IMFSpokesperson)

*IMF*  
*NMF*



## PART 2

### Strengthen Public Sector Service Delivery to Mitigate the Impact of multiple shocks on the Poor

**Public service delivery has worsened as a result of a series of economic, climate, and pandemic shocks experienced since 2017.** In 2019 and 2020, these impacts deepened as high inflation eroded the budget for health, education, and social protection services. High inflation alone plunged investments in human capital development to precarious levels (in USD terms) when compared to 2018. Wage spending was eroded by inflation and so was critical spending on medicine, learning materials, and upgrades to infrastructure and equipment. Access to services became more difficult for the rising number of extreme poor as persistent drought reduced crop production and increased food insecurity. The onset of the pandemic complicated access to health, education, and food, and further threatened to reverse some of Zimbabwe's previous progress on health and education outcomes. Budget resources and humanitarian aid were not commensurate with greater needs for social protection and food security programs, while implementation challenges delayed the execution of key social programs. Addressing implementation challenges and increasing the effectiveness of public spending on Zimbabwe's social sectors will be the first line of defense against negative impacts of the pandemic on economic and social conditions.

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## EXECUTIVE SUMMARY

### A. INTRODUCTION

1. In past four years, the World Bank, in close cooperation with the Government of Zimbabwe, and the support of international partners - has carried out a number of studies and technical assistance activities in key areas of the socio-economic recovery. In line with Bank's Africa Strategy of fostering Africa's economic transformation and poverty reduction, the overall goal of these studies has been to support broad-based development of Zimbabwe by facilitating evidence-based debate and policy-making. Studies have been striving to generate data, provide independent analysis and foster learning from other countries' experiences. All reports are available.

2. As a new government for 2013-2018 is about to take function, sectoral teams at the World Bank have distilled key analysis from those studies, and prepared the attached short policy notes. The policy notes attempt to summarize in a short space the main findings, challenges, constraints, and lay out policy options.

3. Zimbabwe's economic past, which was underpinned by historically solid underlying economic fundamentals such as a large, educated workforce, a strong propensity to save, and a relatively diversified economic base suggests that its current economic challenges need not preclude a positive future. While the past decade of hyperinflation and weak economic management has undoubtedly eroded a significant share of Zimbabwe's physical and human capital, these can be rebuilt with the combination of sound economic policy and proper incentives to private sector investors, both domestic and foreign. It is therefore imperative that, however policymakers choose to proceed with regard to the future direction of the economy, they deliver well-articulated, credible, and stable economic policies. Such policies will enable and unleash the creative energies and entrepreneurial spirit of the private sector, the one that has delivered so often in the past.

4. Policies in 2009-2013 have led to an initial successful stabilization of the Zimbabwean economy, which has recovered growth after a decade-long contraction. Despite a vigorous initial rebound, growth is fading. The Zimbabwean economy has not yet entered a phase of sustained economic transformation and broad-based socio-economic recovery. At the same time poverty remains widespread, with 70 percent of Zimbabwean living under the national poverty lines, and 22.5 percent (2.8 million people) in extreme poverty. Policies over 2013-2018 will be critical in defining Zimbabwe's path to development and shared-prosperity, and stopping the decline in human development indicators (education and health) in order to re-establish Zimbabwe as a leader in Africa.

## "FA17.2"

hyperinflationary levels, formal employment fell, and food insecurity rose to affect nearly half of the population. Tightened fiscal spending led to a double-digit decline in government consumption and investment, which contributed to depressed economic activity. A decline in disposable incomes sharply compressed imports, leading to a surplus in the external current account for the first time since 2009.

**Soaring prices and difficult economic conditions sharply increased poverty and inequality, especially in urban areas.**

Extreme poverty<sup>1</sup> rose from 30 percent in 2017 to 42 percent in 2019, affecting 6.6 million people. Although ninety percent of the extreme poor live in rural areas, a steep decline in consumption was registered in urban areas, where incomes were severely impacted by currency reforms; and the scale and scope of social protection programs has historically been limited. From 2017 to 2019, consumption expenditure fell by about 25 percent for the poorest decile of the population, but rose by 17 percent for the richest decile. As a result, the level of inequality increased sharply and is now among the highest in Sub-Saharan Africa (SSA).

**Economic challenges also adversely affected service delivery, especially for the poor.**

As higher prices eroded the real value of budget allocations for public wages and non-salary expenditures, the purchasing power of most wage earners, including those in the private sector fell. Public workers' output levels dropped, as their capacity to deliver with limited means diminished; and government services were undermined by shortages of key goods, such as drugs, medical equipment, water treatment chemicals, school textbooks, and staples for school feeding programs. Access to services was more constrained among the rising numbers of extreme poor and wage earners harmed by losses in purchasing power. Essential health service delivery outcomes therefore worsened, putting at risk significant improvements in infant and maternal mortality achieved from 2015 to 2018. Although Zimbabwe increased coverage of social protection and addressed some of the implementation challenges, rising poverty rendered nearly three million extreme poor unprotected in 2019 by government or humanitarian social programs. Persistent drought conditions negatively affected crop production and livestock survival and worsened food insecurity, further increasing the vulnerability of the extreme poor. And

<sup>1</sup> Defined as living under the food poverty line of US\$29.80 per person per month. World Bank estimate for 2019 based on ZIMSTAT data for April-May 2019.

adversely affected manufacturing; non-mineral exports; and the hospitality, trade, and transport sectors. In the latter part of 2020, supply-side shocks subsided after easing of mobility restrictions, however demand-side shocks have persisted throughout the pandemic period. As these challenges were further aggravated by persistent drought, price instability, and export retention requirements,<sup>2</sup> they ultimately eroded Zimbabwe's business environment in 2020. Nevertheless, a significant increase in formal remittances led to an improvement in the current account balance and to some extent cushioned the impact of the pandemic on the poor.

**In 2020, the pandemic and its impacts disrupted livelihoods, especially in urban areas, and added 1.3 million Zimbabweans to the extreme poor.** Estimates suggest the number of extreme poor reached 7.9 million—almost 49 percent of the population. Surveys conducted in 2020 indicate that nearly 500,000 Zimbabwean households have at least one member who lost her or his job, causing many households to fall into poverty and worsening the plight of the existing poor.<sup>3</sup> Wage earners in urban areas were also disproportionately affected by the pandemic, as their pay was cut, or no pay was received at all. Rural households who rely less on wage employment and depend on farm business were less impacted.

**However, rural households access to food was more constrained amid persistent drought and closure of some key trade channels.** As food prices rose and disposable incomes shrank, the share of rural households reporting that they went without food for a whole day reached 37 percent by July 2020. More than 41 percent of the rural population reported that they sought maize meal but were unable to buy it.<sup>4</sup> These percentages are lower in urban areas, suggesting that the inability to purchase food particularly affected rural areas where poverty is higher. Food insecurity was also exacerbated by inadequate reach/coverage of relevant social protection programs—less than a quarter of the increased number of extreme poor households received food aid in June 2020 and this share dropped to 3 percent of rural households in September 2020.<sup>5</sup> Though the

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OF THE POOR HOUSEHOLDS  
RECEIVED FOOD AID IN  
JUNE 2020

<sup>2</sup> Through export retention, exporters retain 70 percent of their foreign currency receipts while 30 percent of receipts are compulsorily paid in local currency while in January 2021 the percentage paid in local currency was increased to 40 percent. Since August 2020, firms operating in the domestic market have been subject to foreign currency retention of 80 percent of their US dollar transactions.

<sup>3</sup> ZIMSTAT. 2020. Rapid PICES Phone Survey of July 2020.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

## "FA18"

they were able to sustain themselves while in South Africa (e.g., bank statements or travellers' cheques), a letter from their employer to confirm that they were gainfully employed in Zimbabwe and would return immediately upon completing their business, and, for unemployed persons, proof of marriage in Zimbabwe or an affidavit from a spouse. The cost of acquiring visas, the financial guarantees demanded of migrants and a processing slowdown led to considerable tension between the two governments.

For the South African government, the policy had the desired effect of reducing the legal cross-border flow (see Figure 1). In practice, the visa regime was punitive, inhibited trade and economic integration between the two countries, and pushed migrants into clandestine channels. Migrants without visas could pay for the services of guides who would take them across the Limpopo River at various informal crossing points, a hazardous journey vividly portrayed in the late Jonathan Nkala's autobiographical play, *The Crossing* (Flockmann et al. 2010). Many migrants using informal crossing points were recruited by white farmers to work on commercial farms in Limpopo Province (Lincoln and Mararike 2000). Because South Africa refused to offer work permits to Zimbabweans (except for the most skilled), others entered legally as visitors and then worked or traded. A brisk trade in forged documentation also sprang up, aided and abetted by corrupt officials (Vigneswaran et al. 2010).

A new driver of migration from Zimbabwe emerged after 2000. Politically-motivated violence that began as part of the land reform programme turned into an all-out assault on the opponents of the government. In an effort to maintain power, the government recruited former liberation war fighters (the so-called "war veterans") and trained a youth militia to attack opponents of the regime (Howard-Hassman 2010). The Solidarity Peace Trust estimated that as many as 300,000 people were victims of human rights violations during the period from 2000 to 2004, ranging from torture of those supporting the opposition to the destruction of homesteads and the denial of food. Shifts in the relative importance of migration drivers were captured in the Makina (2010) study of Zimbabweans who had arrived in Johannesburg between 2000 and 2007 (Figure 4). The number of migrants citing

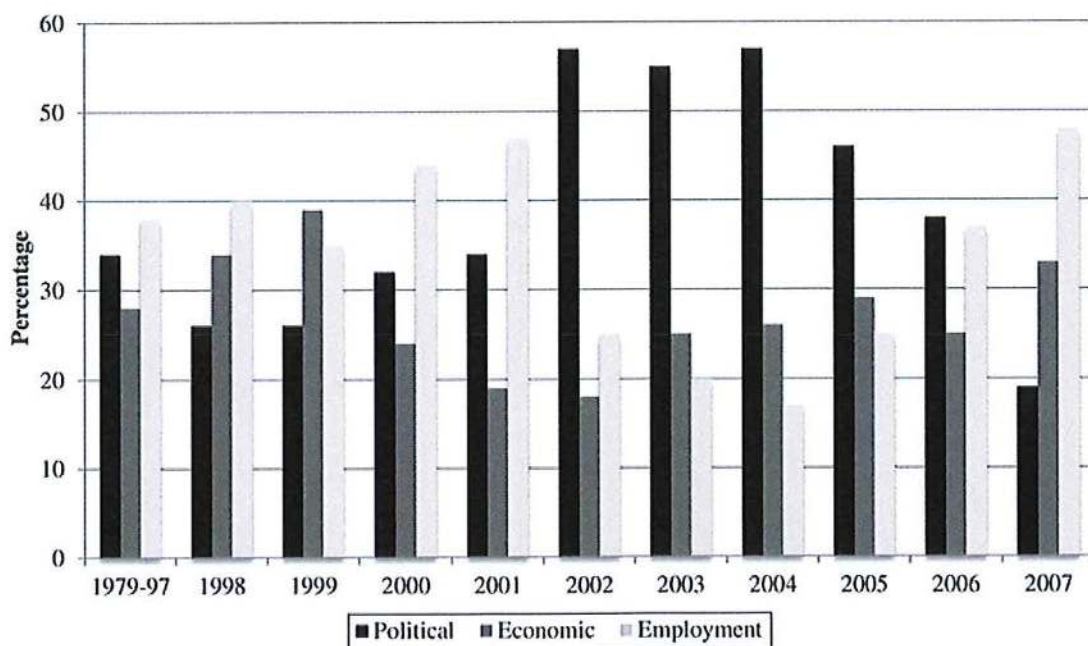


Figure 4. Main reason for leaving Zimbabwe by year of departure. Source: Makina (2010, 229).

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In June, 31 international donors pledged about US\$1.35 billion in humanitarian aid for Yemen, far below the \$2.4 billion the UN agencies required to keep all its programs running in the country. Lack of funding has led to the reduction or shutdown of more than one-third of the UN's humanitarian programs in Yemen. UN Special Envoy for Yemen Martin Griffiths has been leading negotiations between the Houthi armed group and the Yemeni government with little progress. The UN Security Council continued to impose a sanctions regime against just one side, the Houthis, even though the Saudi-led coalition has committed numerous violations of the laws of war.

## Zimbabwe

Zimbabwe's human rights situation continued to decline in 2020 under Emmer-son Mnangagwa's presidency. Unidentified assailants, suspected to be state security agents, abducted and tortured more than 70 critics of the government during 2020. Security forces also continued to commit arbitrary arrests, violent assaults, abductions, torture and other abuses against opposition politicians, dissidents and activists. In July 2020, police arrested prominent journalist Hopewell Chin'ono and Transform Zimbabwe Party leader Jacob Ngarivhume after they called for nationwide anti-corruption protests. The police violently dispersed protests in July, wherein 16 protesters were injured and a further 60 were arrested.

### *Abuses, Ill-Treatment, and Torture*

During 2020, unresolved cases of abductions and abuses, including torture, of government critics escalated without the abductors being brought to justice. In the last year, over 70 government critics were abducted and later released by unidentified men suspected to be state security agents.

On the eve of the July 30, anti-corruption protests, security forces raided the Bulawayo home of Mduduzi Mathuthu. Mathuthuisa prominent journalist and editor of the online newspaper Zimlive. Failing to find him, they arrested his family members, including his nephew, Tawanda Muchehiwa. The security agents allegedly tortured Muchehiwa. The torture resulted in serious injuries, including extensive bruises and an acute kidney injury.

On September 18, Zimbabwe National Students Union (ZINASU) leader Takudzwa Ngadzire was attacked, assaulted, and abducted by unidentified men while addressing a press conference to protest the torture of Muchehiwa. He was later arrested by police on charges of inciting public violence.

In May, three Movement for Democratic Change (MDC) Alliance activists, Cecilia Chambeny, Netsai Marova, and member of parliament Joanna Mamombe, were abducted from police custody by suspected state agents after taking part in a peaceful protest in Harare. The protest was over the government's failure to support vulnerable communities under the Covid-19 pandemic lockdown. They were

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assaulted and sexually abused by their abductors. They were then dumped in Bindura, 80 kilometers from Harare. While receiving treatment for their injuries, the trio were arrested at the hospital and charged with making false reports about their abduction. At time of writing their trial was ongoing.

### ***Lack of Accountability***

During 2020, authorities still failed to do justice for cases of abductions and torture committed in 2019. Unresolved cases where there has been no accountability include the abduction by unidentified persons on September 14, 2019, of Dr. Peter Magombeyi. Dr. Magombeyi was then-leader of the Zimbabwe Hospital Doctors Association (ZADHR) who had organized a series of protests to demand better salaries for public health workers. Released after four days, he fled the country a week after his release.

Other unresolved cases of abduction by masked and unidentified men in 2019 include those of Obert Masaraure, Samantha Kureya (known as “Gonyeti”), and Tatenda Mombeyarara. Masaraure, the national president of the Amalgamated Rural Teachers Union of Zimbabwe, was seized from his home in Harare on January 18, 2019, and beaten severely with leather whips. Kureya, a popular Zimbabwean comedian and government critic was abducted, severely beaten, and forced to drink raw sewage by six masked gunmen in August 2019. Finally, activist Mombeyarara was also abducted in August 2019 and beaten severely. He was left with a broken left leg and finger by men who accused him of organizing anti-government protests.

The Mhangagwa administration has so far failed to implement recommendations of the Motlanthe Commission of Inquiry, established to investigate widespread violence in the aftermath of the August 2018 elections. The commission presented its report to President Mhangagwa in December 2018, and found that 6 people had died and 35 others were injured as a result of actions by state security forces. It recommended that perpetrators be held accountable and that compensation be paid to families of the deceased and those who lost property.

### ***Children’s Rights***

Among the Mhangagwa government’s few positive steps on human rights in 2020 was the amendment of the Education Act. The amendment prohibits corporal punishment and the exclusion of pregnant girls from school in accordance with the Zimbabwe Constitution, which guarantees the right to education.

Prior to this amendment, a large number of students had suffered corporal punishment in Zimbabwe’s schools. In a significant step for disability rights, the law mandates every school to provide suitable infrastructure for students with disabilities and requires authorities to ensure that schools protect the rights of students with disabilities.

Schools were closed at the end of March 2020, for at least six months as a public health measure during the pandemic. The closure affected about 4 million children across the country.

### ***Covid-19***

During 2020, the Zimbabwe government failed to provide continuous and affordable access to sufficient safe water to people across the country. The provision of safe water is an important measure to combat Covid-19.

Zimbabwe’s long-standing severe water and sanitation crisis was worsened by the coronavirus pandemic and the government’s imposition, on March 30, of a nationwide lockdown to slow the spread of the virus.

Over 2 million people in the capital, Harare, and the greater metropolitan area incorporating Chitungwiza, Epworth, Ruwa and Norton have no access to safe drinking water or adequate waste and wastewater disposal services. Thousands of women and school-age children spend long hours at crowded boreholes or narrow water wells to get safe, clean water.

The spread of Covid-19 in Zimbabwe posed major risks to the country’s prisons and detention centers. These facilities remained unsanitary, overcrowded, and with no running water in cells for detainees to comply with recommended hygiene practices to stem the virus’ spread. In March, the government acknowledged that Zimbabwe’s prisons, with a capacity of 17,000, had a population of 22,000.

Between March and June, the government released 4,208 prisoners under a presidential amnesty order. Too many remained behind bars to allow for social distancing. Although masks are issued at prisons, many inmates and some wardens do not use them, partly due to insufficient understanding about protection against the virus.

### **Key International Actors**

Following the police crackdown on anti-corruption protests in July, South Africa's governing African National Congress (ANC) dispatched a high-level delegation led by the party's Secretary-General Ace Magashule to Zimbabwe. The delegation was sent to help find a solution to the country's escalating economic and political crisis. The team raised serious concerns over Zimbabwe's deteriorating human rights situation. In August 2020, South African President Cyril Ramaphosa appointed two special envoys to help resolve the Zimbabwe crisis by identifying ways in which South Africa could assist.

On August 3, the chairperson of the African Commission on Human and Peoples' Rights, Solomon Dersso, responding to the arrests of protesters, warned in a Twitter post, "As we follow [the] situation in Zimbabwe, critical to reiterate the African Commission on Human Rights' view that actions of states even in fighting Covid-19 should comply with principles of legality, necessity, and proportionality, thus no basis for arbitrary deprivation of liberty or life, inhumane treatment or torture."

Chairperson of the African Union Commission (AUC) Moussa Faki Mahamat raised concerns about reports of disproportionate use of force by government security forces in enforcing Covid-19 emergency measures. Mahamat urged Zimbabwean authorities to exercise restraint in their response to peaceful protests.

In May, the European Union, United Kingdom and United States called for a "swift, thorough and credible investigation" into the abduction and torture of opposition Member of Parliament Joana Mamombe, along with Cecilia Chimhiri and Netsai Marova, as well as an investigation into allegations of the assault on Nokuthula and Ntombizodwa Mpofo in Bulawayo.

In July, a spokesperson for the UN High Commissioner for Human Rights expressed concern about allegations that Zimbabwean authorities may be using

the Covid-19 pandemic as a pretext to clamp down on freedom of expression and peaceful assembly and association. In June, UN human rights experts called on Zimbabwe to immediately end a reported pattern of enforced disappearances and torture that appear aimed at suppressing protests and dissent.

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**Conclusion**

The testimonies and submissions that the Commission received indicated that the scope and consequences of the violence that occurred on the 1<sup>st</sup> of August 2018 were regarded as unprecedented in the history of Zimbabwean elections. The appointment and composition of the Commission of Inquiry, with a majority of international members, confirms President Mnangagwa's determination to ensure a non-repetition of such an unwholesome national experience in future.

From the testimonies of the witnesses who appeared before the Commission, it was noted that there is at present a very worrisome degree of polarisation and bitterness within the body politic of Zimbabwe. In this regard, the Commission commends the continuing statements by the President of the Republic calling for reconciliation, healing and unity among the citizenry. We urge all the people of Zimbabwe to respond positively to the President's appeals and, at the same time, the Government to reinforce these appeals with inclusive policies.

From our wide ranging fact-finding experience in Zimbabwe, we believe that President Mnangagwa is determined to open a new chapter in the policies and activities of the Government of the Republic of Zimbabwe, including the restoration of the country's diplomatic and commercial relations with the international community.

views. In October, Spenser Chiteera, a police officer in Mount Darwin, underwent disciplinary action for his online endorsing of Nelson Chamisa, president of the opposition Movement for Democratic Change-Alliance (MDC-A), with the campaign slogan "Ngaapinde Hake Mukomana" ("let the lad lead").

In the same month, police arrested Maxwell Guvava, also a police officer, for insulting or undermining the president's authority after he told ZANU-PF supporters that "the country is rotten" ("nyika yaora").

In August, the Cybersecurity and Data Protection Bill was reintroduced to parliament after errors were identified in its text. The Bill was substantively different from the gazetted version which had been presented to citizens during public hearings; the government was criticized for disregarding the public consultation process in formulating the legislation.

### **JOURNALISTS AND MEDIA WORKERS**

At least 15 journalists were detained, arrested or assaulted by security forces while carrying out their work. In January, Michael Magoronga was arrested in Kwekwe for using an expired accreditation card issued by the Zimbabwe Media Commission. Samuel Takawira of 263Chat online media forum was assaulted in April by anti-riot police while he was covering the sentencing at the Magistrates Court of Makomborero Haruzivishe, an MDC-A youth activist (see below, Arbitrary arrests and detentions). Freelance journalist Jeffrey Moyo was arrested on 26 May for violating the Immigration Act by helping two *New York Times* journalists to obtain media accreditations. He was denied bail but released on 15 June. In September, nine journalists were arrested for covering an MDC-A demonstration at the Zimbabwe Electoral Commission offices. Following legal intervention, they were released without charge.

Also in September, Gilbert Munetsi was arrested and detained for violating a Covid-19 curfew when he was on his way home from work. He was released the next day after his

lawyer intervened. The same month, two journalists were detained when they were covering the MDC-A anniversary commemorations in Bulawayo.

Eight community radio stations were granted operating licences in September.

### **ARBITRARY ARRESTS AND DETENTIONS**

The authorities curtailed the right to protest by weaponizing Covid-19 regulations to target political activists, human rights defenders and other people holding dissenting views.

On 2 February, MDC-A activists Cecilia Chimbiri and Joanah Mamombe were arrested and detained at Chikurubi Maximum Security Prison, accused of undermining police authority during a national lockdown under Section 11 of Statutory Instrument 83 of 2020. They were granted bail on 8 February.

Makomborero Haruzivishe was arrested on 17 February after plain-clothed men shot at him. He was accused of inciting public violence for blowing a whistle during a protest in February 2020 outside the Zimbabwe Electoral Commission in the capital, Harare. In April, he was sentenced to 36 months in prison of which 16 were suspended. He appealed against the sentence and in July was given bail, which was promptly revoked by a magistrate who ordered that he remain in detention pending other charges against him. After Joanah Mamombe and Cecilia Chimbiri addressed a press conference in solidarity with him, they were re-arrested on 6 March. They were arrested at a police station where they had gone as part of their bail reporting conditions and accused of violating Covid-19 regulations. They were denied bail but released on 5 May.

In March, police raided the house of civil society activist Prosper Tiringindi in Masvingo in search of evidence of his involvement in spraying graffiti messages calling for a reversal of the 500% increase in inflation. He was arrested and later released without charge. On 6 April, four armed security agents raided his house again in search of him.

## ZIMBABWE

### Republic of Zimbabwe

Head of state and government: Emmerson Dambudzo Mnangagwa

gathered in solidarity with Hakainde Hichilema in the capital, Lusaka.

In June, the coroner found that the police were responsible for the unlawful killing of 14-year-old Frank Mugala when he was on his way home from school in Lusaka in February 2020. Although the court ordered action to be taken against the accused, no one had been arrested at the end of the year.

### RIGHT TO HEALTH

The Zambia Medical Association disclosed that 16 doctors died of Covid-19 between January and March. Zambia faced difficulties in receiving Covid-19 vaccines due to a global shortage, delaying the vaccination programme which eventually began on 14 April after the country received 228,000 doses. Frontline health workers were prioritized for vaccination. The second batch of vaccines did not arrive until July during the pandemic's third wave.

### DISCRIMINATION

#### PERSONS WITH ALBINISM

Persons with albinism continued to be subjected to violent attacks and mutilation due to superstitious misconceptions about albinism. In June, organized criminals posing as police officers attacked a home in the Senga district, mutilating a two-year-old child. In July, a nine-year-old boy from Chasefu district had his finger chopped off by a relative and another man. One of the men fled and the other was arrested and detained awaiting trial.

#### SEXUAL AND GENDER-BASED VIOLENCE

According to a report by the Zambia Police Service, there were 4,000 cases of gender-based violence reported in the first half of the year, of which 804 were sexual offences. Of those, 590 were committed against girls and there were 576 cases of "defilement", 571 of which were against girls and five against boys.

In what appeared to be a politically motivated case, a woman was raped on a bus going to Kafue by unidentified men who claimed to be punishing the PF government.

**The human rights situation continued to deteriorate, with the government demonstrating hostility to human rights defenders, protesters, political activists and journalists. They were harassed, arrested, prosecuted and subjected to prolonged pretrial detention; one activist was killed allegedly by supporters of ZANU-PF, the ruling party. The state weaponized Covid-19 lockdowns to restrict political activity. Security forces carried out unlawful killings. The Supreme Court quashed a 20-year prison sentence against two opposition supporters. Thousands were forcibly evicted from their land. Public hospitals remained underfunded and poor healthcare infrastructure put women's and girls' health at risk. Many people were at risk of becoming stateless.**

### BACKGROUND

The government enacted two constitutional amendments which were heavily criticized for undermining the judiciary's independence. In April, parliament passed Constitution Amendment 1 of 2017 allowing the president to appoint the Chief Justice, Deputy Chief Justice and High Court Judge President without open selection processes. In May, it passed Amendment 2 enabling the president to appoint sitting judges to vacancies in the higher courts, without open selection processes.

The cost of living increased and the government failed to meet its target to provide 1 million people with social protection and discontinued its Covid-19 social welfare package during the third wave from June to August.

### FREEDOM OF EXPRESSION

The authorities were increasingly hostile towards people who expressed dissenting

views. In October, Spenser Chiteera, a police officer in Mount Darwin, underwent disciplinary action for his online endorsing of Nelson Chamisa, president of the opposition Movement for Democratic Change-Alliance (MDC-A), with the campaign slogan “*Ngaapinde Hake Mukomana*” (“let the lad lead”).

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In March, police raided the house of civil society activist Prosper Tiringindi in Masvingo in search of evidence of his involvement in spraying graffiti messages calling for a reversal of the 500% increase in inflation. He was arrested and later released without charge. On 6 April, four armed security agents raided his house again in search of him.

Nine Masvingo Residents Forum members were arrested on 23 April for protesting about the two-month water shortage affecting Masvingo. They were charged under Section 37 of the Criminal Law Codification with participating in an unlawful gathering with the intent to promote public violence and acquitted on 24 September.

Alice Kuvheya, director of Chitrest, a residents' trust, was arrested on 14 June and charged with "inciting participation in a gathering with intent to promote public violence" and "incitement to commit public violence", after she had accused the local authority of colluding with the police to evict informal traders. Shortly before this, she had won a court case which blocked the demolition of premises belonging to informal traders. A court dismissed the charges on 28 June and in November, respectively.

Forty war veterans, arrested on 26 October in Harare for protesting about meagre monthly pensions of less than US\$100, were charged with breaching the peace. They were released on bail four days later.

## FREEDOM OF ASSOCIATION

On 30 June, the Provincial Development Coordinator for Harare metropolitan province issued a directive requiring NGOs to submit work plans prior to carrying out activities in Harare. On 3 August, the High Court ruled that the directive was unconstitutional.

On 5 November, an amendment to the Private Voluntary Organizations Act regulations was published in the official gazette, allowing for the closure of organizations suspected of funding of or campaigning for politicians during elections.

After the Covid-19 restrictions were lifted in September, Nelson Chamisa (see above, Freedom of expression) began his meet-the-people tour in October. In Masvingo province and other places, ZANU-PF supporters disrupted the tour, damaging vehicles and beating villagers who came out to support him. They forced his supporters, including older people, to publicly denounce him. On 20 October, his car was shot at in Manicaland province.

## UNLAWFUL KILLINGS

On 16 January, six soldiers shot at four villagers on the outskirts of Gweru, killing one and injuring others after the locals confronted them for assaulting villagers during a search for copper cable thieves. The six soldiers were arrested, charged with murder and remanded on bail pending trial.

MDC-A supporter Nyasha Mawere died in November after being beaten in Gutu by suspected ZANU-PF supporters in October. His wife and other relatives were charged with defamation after they accused ZANU-PF members of being responsible. No one was arrested for the killing.

## RIGHT TO A FAIR TRIAL

On 4 June the Supreme Court acquitted and ordered the immediate release of two MDC-A supporters Last Tamai Maengahama and Tungamirai Madzokere from Chikurubi Maximum Security Prison. They had been sentenced to 20 years in prison in 2016 for the murder of a Zimbabwe Republic Police officer.

## RIGHT TO HOUSING

Thousands were made homeless as a result of the authorities' demolitions of homes built on what the government termed "illegal settlements".

In rural areas many communities were threatened with forced eviction or evicted for resisting "economic investment" initiatives. For example, thousands of villagers were driven off their land in Chisumbanje in Manicaland province and their crops destroyed to make way for a fuel company to expand its sugar cane plantation.

In March, the government published Statutory Instrument 72A of 2021, withdrawing its plans for the imminent evictions of 12,000 residents from their land in Chilonga to make way for a company to produce lucerne grass (alfalfa). It was introduced one day before the High Court was due to hear the community's challenge to the evictions. The government submitted opposing papers to the court acknowledging it had not properly consulted with the

community and that it would not carry out evictions until it had found ways to compensate them and provide them with alternative land.

## RIGHT TO HEALTH

In January, the Zimbabwe chapter of the Media Institute of Southern Africa took the government to court over its failure to disseminate comprehensive Covid-19 information on private and public testing, isolation measures and treatment.

The vaccine shortage arising from the global shortfall continued. Although 35,000 Covaxin doses were donated by India, ongoing shortages prevented some people from receiving a second jab. In June, as the third wave began, the authorities wrote to Afreximbank, refusing receipt of three million doses of Johnson and Johnson vaccines, citing concerns about possible side effects and storage problems. Meanwhile, the authorities implemented a home-based care policy arguing that the majority of people with Covid-19 did not require hospitalization. Consequently, public hospitals turned away people with Covid-19 symptoms and treatment was increasingly privatized. Private hospitals charged between US\$2,000 and US\$5,000 for necessary care, an average of US\$3,500 for each admission, far above the average monthly income of US\$130-US\$300.

By August, 78 health workers had died after contracting Covid-19. In September, the government instituted a “Jabs for Jobs” policy. A month later, it issued a circular barring unvaccinated government workers from reporting to their place of work. They could face disciplinary action and no pay if they flouted the directive.

## WOMEN’S AND GIRLS’ RIGHTS

In March, the government announced that in the first two months of the year, 4,959 girls had become pregnant, and that at least 1,774 girls got married before they reached 18. In July, a 14-year-old girl died after she gave birth at a church shrine in Manicaland province. Following a public outcry, her husband and father were arrested and

charged with rape and obstructing justice, respectively.

Pregnant women and girls remained at risk of life-changing childbirth-related injuries, including obstetric fistula, as many avoided public healthcare facilities in favour of home deliveries, due to inadequate health infrastructure, cultural practices and high hospital costs.

## RIGHT TO A NATIONALITY

Hundreds of thousands of Zimbabweans were at risk of becoming stateless. They waited months to receive national registration documents from the Registrar General’s Office, due to a huge backlog of applications.

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# AMNESTY INTERNATIONAL

## REPORT 2021/22

### THE STATE OF THE WORLD'S HUMAN RIGHTS

From a human rights perspective, 2021 was largely a story of betrayal and hypocrisy in the corridors of power. Promises to “build back better” after the Covid-19 pandemic were little more than lip service, with some governments even redoubling their exploitation of the pandemic to bolster their own positions.

Hopes of global cooperation withered in the face of vaccine hoarding, reluctance to confront climate change and narrow self-interest. Promises of economic recovery were undercut by lacklustre debt relief and entrenched income inequality. Advances in science and technology were undermined by corporate greed and governments' complicity or exploited to stifle dissent and keep refugees and migrants from crossing borders.

But hopes for a better post-pandemic world were kept alive by courageous individuals, social movements and civil society organizations. Their efforts and limited hard-won victories should prompt governments to live up to their promises.

The Amnesty International Report 2021/22 highlights the impact of these dynamics at a global, regional, and national level, covering the human rights situation in 154 countries in 2021. It presents Amnesty International's documented concerns and recommendations for governments and others. It is essential reading for policy makers, advocates, activists and anyone with an interest in human rights.

[amnesty.org](https://www.amnesty.org)

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# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

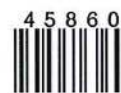
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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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## GOVERNMENT NOTICES • GOEWERMENSKENNISGEWINGS

## DEPARTMENT OF HOME AFFAIRS

NO. 1727

2 February 2022

## IMMIGRATION ACT, 2002

(Act No. 13 of 2002)

[Sections 19(4), read with Regulations 18(1) and 18(5)]

## CRITICAL SKILLS LIST

I, Dr. P.A. Motsoaledi, Minister of Home Affairs, hereby, in terms of sections 19(4) of the Immigration Act, 2002 (Act No. 13 of 2002), determine the following skills or qualifications to be critical for the Republic of South Africa in relation to an application for a critical skills work visa or permanent residence permit.



DR P.A. MOTSOALEDI, MP  
MINISTER OF HOME AFFAIRS

DATE:

2/2/2022

## SCHEDULE

Number	OFO code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
1	2019-112101	Director (Enterprise / Organisation) (medium enterprises or larger)	Determines, formulates, and reviews the general policy program and the overall direction of an organisation, within the framework established by a board of directors or a similar governing body.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
2	2019-121301	Policy Planning and Manager	Plans, develops, organises, directs, controls and coordinates policy advice and strategic planning within organisations.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
3	2019-121901	Corporate General Manager (medium enterprises or larger)	Plans, organises, directs, controls and reviews the day-to-day operations and major functions of a commercial, industrial or other organisation (excluding government or local government) through departmental managers and subordinate executives.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
4	2019-121905	Programme or Project Manager	Plans, organises, directs, controls and coordinates special programmes or projects.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
5	2019-121908	Quality Systems Manager	Plans, organises, directs, controls and coordinates the deployment of quality systems and certification processes within an organisation.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
6	2019-122105	Customer Service Manager (Business Process Outsourcing sector)	Plans, administers and reviews customer services and after-sales services and maintains sound customer relations.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
7	2019-122301	Research and Development Manager	Plans, organises, directs, controls and coordinate research and development activities within organisations.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
				Degree (NQF Level 8)	
8	2019-132102	Manufacturing Operations Manager	Plans, organises, directs and controls the manufacturing activities of an organisation including physical and human resources. Measures performance, quality and implements continuous improvement strategies.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
9	2019-132104	Engineering Manager	Plans, organises, directs, controls and coordinates the design, operation and construction of engineering and process plants and mining operations.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
10	2019-132401	Supply and Distribution Manager	Plans, administers and reviews the supply, storage and distribution of equipment, materials and goods used and produced by an organisation, enterprise or business.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
11	2019-133101	Chief Information Officer	Plans, organises, directs controls and coordinates the ICT strategies, plans and operations of an organisation to ensure the ICT infrastructure supports the organisation's overall operations and priorities.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
12	2019-133103	Data Management Manager	Plans, coordinates, and supervises all activities related to the design, development, and implementation of organizational data base systems.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
13	2019-134901	Environmental Manager	Plans, organises, directs, controls and coordinates the development and implementation of an environmental management system within an organisation by identifying, solving and alleviating environmental issues such as pollution and waste treatment in compliance with environmental legislation and ensures corporate sustainable development.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	EAPA-SA (Environmental Assessment Practitioners Association of South Africa); SACNASP (South African Council for Natural Scientific Professions)
14	2019-143905	Call or Contact Centre Manager	Manages the performance of call centre workers, processes and	Bachelor Honours Degree,	Professional body, council or board recognised by

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Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			technology against financial and non-financial operational targets.	Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	SAQA as contemplated in Regulation 9(5)(a)
15	2019-211101	Physicist	Studies matter, space, time, energy, forces and fields and the interrelationship between these physical phenomena to further understanding of the laws governing the behaviour of the universe, and seeks to apply these laws to solve practical problems and discover new information about the earth and the universe.	Master's Degree (NQF Level 9)	SAIP (South African Institute of Physics); SACNASP (South African Council for Natural Scientific Professions)
16	2019-211205	Climate Change Scientist	Evaluate scientific data carries out research on the climate to create predictive models of likely changes in the earth's climate, and concomitant impacts on natural ecosystems and civilisation	Master's Degree (NQF Level 9)	EAPA-SA (Environmental Assessment Practitioners Association of South Africa); SACNASP (South African Council for Natural Scientific Professions)
17	2019-211301	Chemist	Studies the chemical and physical properties of substances, and develops and monitors chemical processes and production.	Master's Degree (NQF Level 9)	SAIP (South African Institute of Physics); SACNASP (South African Council for Natural Scientific Professions)
18	2019-211401	Geologist	Studies the composition, structure and other physical attributes of the earth to increase scientific knowledge and to develop practical applications in fields such as mineral exploration, civil engineering, environmental protection and rehabilitation of land after mining.	Master's Degree (NQF Level 9)	SAGC (South African Geomatics Council); SACNASP (South African Council for Natural Scientific Professions)
19	2019-211402	Geophysicist	Studies the composition, structure and other physical attributes of the earth, locates minerals, petroleum or ground water, and detects, monitors and forecasts seismic, magnetic, electrical, thermal and oceanographic activity.	Master's Degree (NQF Level 9)	SAIP (South African Institute of Physics); SACNASP (South African Council for Natural Scientific Professions); SAGC (South African Geomatics Council);
20	2019-211403	Materials Scientist	Studies the properties and uses of non-metallic materials and advises on the technical aspects of their manufacture and processing.	Master's Degree (NQF Level 9)	SAGC (South African Geomatics Council); SACNASP (South African Council for Natural Scientific Professions)
21	2019-211405	Mineralogist	Studies the chemistry, crystal structure, and physical (including optical) properties of minerals.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
22	2019-211406	Hydrologist	Research the distribution, circulation and physical properties of underground and surface waters; and the form and	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			intensity of precipitation, its rate of infiltration into the soil, movement through the earth, and its return to the ocean and atmosphere.		
23	2019-211407	Oceanographer	Studies the physical, chemical and biological properties of the ocean water masses	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
24	2019-212101	Actuary	Analyses mathematical, statistical, demographic, financial or economic data to predict and assess the long-term risk involved in financial decisions and planning.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ASSA (Actuarial Society of South Africa)
25	2019-213102	General Biologist	Studies the origin, anatomy, physiology, reproduction and behaviour of living organisms and the ways in which they interact with the environment in which they live.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
26	2019-213105	Biotechnologist	Studies the anatomy, physiology and characteristics of living organisms and isolated biological molecules, and develops new materials for applying to a range of purposes.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	SACNASP (South African Council for Natural Scientific Professions)
27	2019-213108	Microbiologist	Studies microscopic forms of life such as bacteria, viruses and protozoa.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
28	2019-213109	Zoologist	Studies the anatomy, physiology, characteristics, ecology, behaviour and environments of animals.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
29	2019-213202	Agricultural Scientist	Studies commercial plants, animals and cultivation techniques to enhance the productivity of farms and agricultural industries.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions); ECSA (Engineering Council of South Africa)
30	2019-213205	Food and Beverage Scientist	Studies the physical and chemical properties of food and beverages and develops new and improved food and beverage products, and sets standards for producing, packaging and marketing food and beverages.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
31	2019-213301	Conservation Scientist	Develops and implements programs and regulations for the protection of fish, wildlife and other natural resources.	Master's Degree (NQF Level 9)	SACNASP (South African Council for Natural Scientific Professions)
32	2019-213302	Environmental Scientist	Studies and develops policies and plans for the control of factors which may produce pollution, imbalance or degradation of the environment.	Master's Degree (NQF Level 9)	EAPA-SA (Environmental Assessment Practitioners Association of South Africa);



Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
					SACNASP (South African Council for Natural Scientific Professions)
33	2019-214101	Industrial Engineer	Investigates and reviews the utilisation of personnel, facilities, equipment and materials, current operational processes and established practices, to recommend improvement in the efficiency of operations in a variety of commercial, industrial and production environments.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
34	2019-214102	Industrial Engineering Technologist	Analyses and modifies new and existing industrial engineering technologies and applies them in the testing and implementation of industrial engineering projects.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
35	2019-214201	Civil Engineer	Plans, designs, organises and oversees the construction and operation of civil engineering projects such as structural, transportation or hydraulic engineering systems.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
36	2019-214202	Civil Engineering Technologist	Analyses and modifies new and existing engineering technologies and applies them in the testing and implementation of civil, mechanical, electrical or electronic engineering projects.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
37	2019-214401	Mechanical Engineer	Plans, designs, organises and oversees the assembly, erection, operation and maintenance of mechanical and process plant and installations.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
38	2019-214402	Mechanical Engineering Technologist	Analyses and modifies new and existing mechanical engineering technologies and applies them in the testing and implementation of mechanical engineering projects.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
39	2019-214403	Aeronautical Engineer	Performs and supervises engineering work concerned with the design, development, manufacture, maintenance and modification of aircraft for flight.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
40	2019-214404	Aeronautical Engineering Technologist	Analyses and modifies new and existing engineering technologies relating to the	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			design and construction of aircraft for flight.		
41	2019-214405	Naval Architect	Designs, constructs and repairs ships, boats, other marine vessels and offshore structures, both civil and military.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
42	2019-214501	Chemical Engineer	Designs and prepares specifications for chemical process systems and the construction and operation of commercial-scale chemical plants, and supervises industrial processing, fabrication and manufacturing of products undergoing physical and chemical changes and related technologies.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
43	2019-214502	Chemical Engineering Technologist	Analyses and modifies new and existing chemical engineering technologies and applies them in the testing and implementation of chemical engineering projects.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
44	2019-214601	Mining Engineer	Plans and directs the engineering aspects of locating and extracting minerals (excluding Petroleum) from the earth.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa)
45	2019-214605	Metallurgist	Researches, develops, controls and provides advice on processes used in extracting metals from their ores, and processes used for casting, alloying, heat treating or welding refined metals, alloys and other materials to produce commercial metal products or develop new alloys and processes.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECSA (Engineering Council of South Africa) SACNASP (South African Council for Natural Scientific Professions)
46	2019-214901	Biomedical Engineer	Combines biology, engineering and medicine to help solve medical and scientific health problems.	Master's Degree (NQF Level 9)	ECSA (Engineering Council of South Africa)
47	2019-214904	Quantity Surveyor	Estimates and monitors construction costs from the feasibility stage, through tender preparation, to the construction period and beyond.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	SACQSP (South African Council for the Quantity Surveying Profession)
48	2019-214905	Agricultural Engineer	Performs and supervises engineering work related to the	Bachelor Honours	ECSA (Engineering Council of South Africa);

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Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			use and development of agricultural land, buildings, machines and equipment.	Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	SACNASP (South African Council for Natural Scientific Professions)
49	2019-214906	Agricultural Engineering Technologist	Analyses and modifies new and existing engineering technologies relating to the use and development of agricultural land, buildings, machines and equipment.	Diploma or Advanced Certificate (NQF Level 6)	ECOSA (Engineering Council of South Africa); SACNASP (South African Council for Natural Scientific Professions)
50	2019-215102	Electrical Engineering Technologist	Analyses and modifies new and existing electrical engineering technologies and applies them in the testing and implementation of electrical engineering projects.	Diploma or Advanced Certificate (NQF Level 6)	ECOSA (Engineering Council of South Africa)
51	2019-215103	Energy Engineer	Plans, designs, organises and oversees the construction or remodelling of energy generation plants and designs, develops, or evaluates energy related projects to reduce energy costs or improve energy efficiency.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECOSA (Engineering Council of South Africa)
52	2019-215104	Energy Engineering Technologist	Analyses and modifies new and existing engineering technologies relating to the design and construction of nuclear reactors and auxiliary facilities.	Diploma or Advanced Certificate (NQF Level 6)	ECOSA (Engineering Council of South Africa)
53	2019-215201	Electronics Engineer	Designs, develops, adapts, installs, tests and maintains electronic components, circuits and systems used for computer systems, communication systems and other industrial applications.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	ECOSA (Engineering Council of South Africa)
54	2019-216101	Architect	Designs buildings and advises on the procurement of buildings, provides concepts, plans, specifications and detailed drawings, and negotiates with builders.	Master's Degree (NQF Level 9)	SACAP (South African Council for the Architectural Profession)
55	2019-216401	Urban and Regional Planner	Develops and implements plans and policies for the controlled use of urban and rural land, and advises on economic, environmental and social needs of land areas.	Master's Degree (NQF Level 9)	SACAP (South African Council for the Architectural Profession); SACLAP (South African Council for the Landscape Architectural Profession)
56	2019-216603	Multimedia Designer	Plans, designs and develops the production of digitally delivered information, promotional content, instructional material and entertainment through online and recorded digital media using static and animated	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			information, text, pictures, video and sound to produce information and entertainment tailored to an intended audience and purpose.		
57	2019-222114	Nurse Educator	Designs, plans, implements and evaluates the delivery of nursing education and staff development programs, and manages educational resources.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	SANC (South African Nursing Council)
58	2019-231101	University Lecturer – Senior Lecturer and above for only those CESH categories listed in Annexure 2	Lectures students and conducts tutorials in one or more subjects within a prescribed course of study at a university and conducts research in a particular field of knowledge.	Professional Doctoral Qualification (NQF Level 9) or Doctorate (NQF Level 10)	SACE (South African Council for Educators)
59	2019-233107	FET Phase School Teacher (Grades 10-12) – Only for STEM subjects	Teaches one or more subjects at FET phase, including subjects intended to prepare students for employment in specific occupational areas as well as vocational	Bachelor's Degree or Advanced Diploma (NQF Level 7)	SACE (South African Council for Educators)
60	2019-233108	Senior Phase School Teacher (Grades 8 - 9) – Only for STEM subjects	Teaches one or more subjects at FET phase of schooling.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	SACE (South African Council for Educators)
61	2019-241103	Tax Professional	Analyses, reports and provides advice on taxation issues to tax entities, prepares and reviews tax returns and reports and handles disputes.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
62	2019-241104	External Auditor	Designs and operates information and reporting systems, procedures and controls to meet external financial reporting requirements.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
63	2019-241108	Forensic Accountant	Examines financial records to detect and deter fraud and white collar crime.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

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Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
64	2019-241201	Investment Analyst	Analyses individual securities, industries and the economy, publishes reports and makes recommendations regarding investments.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
65	2019-241202	Investment Manager	Manages a portfolio of securities, in which he/she may exercise his/her own discretion, on behalf of clients.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
66	2019-241203	Investment Advisor	Advises clients in respect of securities and other financial investments and instruments.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
67	2019-242103	Business Development Officer	Supports the coordination, implementation, monitoring and reporting of local economic development initiatives in creating a conducive environment for entrepreneurs and businesses, encouraging investment, job opportunities to improve the economy and social upliftment of an area.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
68	2019-242202	Policy Analyst	Collects and analyses information and data to produce intelligence for public or private sector organisations to support planning, operations and human resource functions.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
69	2019-242204	Corporate Treasurer	Manages corporate funding, liquidity and financial risk associated with the profitable development and operation of an organisation. May be involved in acquisitions, disposals and joint ventures.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
70	2019-242208	Organisational Risk Manager	Advises organisations on assessment processes to determine actual and potential risks pertaining to the organisation as a total entity.	Bachelor Honours Degree, Postgraduate Diploma, or Bachelor's Degree (NQF Level 8)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
71	2019-242211	Internal Auditor	Evaluates and improves the effectiveness of risk management, control, and governance processes within an organisation.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
72	2019-242402	Occupational Instructor (Air-Traffic Space)	Conducts and assesses training and development to ensure management and staff acquire the skills and develop the competencies required by an organisation to meet organisational objectives.	Bachelor's Degree or Advanced Diploma (NQF Level 7) and Air-traffic qualification not benchmarked to the NQF	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
73	2019-243102	Market Research Analyst	Determines the market for new goods and services, develops advertising strategies, and evaluates the best business sites for commercial organisations.	Master's Degree (NQF Level 9)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
74	2019-251101	ICT Systems Analyst	Evaluates processes and methods used in existing ICT systems, proposes modifications, additional system components or new systems to meet user needs as expressed in specifications and other documentation.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
75	2019-251102	Data Scientist	Data Scientist collect large amounts of unruly data and transform it into a more usable format. They Solve business-related problems using data driven techniques, They work with a variety of programming languages, including SAS, R and Python. They look for patterns in data, as well as spotting trends that can help businesses. Data Scientists use the most powerful programming systems and the most efficient algorithms to solve problems.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
76	2019-251201	Software Developer	Researches, analyzes and evaluates requirements for existing or new software applications and designs, develops, tests and maintains software solutions.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
77	2019-251202	Programmer Analyst	Designs, develops, modifies documents and tests, implements, installs and supports software applications and systems.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
78	2019-251203	Developer Programmer	Interprets specifications, technical designs and flow charts, builds, maintains and modifies the code for software applications, constructs	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			technical specifications from a business functional model, and tests and writes technical documentation.		
79	2019-251301	Multimedia Specialist	Creates and manipulates computer animation, audio, video and graphic image files into multimedia programs to produce data and content for information kiosks, multimedia presentations, web sites, mobile telephone resources, electronic gaming environments, e-commerce and e-security solutions, and entertainment and education products.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
80	2019-251401	Applications Programmer	Writes and maintains programmable code of software applications and operating systems.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
81	2019-251901	Computers Quality Assurance Analyst	Installs software and hardware and configures operating system software in preparation for testing and conduct testing.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
82	2019-252301	Computer Network and Systems Engineer	Plans, develops, deploys, tests and optimises network and system services taking responsibility for configuration management and overall operational readiness of network systems, especially environments with multiple operating systems and configurations, and provides troubleshooting and fault finding services for network problems.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
83	2019-252302	Network Analyst	Researches and analyses network architecture, recommends policies and strategies for designing, planning and coordinating an organisation's network such as the total system environment and architecture. May also perform operational tasks such as monitoring system performance, software and hardware upgrades, backups, support and network maintenance.	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
84	2019-252901	ICT Security Specialist	Establishes, manages and administers an organisation's ICT security policy and procedures to ensure preventive and recovery strategies are in place, and minimise the risk of	Bachelor's Degree or Advanced Diploma (NQF Level 7)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			internal and external security threats.		
85	2019-263101	Economist	Performs economic research and analysis; develops and applies theories about production and distribution of goods and services, and people's spending and financial behaviour; and provides advice to governments and organisations on subjects relating to economic policies.	Master's Degree (NQF Level 9)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
86	2019-311101	Chemistry Technician	Performs laboratory tests on organic and inorganic chemicals, analyses test data and carries out technical functions in support of chemists or chemical engineers and technologists in a wide variety of areas such as fuels, pharmaceuticals, paints, metals, plastics, textiles, detergents, paper, fertilisers and cosmetics.	Diploma or Advanced Certificate (NQF Level 6)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
87	2019-311203	Town Planning Technician	Provides technical support to town planners by preparing and maintaining plans, documents, charts, photographs, tables, reports, and exhibition material for projects, public meetings and committees related to the controlled use of urban and rural land.	Diploma or Advanced Certificate (NQF Level 6)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
88	2019-311401	Electronic Engineering Technician	Conducts tests of electronic systems, collects and analyses data, and assembles circuitry in support of electronics engineers and engineering technologists.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
89	2019-311501	Mechanical Engineering Technician	Conducts tests of mechanical systems, collects and analyses data, and assembles and installs mechanical assemblies in support of mechanical engineers and engineering technologists.	Diploma or Advanced Certificate (NQF Level 6)	ECSA (Engineering Council of South Africa)
90	2019-311801	Draughtsperson	Prepares technical drawings, maps and illustrations from sketches, measurements and other data, and copy final drawings and paintings onto printing plates in support of architects, engineers and engineering technologists. Note: the terms drafting technician or drafting officer can be used interchangeably.	Diploma or Advanced Certificate (NQF Level 6)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
91	2019-315401	Air Traffic Controller	Ensures the safe and efficient movement of aircraft in controlled airspace and	National Certificate (NQF Level 4) and Air-traffic	Confirmation in writing from Air Traffic Navigation Systems (ATNS) or South



Number	OFO-code	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
			aerodromes by directing aircraft movements.	qualification not benchmarked to the NQF	African Civil Aviation Authority (SACAA).
92	2019-422201	Inbound Contact Centre Consultant (with first language speaking and translating capabilities in the following languages: German, Swiss, German, Flemish, Greek, Swedish, Danish, Italian, Dutch, Spanish, Mandarin and French)	Provides expert response to complex customer enquiries according to agreed key performance indicators.	National Certificate (NQF Level 4)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
93	2019-422202	Outbound Contact Centre Consultant (with first language speaking and translating capabilities in the following languages: German, Swiss, German, Flemish, Greek, Swedish, Danish, Italian, Dutch, Spanish, Mandarin and French)	Initiates specialised contact with targeted and/or selected customers according to agreed key performance indicators or outcomes.	National Certificate (NQF Level 4)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
94	2019-642701	Air-conditioning and Refrigeration Mechanic	Installs, maintains and repairs piping, ducting and equipment for heating, cooling and ventilation of buildings or vessels.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
95	2019-652301	Metal Machinist	Sets up and operates machine tools to shape and form metal stock and castings to fine tolerances, using detailed drawings and specifications.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
96	2019-671202	Millwright	Installs, maintains, troubleshoots and repairs stationary industrial machinery and electromechanical equipment..	National Certificate (NQF Level 4)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
97	2019-671203	Mechatronics Technician	Repairs and maintains integrated industrial systems based on mechanical, electrical, electronic and information technology and advanced technology components.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)

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Number	OFO-codé	Occupation name	Description (OFO)	Minimum Qualification required	Statutory professional body
98	2019-671204	Lift Mechanic	Designs, installs, maintains, services and repairs electric and hydraulic passenger and freight lifts, escalators, moving walkways and other lift equipment.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
99	2019-671206	Electrical Equipment Mechanic	Services and repairs electrical equipment and household appliances.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
100	2019-671208	Transportation Electrician	Installs, maintains and repairs electrical wiring and electronic components in motorised vehicles.	National Certificate (NQF Level 4)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)
101	2019-672105	Instrument Mechanician (Industrial Instrumentation & Process Control)	Installs, modifies, maintains and repairs electronic instruments and control systems.	Intermediate Certificate (NQF Level 3)	Professional body, council or board recognised by SAQA as contemplated in Regulation 9(5)(a)



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"FA24"



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 Department of Home Affairs  In South Africa

- VISA TYPES
- WHERE TO APPLY
- COMPLETE ONLINE FORM
- TRACK YOUR APPLICATION
- GENERAL INFORMATION
- DHA PREMIUM VISA AND PERMIT SERVICES CENTRE
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## VISA FEES AT A GLANCE

### VISA FEES AT A GLANCE

TEMPORARY RESIDENT VISA		
Category	DHA Application Fee	VFS Service Fee
General Work Visa	R 1520	R 1550
Critical Skills Visa	R 1520	R 1550
Corporate Work Visa	R 1520	R 1550
Intra Company Transfer Work Visa	R 1520	R 1550
Treaty Visa	R 425	R 1550





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Visitor's visa Section 11(1)(b)(II) Volunteer	R 425	R 1550
Visitor's visa Section 11(1)(b)(III) Research	R 425	R 1550
Exchange Visa (Work)	R 425	R 1550
Visitor's visa Section 11(1)	R425	R 1550
Medical Visa	R 425	R 1550
Study Visa	R 425	R 1550
Visitor's visa Section 11(1)(b)(III) Research	R 425	R 1550
Exchange Visa (Student)	R 425	R 1550
Corporate Account	R 1520	R 1550
Business Visa	R 1520	R 1550
Relative Visa	R 0	R 1550
Visitors Visa Section 11(1)(b)(iv)	R 425	R 1550
Visitors Visa Section 11(6)	R 0	R 1550
Transfer and Rectification of Temporary Resident Visa	R 0	R1550
<b>PERMANENT RESIDENT APPLICATIONS</b>		
 26(a)Worker	R 1520	R 1550 
26(b)Spouse	R 0	R 1550

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26(d)Dependent(>21)	R 1520	R 1550
27(a)Worker	R 1520	R 1550
27(b)Extra ordinary skills (Critical skills)	R 1520	R 1550
27(c)Business	R 1520	R 1550
27(d)Refugee	R 0	R 1550
27(e)Retired	R 1520	R 1550
27(f)Financially Independent	R 1520	R 1550
27(g)Relative	R 1520	R 1550
Proof of Permanent Residence	R 1450	R 1550
Rectifications on Permanent Residence	R 0	R 1550
<b>WAIVERS</b>		
Permanent Residence Waiver	R 0	R1550
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Permanent Residence Appeal	R 0	R1550



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## EXEMPTIONS

EXEMPTIONS		
Temporary Residence Visa Exemptions	R 0	R 1550
Permanent Residence Visa Exemptions	R 0	R 1550

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EMAIL ID:  
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- Visa Types
- Where To Apply
- Complete Online Form
- Track Your Application
- General Information
- Dha Premium Visa And Permit Services Centre
- Faqs

### Useful Links

- Critical skills list 2022
- Gazetted New Critical Skills list 2022
- Department of Home Affairs - HOME
- Government Gazette – Implementation of ZEP decision – 07 Jan 2022
- Press Statement - Zimbabwean Nationals granted exception in terms of Section 13(2)(b) of the Immigration Act

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home affairs

Department: Home Affairs REPUBLIC OF SOUTH AFRICA

230 Johannes Ramokhoase Street Private Bag X114, Pretoria, 0001 Parliamentary Office, 120 Plain Street, Private Bag X9048, Cape Town, 8000

DEPARTMENT OF HOME AFFAIRS : HEAD OFFICE PORTS OF ENTRY PROVINCIAL INSPECTORATE VISA FACILITATION CENTRES

DEPARTMENT OF INTERNATIONAL RELATIONS & COOPERATION : CONSULAR SERVICES

CIRCULAR: TEMPORARY MEASURES IN RESPECT OF FOREIGN NATIONALS IN LIGHT OF A BACKLOG BEING EXPERIENCED IN PROCESSING OUTCOMES ON WAIVER APPLICATIONS AND VISA APPLICATIONS

1. In an attempt to address the impact that the backlog in processing outcomes on waiver- and visa applications has on foreign nationals, the Minister of Home Affairs has approved that some temporary measures be introduced to address the situation they find themselves in. The following temporary measures will apply with immediate effect.

2(a) Applicants whose waiver application outcomes are still pending: Foreign nationals whose waiver applications are still pending are hereby granted a blanket temporary extension until 30 June 2022 in order for the Department to process these applications and for applicants to collect their outcomes and submit applications for appropriate visas. Applicants who wish to abandon their waiver applications and depart from South Africa when able to do so, will be allowed to exit at a port of entry before or on 30 June 2022 without being declared undesirable.

(b) Applicants whose visa applications are still pending: Foreign nationals who are awaiting the outcome of visa applications are granted a blanket temporary extension until 30 June 2022 of the current visa status. Those who wish to abandon their visa applications and depart from South Africa when able to do so, will be allowed to exit at a port of entry before or on 30 June 2022 without being declared undesirable. Applicants are not allowed to engage in any activity other than what the visa conditions provide for. Applicants with pending long-term visa applications who originate from countries that are exempt from port of entry visa requirements and who wish to travel over the upcoming festive season in April 2022, may do so by presenting their VFS receipts on arrival back at the port of entry for admission into South Africa and to collect their visa outcomes. However, those applicants with pending long-term visa applications who originate from countries that are visa restricted, would require a port of entry visa and their VFS receipt in order to be re-admitted into South Africa.

3. The temporary measures mentioned in paragraph 2 above will apply only to foreign nationals who have been legally admitted into South Africa. Any further extension or modification or amendments to the terms of these concessions will be communicated in writing.

BT MAVUSO ACTING DIRECTOR-GENERAL

DATE: 1/4/2022

**"FA26"**

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 2488

DATE OF PUBLICATION: FRIDAY, 23 OCTOBER 2020

INTERNAL QUESTION PAPER 40 – 2020

**2488. Mr A C Roos (DA) to ask the Minister of Home Affairs:**

What (a) is the total backlog of (i) asylum applications of asylum seekers, (ii) the Refugee Appeal Board and (iii) the Standing Committee for Refugee Affairs and (b) total number of cases have been finalised in the period 1 April 2020 to 30 September 2020 by (i) the Refugee Appeal Board and (ii) the Standing Committee for Refugee Affairs?

NW3096E

**REPLY**

(a)(i) As at 30 June 2020 there were 3656 cases at RSDO level.

(a)(ii) The total number of cases at the Refugee Appeal Board (Now Refugee Appeals Authority) is 123 424 as at 18 September 2020

MONTHS	APRIL 2020 TO SEPTEMBER 2020								
	No. of Cases heard	No. of Cases finalized and decisions issued	No. of cases Confirmed as unfounded	No of cases upheld	No of condonations dismissed	No of condonations granted	No of no show cases	No. of Cases referred back to RROs (RSDO)	No of cases cancelled
DESMOND TUTU	0	376	14	34	0	0	5	115	323
MUSINA	0	100	51	12	0	0	6	0	31
DURBAN	26	308	39	61	0	0	1	0	207
CAPE TOWN	137	114	21	11	0	0	0	0	82
PORT ELIZABETH	30	83	31	9	0	0	0	0	43
TOTAL	193	981	156	127	0	0	12	115	686

(a)(iii) The Standing Committee for Refugee Affairs (SCRA) has a backlog of **38185** cases for all the five centre with the majority of cases being at the Desmond Tutu RRO. These are active cases.

(b)(i) The Refugee Appeal Board (Now Refugee Appeals Authority) finalised 981 cases.

(b)(ii) SCRA has finalised 4672 cases.

NO OF CASES REVIEWED	UPHELD	SET ASIDE	REFERRED BACK	TOTAL FINALIZED	COMMENT
4672	4096	400	176	4672	These cases were only attended to at the Desmond Tutu RRO during the level 3-2 lock down.

END

*MJ*  
*NRF*

## Refugee bodies on their work & challenges concerning Refugees & Asylum Seekers; with Minister & Deputy Minister

Home Affairs

02 March 2021

Chairperson: Adv B Bongo (ANC)

### Meeting Summary

Video: Portfolio Committee on Home Affairs - 2nd March 2021

The purpose of this virtual meeting was for the Committee to be briefed by the Standing Committee for Refugee Affairs (SCRA) and the Refugee Appeals Authority of South Africa (RAASA) on their work and challenges in dealing with refugees and asylum seekers in South Africa. The SCRA and the RAASA were both independent committees of the appeal structure within the Department of Home Affairs (DHA), and reported directly to the Minister and Director-General for administrative support. Because they were independent, the DHA did not interfere with their decisions.

The SCRA said its administrative work had to be performed by DHA officials, and its role was purely that of decision-making. However, it remained dependent on the DHA for its budget and allocation of human resources to fulfil its mandate, and its activities to deal with outstanding refugee applications were being severely curtailed by staff shortages. In 2020, it had considered 1 356 applications for certification, of which 578 certifications were granted, 542 were considered but were pending finalisation, 90 were not granted without withdrawing the refugee's status, and 146 were not granted, and the refugee's status was subsequently withdrawn. The SCRA had developed an action plan to eradicate the backlog in processing applications. This involved filling the vacant posts and appointing additional members of the SCRA, as well as using the amendments to the Refugees Act which allowed a decreased quorum of the SCRA to attend to the backlogs. It indicated that the backlog would last for another 24 months.

The RAASA said its legislative mandate was to ensure that appeal cases were dealt with efficiently, effectively and in an unbiased manner. There were currently 124 000 active cases and 29 967 inactive cases, and a significant backlog in the finalisation of appeals. The contributing factors were mainly a lack of capacity and financial support. There was poor quality of information gathering and decisions made at the level of the refugee status determination officers, and an improved capacity was required. Its "Backlog Project" was scheduled to start in March, and it had an increased budget for 2021/22. A case management system was being implemented to manage the Backlog Project centrally. The appointment of additional staff members was under way, and the RAASA was focusing on streamlining the refugee status determination procedures through international recognition.

Members expressed concern that the process to finalise and conclude the applications was taking too long. The backlogs of refugee applications had been an ongoing concern for the Committee. It was uncertain whether the target of clearing up the backlog would be achieved on time. They appreciated the move towards the digitalisation of case files, because it would assist in the process going forward and decrease the time needed to finalise an application. The Backlog Project of the RAASA was welcomed, but the need remained for a clear timeframe and reachable targets to be set.

The Committee was presented with a spreadsheet that contained a total of 55 outstanding issues that had not yet been addressed by the DHA since February 2020. The Chairperson requested the DHA to provide the Committee with written reasons as to why the pending issues had not been finalised.

### Meeting report

The Chairperson welcomed Members and the delegations from the Department of Home Affairs (DHA), the Standing Committee for Refugee Affairs (SCRA), and the Refugee Appeals Authority of South Africa (RAASA). The ministerial delegation from the DHA consisted of Dr Aaron Motsoaledi, the Minister of Home Affairs, and Mr Nzuzo Njabulo, Deputy Minister. Other DHA officials in attendance were Mr Tommy Makhode, Director-General, and Mr Jackson McKay, Acting Director-General. The chairpersons of the SCRA and the RAASA were Ms Jane Mugwena and Mr Nigel Holmes, respectively.

The main purpose of this virtual meeting was for the Committee to be briefed by the SCRA and the RAASA on their work in dealing with the challenges concerning refugees and asylum seekers in South Africa.

### Minister's introduction

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"FA28"

9 January 2022 *Sunday World*

MINISTER OF  
HOME AFFAIRS  
REPUBLIC OF SOUTH AFRICA

Private Bag X741, Pretoria, 0001, Tel: (012) 432 6635 Fax: (012) 432 6675  
Private Bag X9102, Cape Town, 8000, Tel: (021) 469 6507, Fax: (021) 461 4191

**MINISTER OF HOME AFFAIRS' PRESS STATEMENT: ZIMBABWEAN NATIONALS GRANTED EXEMPTIONS IN TERMS SECTION 13(2)(b) OF THE IMMIGRATION ACT 13 OF 2002**

1. Due to the confusion and disinformation circulating in both print and social media, it has become necessary that I issue this Press Statement in order to set the record straight.

**Background**

2. The issue of exemptions granted to Zimbabwean and other nationals has a long history. It all started in 2008, when South Africa experienced an influx of asylum seekers from Southern African Development Community ("SADC"). The majority of them were Zimbabwean nationals. The Department of Home Affairs ("DHA") Asylum Seeker Management Unit ("ASMU") was unable to cope with the numbers. By way of an example, the Musina Refugee Reception Office was receiving in excess of 1000 asylum seeker applications daily. It had neither the staff complement and financial resources to deal with the influx.
3. This led to the DHA approaching National Treasury requesting financial assistance to start the process of granting exemptions to the SADC nationals, including Zimbabwean nationals in terms of section 31(2)(b) Immigration Act, 2002.
4. The DHA requested National Treasury to make available an amount of R145 803 928.00 available to start a special project of granting exemptions by the Minister of Home Affairs.
5. National Treasury decided only to approve an amount of R15 million to deal with the exemptions process for SADC nationals.

**Granting of exemptions**

6. In 2009, the then Minister with the support of National Executive (Cabinet) granted exemptions to the SADC nationals, the majority of whom were Zimbabwean nationals.
7. Between the financial years 2010 to 2020, the DHA has spent approximately an amount of R188 700 000.00 relating to the costs of processing and extensions of the exemptions granted to Zimbabwean nationals in terms of section 31(2)(b) of the Immigration Act, 2002. The above figure excludes costs involved for processing of the applications by VFS Visa Processing (SA) Pty LTD ("VFS"), printing and other administrative costs. The applications had to be considered by the Director-General and/or delegated officials. The exemptions were granted and extended three times by the erstwhile Ministers from time to time. The last extension of the exemptions was in 2017 expiring on 31 December 2021.
8. There are currently approximately 178 412 Zimbabwean nationals who were granted exemptions.

**Internal Inputs**

9. Between the period June and July 2021, various affected units within the DHA started discussing the feasibility of recommending to me whether the exemptions should be extended or not.

**Submission by the Director-General**

10. This culminated in the Director-General making a submission to me in September 2021, recommending that the exemptions granted to the Zimbabwean nationals should not be extended anymore. I duly and carefully applied my mind to the reasons advanced by the Director-General which, inter alia, include:
- 10.1 The exemptions granted to the Zimbabwean nationals was and has always been a temporary measure, pending improvement of the political and economic situation in Zimbabwe.
- 10.2 The DHA has now limited capacity to deal with the extensions of the exemptions by virtue of its constrained budget. The outbreak of Covid-19 and other economic factors facing South Africa resulted in the budget of the DHA being cut twice in the amount of R1,8 billion in 2020/21 and 2021/2022 financial years. In fact, the base line was cut by R969 million and R671 million was for Compensation of Employees. This resulted in the insufficient funds to cover the existing staff complement. A decision had to be taken, to prioritise the budget to allocate more resources to Civic Services which deals with the rights of South African citizens.
- 10.3 It is documented that South Africa's unemployment rate increased by 1.8% bringing the overall rate to 34%. This rate is the largest since the start of Quarterly Labour Force Survey in 2008.
- 10.4 Approximately 1 900 Zimbabwean nationals' exemptions

holders applied for waivers in terms of the Immigration Act and their applications were rejected. These applications were in violation of the conditions of the exemptions which are:

- (a) "ZEP permit entitles the holder to conduct work/employment;  
(b) ZEP permit does not entitle the holder the right to apply for permanent residence irrespective of the period of stay in RSA;  
(c) ZEP permits will not be renewable/ extendable; and  
(d) ZEP permit holder cannot change conditions of his/her permit in South Africa".

- 10.5 According to the records of the DHA, some of the Zimbabwean nationals' exemptions holders have already migrated to one or other visas provided for in the Immigration Act.

11. In or about September 2021, I decided to approve the recommendation made by the Director-General not to extend the exemptions to the Zimbabwean nationals.

12. I have also imposed a condition that all the Zimbabwean nationals' exemptions holders will be given a period of 12 months to apply for one or other visas provided for in the Immigration Act. In other words, the validity of the expired permits has been extended to 31 December 2022.

13. As my decision impacts on national security, international relations, political, economic and financial matters, I decided to seek support of the National Executive (Cabinet) which support was given during November 2021. The approach to Cabinet has been the customary practice since the exemption regime was introduced in 2009.

13. I have also issued an Immigration Directive to the Border Management Authority, Immigration Officers: Port Control; Immigration Officers: Inspectorate and Permitting sections by virtue of the powers bestowed on me in terms of section 31(2)(b), read with section 31(2)(d) of the Immigration Act, 2002, that I have decided to extend the exemptions granted to Zimbabwean nationals for a period of 12 months and directed that:

- (a) No holder of the exemption may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of section 34 of the Immigration Act;  
(b) The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act.

14. The Directive has already been published in the Government Gazette.

15. I have also taken the liberty to send a communication to the Minister of International Relations and Cooperation for her to convey to the Honourable Ambassador of the Republic of Zimbabwe my decision and the steps that have been taken in order to protect the rights of the Zimbabwean exemptions' holders.

16. We take this opportunity to urge all the Zimbabwean exemptions' holders to make use of the 12 months period to apply for other visas.

17. We have also set up a special team within the DHA to deal with the expected influx of applications for various visas by the Zimbabwean nationals.

18. We are humbled by the overwhelming support of the decision by the South African citizens. These messages were widely circulated on social media. This demonstrates that the decision taken is lawful and reasonable.

19. We make use of this opportunity to extend our sincere appreciation to the Government of the Republic of Zimbabwe for supporting the decision as reported in the media.

**Media enquiries:**

Siya Qoza-082 898 1657 (Spokesperson for the Minister of Home Affairs)  
David Hlabane-071 342 4284 (Media Manager for the Department of Home Affairs)

**Dr PA Motsoaledi, MP**  
Minister of Home Affairs

**Date: 7 January 2021**

(Electronically transmitted without a signature)  
(Advertisement Issued by Sigogo Attorneys)

NWF

175

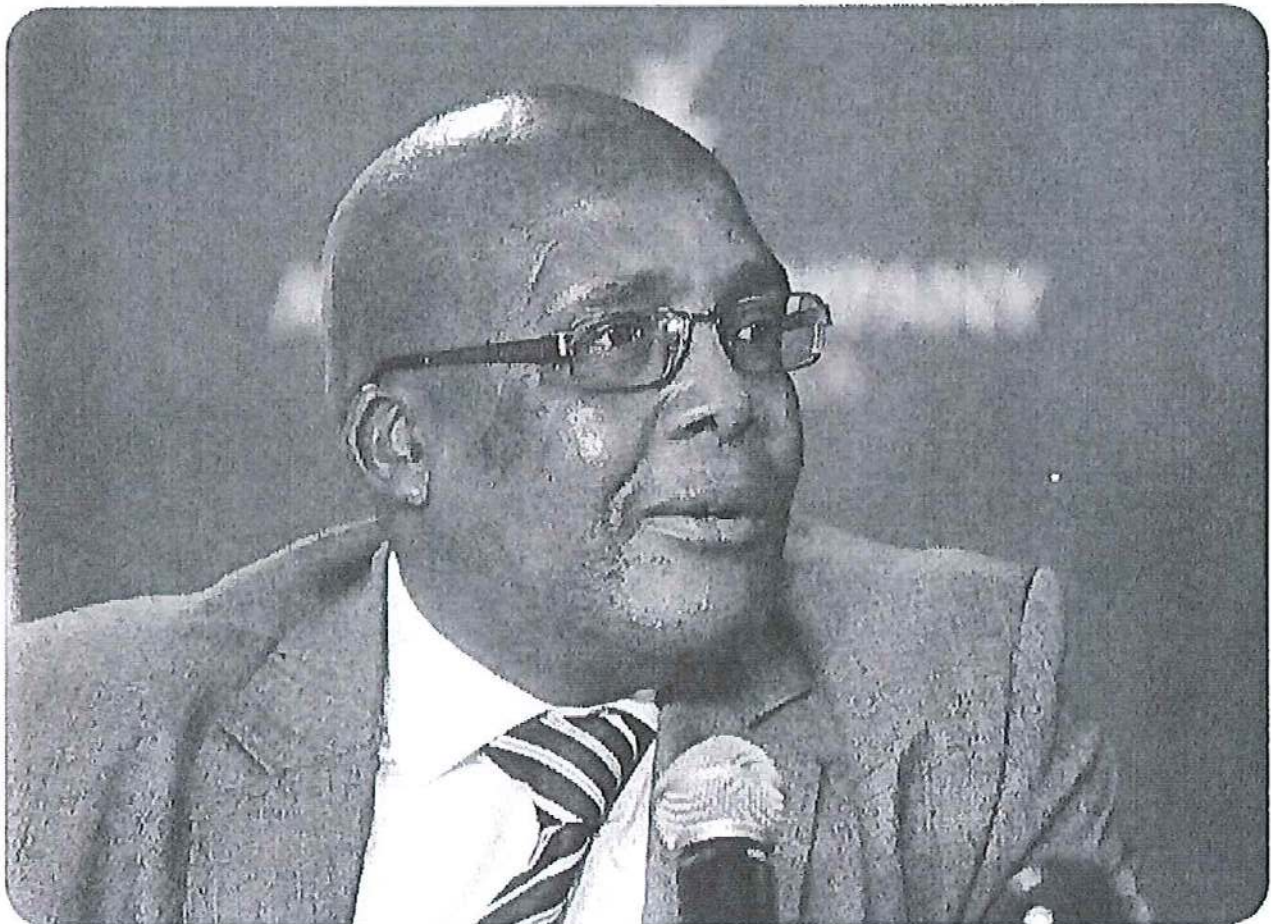


Ndabezitha ❤️❤️❤️👑

"FA29" ↓

@KingMntungwa

Protect Dr Aaron Motsoaledi  
from those evil Zimbabweans .



9:46 · 06 Jan 22 · Twitter Web App

*NKF M/S*



ngwana wa moseme

@NgwanaWaMoseme

Madume, I hope show producers would stop entertaining Zimbabweans. Dr Motsoaledi should be applauded for his stance against ZEPs. Hosts should help fight unemployment through their shows on this radio @Powerfm987 @MkhariGiven @ThabisoTema @Thabisoo @LukhonaMnguni @FaithMangope

5:56 · 05 Jan 22 · Twitter for Android







Kau Vundras  
@loginlivelife

Dr Motsoaledi , illegals are like this. Don't save them and Zimbabweans . continue to #putsouthafricansfirst



 Bra Bob   
@BraBobM

Zimbabweans fighting to stay in SA illegally VS Zimbabweans fighting for Zimbabwe



*NW 1/15*

3 1 3



**Sphe**  @thirsty\_sphe · 07 Jan  
We're not the US and We're not developed. We're still struggling, we can't struggle with illegal immigrants parading our country


1 1 8



**Mysbo** @Mysbo1 · 07 Jan  
Replying to @thirsty\_sphe  
Hallelujah

1 1



**Sphe**  @thirsty\_sphe · 07 Jan  
Hallelujah!

1

*MIS*  
*NW*



**Sabelo Mbatha** @Sabelo... · 07 Jan

Replying to @ClaysonMonyela and @HomeAffairsSA

Our government is treating these foreigners with kids gloves. Clayson, if the government is not acting on such behavior, ordinary South Africans will be forced to act.



**Dewa** @mandlabafa · 07 Jan

Replying to @ClaysonMonyela and @HomeAffairsSA

Banks will stop this exercise as it's likely to cause a financial system crash if it's done in a wholesale manner.



**Pompe Magufuli** @Lebe... · 07 Jan

Replying to @ClaysonMonyela and @HomeAffairsSA

We are on them. We have hundred thousands of them if not million who have our fraudulent documents.



NWAF  
M15



M T Dima  
@Mandlaterish

You stupid Zimbabweans read  
this before attacking Dr A  
Motsoaledi

#PutSouthAfricansFirst  
#Zimbabweans VOETSEK

 **Au plus**  @nyiko\_au\_plus · 06 Jan

Govt throws weight behind the good Dr  
Motsoaledi.



[gcis.gov.za/newsroom/media...](https://gcis.gov.za/newsroom/media...)

6:33 · 07 Jan 22 · Twitter Web App



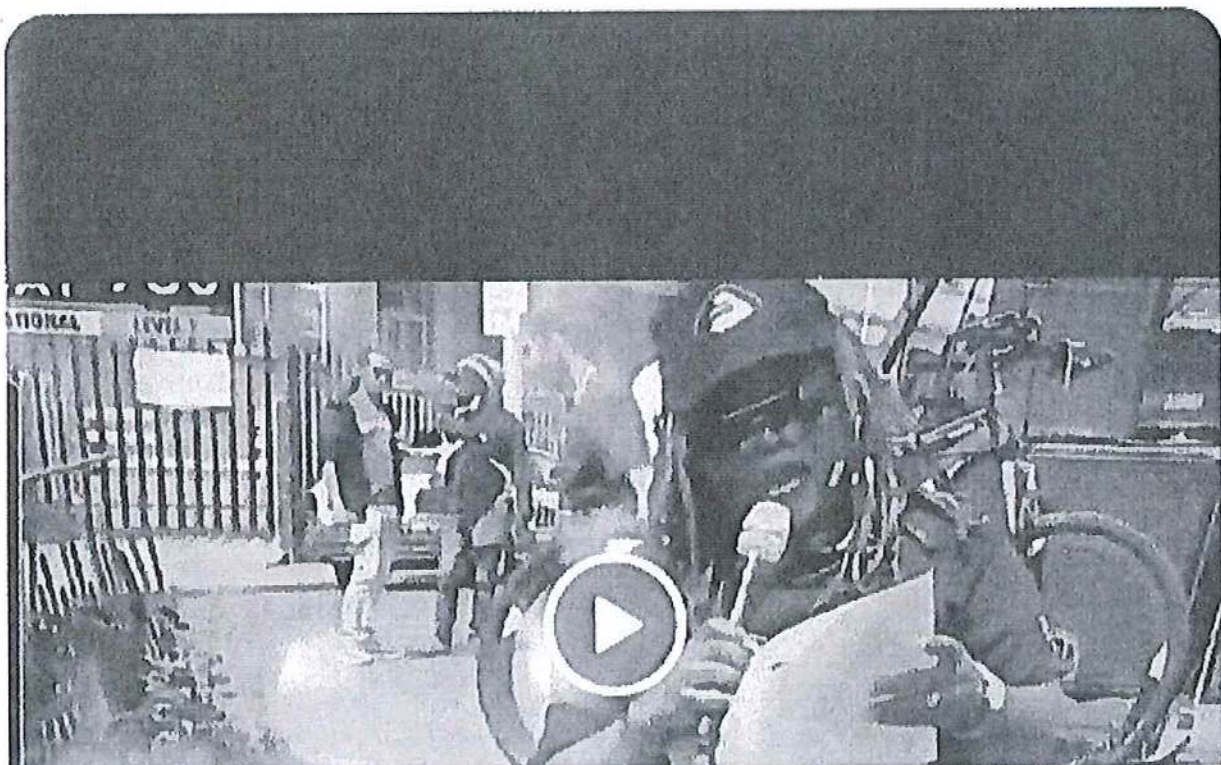
*M.T. Dima*



Pompe Magufuli

@LebeaPompe

Listen to this Zimbabwean lady saying Dr Motsoaledi must resign. The disrespect and the insult is at a higher level. She has the guts to open her big mouth here while she will not dare and say such to Mnagangwa. This nonsense will come to an end in 2024.



MUG  
NWF



Kwena Molekwa 🇳🇬

@Ruraltarain\_2

I remember last year with #ZEP issues, Dr Aaron Motsoaledi had to give 8000+ Amnesty to Zimbabweans with Fraudulent SA documents, now 2022 when the Grace period Ends in December will be laying with a Bigger problem that the ANC has created! Hambani 🇳🇬🇳🇬 you guys are the WORST !!

17:29 · 14 Apr 22 · Twitter for Android

**63** Retweets and comments **224** Likes

NWJ



Home affairs minister will not budge on Zim exemption permits | Citypress news24.com

142 243 885



**Vuyani Ngcatshe.**  
@VuyaniNgcatshe

Replying to @News24

Phambili Dr. Motsoaledi, Phambili 🙌🙌. After all, Zimbabweans must build their own country. They voted ZANU-PF, they must deal with it.

3:45 · 20 Dec 21 · Twitter for Android

*NWFG*



Ofentse Sikwane

@Ofs5B

I would love to take this opportunity to thank @HomeAffairsSA Minister Dr Aaron Motsoaledi for putting South Africans first, & understanding how, NO country can NEVER employ foreigners over it's own citizens. We don't owe Zimbabweans anything.  
@SAfmRadio

6:16 · 26 Apr 22 · Twitter for Android

**163** Retweets and comments **709** Likes

*NW*





 **Olerato Mabitsela**

@Olerato007

Replying to @lawyerPTSA1st

Zimbabweans are busy complaining about our Minister Dr Motsoaledi saying he's turning himself into a government . We are being disrespected by people who claim to be Asylum seekers. Our government will #PutSouthAfricansFirst by fire by force.

12:34 · 02 Jan 22 · Twitter for iPhone

1 Retweet 11 Likes



*M  
NW*

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: \_\_\_\_\_

In the matter between:

HELEN SUZMAN FOUNDATION

Applicant

and

MINISTER OF HOME AFFAIRS

First Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

Second Respondent

---

SUPPORTING AFFIDAVIT

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I, the undersigned,

[REDACTED]

state under oath as follows:

1 I am a 50-year-old female residing in [REDACTED], South Africa. I have one adult child.

*Geeta*

- 2 The facts contained in this affidavit are within my knowledge, unless the context indicates otherwise, and are true and correct, to the best of my knowledge and belief.
- 3 Where I make submissions on the applicable law I do so on the advice of the applicants' legal representatives.
- 4 I have read the founding affidavit in this matter and I support the application made by the Helen Suzman Foundation and the relief that the application seeks.
- 5 The purpose of my affidavit is to tell my story to the Court, as one among many thousands of Zimbabwean Exemption Permit (ZEP) holders in South Africa whose life will be irrevocably prejudiced by the Minister of Home Affairs' decision to terminate the ZEP.
- 6 Due to the recent spate of xenophobic violence and intimidation, I have requested that my details be anonymised to protect me and my family. A redacted version of this affidavit will be placed in the court file. The unredacted version will be provided to the other parties and the court.

#### PERSONAL BACKGROUND

- 7 I grew up in the rural areas of Zimbabwe. I studied to be a teacher at the [REDACTED] and I graduated with a diploma in education in [REDACTED].



- 8 I worked as a foundation phase school teacher in the Zimbabwean civil service for roughly one year.
- 9 When campaigning began for the [REDACTED] elections, violence erupted between the various parties seeking [REDACTED] [REDACTED] those elections. After the votes came in, the members of my community who were not satisfied with the results began to turn on their political opponents. Fearing for my safety, I ran away to stay with family who lived in [REDACTED].
- 10 While staying with my family, I received word that some of my fellow teachers were raped. This filled me with so much fear that I decided to abandon my job as a teacher. I tried to look for a job where I was staying but the Zimbabwean economy was collapsing around me and my prospects for surviving there were non-existent. So, I gathered what money I could and took a bus to South Africa.

#### MY LIFE IN SOUTH AFRICA

- 11 I arrived in South Africa in [REDACTED] and stayed with my cousins in [REDACTED]. My cousins remained my sole source of support until I applied for asylum. I received my asylum permit three months after my arrival in South Africa.
- 12 At first, I tried to get a job as a teacher in South Africa, but I was unsuccessful, because I was not qualified in terms of the requirements to be a teacher in South Africa.

Cree [Signature]

- 13 So, I remained on an asylum permit and I renewed it regularly up until [REDACTED], when the South African government issued me a permit under the Dispensation for Zimbabweans Project (DZP). As a condition of the DZP, I gave up on all other attempts to achieve legal status in South Africa.
- 14 As the South African government extended the DZP and created the ZSP and ZEP, I duly applied for and was granted those permits as well.
- 15 Between [REDACTED] I worked mostly as a domestic worker. For a short time in [REDACTED] I worked as a teacher in [REDACTED] but I was unable to stay there on a permanent basis, because my Zimbabwean qualifications still did not meet the requirements to be a teacher in South Africa.
- 16 In [REDACTED], while working as a domestic worker, my boss discovered that I was qualified as a teacher in Zimbabwe and then assisted me to convert my qualifications to a South African equivalent teaching qualification.
- 17 In [REDACTED] I started sending out my CV for teaching jobs and I my life changed when I received a position as a foundation phase teacher in early [REDACTED]. This is a position that I hold to this day, where I teach a class of thirty-nine children, aged between eight and nine, in the [REDACTED]. Half of my students are South African citizens.
- 18 Since I began teaching in [REDACTED], I have developed a great deal of experience in teaching foundation phase students and I have learned my way around the

Cree 

school where I work. As a result, I now hold the [REDACTED]  
[REDACTED]

- 19 I am very concerned that if I lose my job, I will leave behind students and other teachers who have come to depend on me. While my skills are not deemed to be critical by the Minister, it will take my school a long time to find an appropriate replacement for me. This means that my departure will set my students back in their learning and development at a critical age. It will also create a burden on the school as a whole, as they try to find a new teacher to fill my role.
- 20 Teaching children is my passion and I am so grateful that I was able to get back on my feet after nearly seven years as a domestic worker, so that I can once again contribute once again to the lives of children as a teacher.

#### THE EFFECT OF LOSING MY ZEP

- 21 If I lose my ZEP permit, I will have to leave my job and return home to Zimbabwe.
- 22 This would mean that I leave behind nearly fifteen years of hard work in building my life in South Africa, only to face a crumbling Zimbabwean economy.
- 23 As a former Zimbabwean teacher, I keep up to date with developments regarding my main prospective employer there, the [REDACTED] and I am sure that getting a job as a teacher in the Zimbabwean civil service is a near impossibility. This means that if I return to Zimbabwe, I will have to face the very real possibility of being dependant on the Zimbabwean state for my survival.

*Greene*

- 24 More than this, given that I initially left Zimbabwe after my fellow teachers were raped in the wake of political violence, Zimbabwe remains a place of fear for me.
- 25 I intend to exhaust all the possibilities available to me under the Immigration Act to remain in South Africa legally.
- 25.1 I have considered the possibility of a general workers visa in terms of section 19 of the Immigration Act.
- 25.2 However, I have no assurance that my application will be successful, because I have no critical skills in terms of the Minister's current regulations and my job can, in principle, be done by a South African.
- 25.3 If I am unsuccessful, I will have no choice but to I once again apply for asylum in South Africa, as I fear for my life and safety if I were to be forcibly returned to Zimbabwe.
- 25.4 However, I know the difficulties that the Department of Home Affairs is having in processing applications for asylum very well and I am concerned that my application will simply mean that I will become a part of a very dysfunctional system.

## CONCLUSION

- 26 I stand to lose everything if the ZEP is terminated. And there are many thousands more ZEP holders like me.
- 27 So, I humbly place my story before the Court to inform its decision.

Cree 

[REDACTED]

[REDACTED]

Signed and sworn before me at [REDACTED] on this the 14 day of JUNE 2022, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no objection to taking the prescribed oath and that she considers such oath to be binding on her conscience.





COMMISSIONER OF OATHS

TITLE / OFFICE: USP

FULL NAMES: SIYHOKUNLE GIBRIN

ADDRESS: [REDACTED]



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO: \_\_\_\_\_

In the matter between:

HELEN SUZMAN FOUNDATION

Applicant

and

MINISTER OF HOME AFFAIRS

First Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

Second Respondent

---

SUPPORTING AFFIDAVIT

---

I, the undersigned,

████████████████████

state under oath as follows:

- 1 I am a 52-year-old male residing in ██████████, South Africa.
  
- 2 The facts contained in this affidavit are within my knowledge, unless the context indicates otherwise, and are true and correct, to the best of my knowledge and belief.
  
- 3 Where I make submissions on the applicable law I do so on the advice of the applicants' legal representatives.

*EWS*

*S*

- 4 I have read the founding affidavit in this matter and I support the application made by the Helen Suzman Foundation and the relief that the application seeks.
- 5 The purpose of my affidavit is to tell my story to the Court, as one among many thousands of Zimbabwean Exemption Permit (ZEP) holders in South Africa whose life will be irrevocably prejudiced by the Minister of Home Affairs' decision to terminate the ZEP.
- 6 Due to the recent spate of xenophobic violence and intimidation, I have requested that my details be anonymised to protect me and my family. A redacted version of this affidavit will be placed in the court file. The unredacted version will be provided to the other parties and the court.

#### PERSONAL BACKGROUND

- 7 I am an industrial engineering graduate from the [REDACTED]  
[REDACTED]. I graduated in [REDACTED].
- 8 I am married with five children. Four of my children are attending school in Zimbabwe. My wife and children are dependent on the income that I earn from my life in South Africa.
- 9 I hold the ZEP and I am a beneficiary of the South African government's special dispensation for Zimbabwean nationals living in South Africa that began in 2009.
- 10 I left Zimbabwe after many years of economic and political hardship.

EWS

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10.1 In [REDACTED], I was the victim of political violence as a [REDACTED] [REDACTED] and the [REDACTED]. In order to escape threats to my life, I spent two weeks sleeping in the wilderness as members of the [REDACTED] tried to hunt me down.

10.2 In [REDACTED] I was the [REDACTED] [REDACTED]. After the union organised a strike, I was threatened and harassed by members of Zimbabwe's state security forces and members of the [REDACTED]. This ultimately led to me losing my job as a lecturer.

10.3 I challenged my dismissal but at every turn, Zimbabwean institutions failed to protect me – especially the courts.

10.4 I remained unemployed in Zimbabwe until [REDACTED], when I found a job on a gold mine. However, I was once again dismissed from that job under highly suspicious circumstances. When I challenged my dismissal, I was once again let down by the Zimbabwean courts.

11 I am certain that the Zimbabwe that I left has not changed at all and that I will have no choice but to return to South Africa once again and try seek asylum, if I lose my ZEP. I am fully aware that violence is still very much a part of Zimbabwean political life. The violence that occurred during the 2018 national elections only reminded me of what I went through in [REDACTED]. The fact that no one has been prosecuted for that violence has shown me that I still cannot trust Zimbabwean institutions.

ELUS

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- 12 For as long as Zimbabwe is a politically unstable country, I cannot make a life for myself there. This is because the history of my home country has shown me consistently that the economy cannot support its people thanks to political violence.

### MY LIFE IN SOUTH AFRICA

- 13 After I lost my job at the gold mine, it was clear to me that Zimbabwe's institutions were crumbling around me. This, together with the dire economic situation and my experience with political violence, forced me to seek a life outside of Zimbabwe.
- 14 In [REDACTED], I travelled to South Africa in order to apply for a work permit in terms the Immigration Act No. 13 of 2002 (Immigration Act). I then travelled back to Zimbabwe while I waited for an acknowledgment that my application had been received.
- 15 When I received acknowledgment that my application had been received in [REDACTED], I travelled back to South Africa while I waited for it to be finalised.
- 16 I arrived in South Africa in [REDACTED] and while I waited for my work permit to be processed, I applied for asylum in [REDACTED]. The rights to live and work afforded to asylum seekers are temporary in nature, pending the determination of an asylum application. This means that even with an asylum-seeker permit, the search for a permanent job was very difficult for me. Even starting a meaningful business would not have been an option as an asylum seeker,

EWS

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because that status did not give me the sort of stability in South Africa that financial institutions and potential clients required of me.

17 However, my efforts to acquire legal status in South Africa coincided with the implementation of the Dispensation of Zimbabweans Project (DZP) in [REDACTED]. So, I decided that I would no longer pursue my application for asylum for two reasons. First, because the DZP permit would give me the sort of legal status that would allow me to properly run a business in South Africa. Second, because I was forced to give up on other attempts to regularise my status in South Africa as a condition of the DZP permit.

18 I successfully applied for the DZP permit and it was issued to me in [REDACTED].

19 Whenever the South African government offered extensions of the initial DZP, I duly applied for and I was issued with the subsequent ZSP and thereafter the ZEP.

20 Between [REDACTED], I undertook various jobs in my field of expertise – industrial engineering.

21 In [REDACTED], I registered a company that offered [REDACTED] and [REDACTED] services. This company remains in operation to this day.

22 In [REDACTED], along with three South African business partners, I registered a separate company that operates in two lines of business.

EWT

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22.1 The first line of business provides [REDACTED]  
[REDACTED]  
[REDACTED]

22.2 The second line of business [REDACTED]  
[REDACTED]  
[REDACTED]

22.2.1 This aspect of our business was formed after my business partners and I noticed that many enterprising South Africans have the skills and energy to do [REDACTED] but lack the financial means to do so.

22.2.2 It is my hope that I will grow this company for the benefit of South Africans who need its services, if I am allowed to stay in the country.

22.2.3 In one instance, our company was able to [REDACTED]  
[REDACTED] in [REDACTED]. Our financing allowed the [REDACTED] a South African company, to complete the project – which has considerably improved the lives of those living in [REDACTED]. In fact, without the financing provided by our company, the [REDACTED]  
[REDACTED] would have not been able to complete their work.

EWS

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**THE EFFECT OF LOSING MY ZEP**

23 When I heard that the Minister decided to terminate the ZEP, I was completely shocked. This is because no effort was made to engage with the ZEP community in South Africa on the effect of doing so.

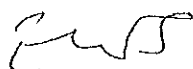
24 If I lose the ZEP, I will try my best to exhaust all possibilities of staying in South Africa in terms of the visas offered by the Immigration Act.

25 I am almost certain, however, that this process will eventually end in me becoming an undocumented migrant in South Africa. This is because the path towards other visas in terms of the Immigration Act will be long and full of uncertainty.

25.1 It is a condition of the ZEP, as it was for the ZSP before it, that I could not apply for permanent residence. So, that option is closed to me now.

25.2 While my skills are recognised on the Minister's latest critical skills list, I have been an entrepreneur for so long that I will be of little value to prospective employers. This is because I am now 52-years-old but also because my skills now lie, after roughly a decade in business, at the level of strategic business management rather than in the technical skill of industrial engineering.

25.3 I am also a director on the companies detailed above. This means that I cannot seek an offer of employment at my existing companies, because my status there is one of employer and not prospective employee.



- 25.4 I have considered the possibility of hiring the services of an immigration lawyer to fight my case before the Department of Home Affairs. However, the legal fees are far and away too much for me to afford. So, even if I technically have a route to remain in South Africa, I cannot afford to pursue it.
- 25.5 Therefore, my best chance at remaining in South Africa legally is through a business visa in terms of section 15 of the Immigration Act. I will do my best to get a business visa, however, I am doubtful of my chances.
- 25.6 This is because the asset value of my companies falls far short of the R 5 million in capital investment that is required for a business visa – and the process of applying to the Minister of Home Affairs for a waiver is full of uncertainty.
- 25.7 Added to all this, my long-standing experience with the Department of Home Affairs is that there is an incredible backlog in processing any application made to them. Therefore, even if I could somehow afford to work my way through the visa application system, I am very concerned that the system is so dysfunctional that I could be left in the lurch for many years.
- 26 Nevertheless, I will exhaust all my available options under the Immigration Act to apply for and secure an alternative visa.

EWS

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- 27 I will also consider once again applying for asylum, as the political situation in Zimbabwe is still very volatile. This was revealed in the recent 2018 elections and I fear that it will turn against me as it has done in the past.
- 28 My very recent experiences of Zimbabwe have led me to believe that not much has changed. Between [REDACTED] I visited Zimbabwe to attend my cousin's funeral, who died [REDACTED]  
[REDACTED]
- 29 From what I saw in Zimbabwe, I could not help but conclude that the Zimbabwean state is still riddled with political interference – just as it was when I was forced to leave.
- 30 This leads me to be gravely concerned about what will happen the next time the ruling party receives an election result that displeases it.
- 31 However, as I have explained above, an asylum-seeker permit would not give me the sort of stability required by financial institutions and potential clients as I carry out my business. This means that, even if I once again apply for asylum, the reality is that I will eventually lose the ability to [REDACTED]  
[REDACTED] If this happens, I will lose my only source of income and my children will be forced to leave school, because I am their sole provider.
- 32 Without any legal means of staying in South Africa, I would have to return to Zimbabwe. But in Zimbabwe, I have no chance at being economically active.

EWB

S

32.1 I am 52-years-old and I would be unlikely to find formal employment in Zimbabwe.

32.2 The Zimbabwean economy is still in crisis and I see no way of building a business there that could support me and my family.

32.3 These concerns were all confirmed by my direct experience of the state of Zimbabwe during my recent trip there between [REDACTED] [REDACTED]. When I was there, I saw deepening poverty and no opportunity for person my age to find a formal employment or to start a business that could support my family.

33 I am afraid that I will be dependent on the Zimbabwean state for my well-being, if I lose the ZEP and am forced to return home.

### CONCLUSION

34 My family and I stand to lose everything if the ZEP is terminated. And there are many thousands more ZEP holders like me.

35 So, I humbly place my story before the Court to inform its decision.

[REDACTED]

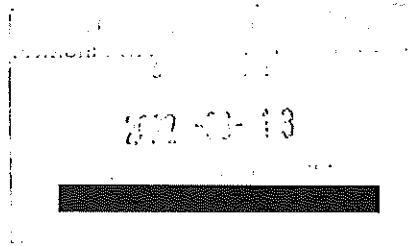
\_\_\_\_\_

[REDACTED]

*EWT*

*S*

Signed and sworn before me at [REDACTED] on this the 13 day of JUNE 2022, the deponent having acknowledged that he knows and understands the contents of the affidavit, that he has no objection to taking the prescribed oath and that he considers such oath to be binding on their conscience.



*7010712-6*  
*Sgt*  
*Stephen H. Gwani*

COMMISSIONER OF OATHS

TITLE / OFFICE: SERGEANT

FULL NAMES: STEVEN H. GWANI

ADDRESS: [REDACTED]

*EWS*

*5*

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: \_\_\_\_\_

In the matter between:

HELEN SUZMAN FOUNDATION

Applicant

and

MINISTER OF HOME AFFAIRS

First Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

Second Respondent

---

SUPPORTING AFFIDAVIT

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I, the undersigned,

[REDACTED]

state under oath as follows:

- 1 I am a 46-year-old male residing in [REDACTED]  
South Africa.

CN

B. J.

- 2 The facts contained in this affidavit are within my knowledge, unless the context indicates otherwise, and are true and correct, to the best of my knowledge and belief.
- 3 Where I make submissions on the applicable law I do so on the advice of the applicants' legal representatives.
- 4 I have read the founding affidavit in this matter and I support the application made by the Helen Suzman Foundation and the relief that the application seeks.
- 5 The purpose of my affidavit is to tell my story to the Court, as one among many thousands of Zimbabwean Exemption Permit (ZEP) holders in South Africa, whose life will be irrevocably prejudiced by the Minister of Home Affairs' decision to terminate the ZEP.
- 6 Due to the recent spate of xenophobic violence and intimidation experienced by foreign nationals in South Africa, I have requested that my details be anonymised to protect me and my family. A redacted version of this affidavit will be placed in the court file. The unredacted version will be provided to the other parties and the court, with a request for appropriate confidentiality undertakings.

#### PERSONAL BACKGROUND AND MY LIFE IN SOUTH AFRICA

- 7 I am a self-employed timber merchant. I am married with [REDACTED] children. My wife and children live in [REDACTED] Zimbabwe. My wife is unemployed and [REDACTED] of my children attend school in Zimbabwe. My [REDACTED] child is a student at the [REDACTED]

C.N B. J

██████████ My wife and children are, and have always been, dependent on me.

8 I qualified as a timber merchant from the ██████████ Zimbabwe in ████████. I was thereafter employed as a supervisor at ██████████ ██████████. I resigned from this position in ████████ and started work as a supervisor at the ██████████ until I resigned in ████████.

9 In ████████, a friend of mine informed me of an employment opportunity as a carpenter in South Africa. I travelled to South Africa on my Zimbabwean passport, leaving my family behind. Upon my arrival, I was offered a position at ██████████, at the time that the South African government rolled out the Dispensation of Zimbabweans Project (DZP). I applied for and was issued a DZP permit later that year. I retained my legal status under the ZSP and the ZEP which succeeded the DZP. I have benefitted from the special dispensation for Zimbabwean nationals living in South Africa since ████████.

10 At the time that I left Zimbabwe the economy was in a dismal state and the situation was worsening by the day. I decided to explore the opportunity in South Africa with the belief that South Africa would have greener pastures. I was hoping for a better future for myself and my family.

11 I remained in the employ of ██████████ until I was retrenched in ████████. Following my retrenchment I applied for a number of other opportunities, however, all of my applications were rejected, mostly because of my nationality.

C.N. B. J.

I decided to do business as a [REDACTED] and I dream of growing my small business in South Africa.

#### THE EFFECT OF LOSING MY ZEP

- 12 The Minister's decision to terminate the ZEP is worrying and will have a significant effect on the lives of all of the ZEP holders and their dependents. It is more concerning that the Minister's decision came without any fair warning.
- 13 I have been living and working in the country for roughly 12 years. I have established myself and I am able to sustain myself and provide for my family with the income that I earn. My income ensures that my children receive an education and that my family in Zimbabwe has food on the table and clothes on their backs. Without my income, my family has little chance of surviving in Zimbabwe.
- 14 If the ZEP is terminated at the end of the year, I will be left without legal status to remain in the country. I do not possess exceptional skills or qualifications and it is unlikely that an employer would not be able to find a South African citizen to employ as a timber merchant. My chances of qualifying for any form of a worker's visa in terms of the Immigration Act 13 of 2002 are very slim. I also do not have the required capital to invest in my business to qualify for a business visa. Thus, I will be left with no other choice but to give up the life that I have built in South Africa and return to Zimbabwe.
- 15 The possibility that I might have to return to Zimbabwe is concerning. I visit my family in Zimbabwe [REDACTED] a year and I can say that the circumstances have not

C.N B.J

changed since I left in [REDACTED]. The economy is poor, jobs are scarce and it is nearly impossible to successfully do business in Zimbabwe. Without employment or any form of income, I will not be able to provide for my family. This means that I would not be able to afford my children's tuition and they will have to leave school and university. There is no form of social assistance that could contribute to my children's education.

## CONCLUSION

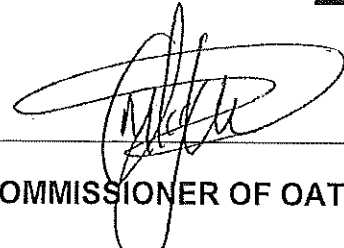
- 16 The rights and privileges that come with the ZEP enables me to make a living in South Africa. I, my wife and my children will lose our livelihood if the ZEP is terminated because there is no hope of a future for us in Zimbabwe. I imagine that most of the other ZEP holders and their families will face the same fate because of the Minister's decision.
- 17 I humbly place my story and that of my family before the Court to inform its decision.

[REDACTED]  
 [REDACTED]

Signed and sworn before me at [REDACTED] on this the 13<sup>th</sup> day of JUNE 2022, the deponent having acknowledged that he knows and understands the contents of the affidavit, that he has no objection to taking the prescribed oath and that he considers such oath to be binding on his conscience.

C.W





**COMMISSIONER OF OATHS**

**TITLE / OFFICE:**

**FULL NAMES:**

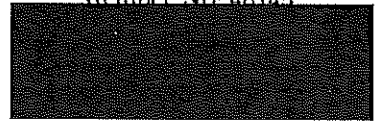
**ADDRESS:**

**COMMISSIONER OF OATHS(RSA)**

Caroline Nakedi Mokgehle

Practising Attorney (SA)

Member No: 48145



**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG DIVISION, PRETORIA**

**CASE NO: \_\_\_\_\_**

In the matter between:

**HELEN SUZMAN FOUNDATION**

**Applicant**

and

**MINISTER OF HOME AFFAIRS**

**First Respondent**

**DIRECTOR GENERAL OF HOME AFFAIRS**

**Second Respondent**

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**SUPPORTING AFFIDAVIT**

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I, the undersigned,



state anonymously under oath as follows:

1 I am a 40-year-old male residing in  South Africa.

*J.E. [Signature]*

- 2 The facts contained in this affidavit are within my knowledge, unless the context indicates otherwise, and are true and correct, to the best of my knowledge and belief.
- 3 Where I make submissions on the applicable law I do so on the advice of the applicants' legal representatives.
- 4 I have read the founding affidavit in this matter and I support the application made by the Helen Suzman Foundation and the relief that the application seeks.
- 5 The purpose of my affidavit is to tell my story to the Court, as one among many thousands of Zimbabwean Exemption Permit (**ZEP**) holders in South Africa, whose life will be irrevocably prejudiced by the Minister of Home Affairs' decision to terminate the ZEP.
- 6 Due to the recent spate of xenophobic violence and intimidation experienced by foreign nationals in South Africa, I have requested that my details be anonymised to protect me and my family. A redacted version of this affidavit will be placed in the court file. The unredacted version will be provided to the other parties and the court, with a request for appropriate confidentiality undertakings.

#### PERSONAL BACKGROUND

- 7 I am an aspiring businessman currently making a living as an [REDACTED] in the [REDACTED]. I was formerly an Operating Partner of a [REDACTED] in [REDACTED]. More recently, I bought into a [REDACTED] franchise based

J-E Au

in [REDACTED]. Unfortunately, the [REDACTED] closed as a result of circumstances caused by the Covid pandemic.

8 I am married with [REDACTED] children. My wife and daughters ([REDACTED]) reside with me in [REDACTED].

8.1 Our daughters were born in South Africa and attend a primary school in [REDACTED].

8.2 My wife is a [REDACTED]. She is currently completing her matric and she aspires to further her studies and obtain a degree in [REDACTED].

8.3 I hold the ZEP and I have been a beneficiary of the South African government's special dispensation for Zimbabwean nationals living in South Africa that began in 2009. My wife is also a ZEP holder.

9 I left Zimbabwe in [REDACTED] because of the decay in the political, economic and social circumstances in the country.

9.1 I was born in the [REDACTED] a [REDACTED] located about [REDACTED]. My father was employed by the [REDACTED]. Growing up, we had an average life and my father was the sole provider. My father passed away in [REDACTED] and the responsibility to provide for my mother and two siblings rested on me, with the support of my uncles.

9.2 In [REDACTED] I completed my O-Level education (the equivalent of matric at the time that I came to South Africa) whereafter I left the community to work

J. E. A.

as a general worker at the [REDACTED] in [REDACTED]. In [REDACTED] I left my job in [REDACTED] and returned to work on the [REDACTED] in the community where I grew up. I continued to support my mother and siblings, who were completing their schooling at the time. I take pride in the fact that I have always managed to make an honest living, despite my personal circumstances.

9.3 Because of the unbearable political and economic situation in Zimbabwe in the early 2000's and due to the fact that my brother was imprisoned for [REDACTED], I started considering the possibility of having to begin a new life outside Zimbabwe. I had a cousin who lived in [REDACTED] and I took the decision to take the difficult but necessary steps to get a passport and the required visitors visa that would give me entry into South Africa.

9.4 In [REDACTED] after acquiring a visitors visa, I travelled by bus to [REDACTED] I stayed with my cousin in [REDACTED]

#### MY LIFE IN SOUTH AFRICA

10 Upon my arrival in South Africa, I applied for asylum. In [REDACTED] [REDACTED], I obtained asylum-seeker status and I had to renew my asylum-seeker permit every three months.

11 I retained the status of asylum-seeker until the time that I received formal recognition of my legal status under the Dispensation of Zimbabweans Project (DZP) in [REDACTED]. The DZP permit was offered to Zimbabwean nationals by the

*PE*

Department of Home Affairs to enable us to lawfully reside and work in South Africa. As a qualifying condition to the DZP permit, I had to surrender my claim for asylum. DZP permit holders were allowed to apply for permanent residence status, however, this position changed following the introduction of the Zimbabwean Special Permit (ZSP). My application for permanent residence was rejected but I was issued with a ZSP in [REDACTED] which followed the DZP permit. In [REDACTED] I applied for the ZEP and was issued with one in [REDACTED] following the expiry of the ZSP.

- 12 In [REDACTED] I was afforded an opportunity to work as a [REDACTED] in [REDACTED]. I saved money to travel between South Africa, Zimbabwe and [REDACTED] on a number of occasions to visit my family. During the visits to Zimbabwe, I met my wife whom I married in [REDACTED]
- 13 The management at [REDACTED] was satisfied with my work performance and I was promoted to a part-time manager and later in [REDACTED] to full-time manager. I was also offered a 20% share and the title of Operating Partner in the [REDACTED]. I held this position until [REDACTED]
- 14 In [REDACTED], together with my wife, bought into a [REDACTED]. Our plan was to become the [REDACTED]. Unfortunately, the [REDACTED] had to close its doors because of the effects of the Covid pandemic.
- 15 Losing the [REDACTED] was a setback, however, I knew that I could not give up on life, because my wife and daughters depend on me to provide. I aspire to get back into the [REDACTED] industry to empower women in business in South Africa.

JE

- 16 My inspiration is drawn from my mother, who had to work extremely hard to keep us alive after my father died. She earned an income by buying and selling produce and other products without any form of training or experience. During the time that I worked at [REDACTED] I realised that there is a lack of women who own and manage [REDACTED] When I bought into the [REDACTED] I partnered with my wife with the intent to skill her in managing and operating [REDACTED]
- 17 I am developing this business model with the hope of implementing it on bigger scale. My business plans are drawn up but I am struggling to get funding, because there is no certainty about my status in the country.

#### THE EFFECT OF LOSING MY ZEP

- 18 The Minister's decision to terminate the ZEP took me by surprise. I have been living and working in the country for nearly [REDACTED] I have established myself and my family in South Africa, where we all have been productive members of society. So, I expected fair warning before such a drastic step would be taken.
- 19 I am in the process of registering a new business in South Africa with the hope of migrating to a business visa, as we were advised to do by the Minister. However, the legal requirements to obtain a business visa are very stringent. Amongst other requirements, I would have to invest a minimum amount of R5 million in my business in terms of section 15(1)(a) of the Immigration Act 13 of 2002 read with the relevant Regulations. This amount of money is not readily available to me and I find it difficult to believe that it is available to other ZEP holders who fled the impoverished state of Zimbabwe. I am alive to the fact that

J. E. [REDACTED]

there is a great possibility that I will not be successful in the process of migrating to this visa as it is near impossible to qualify for the visa.

- 20 I also do not have any critical skills or qualifications and it is improbable that an employer in the restaurant industry would not find a South African citizen to employ, making it nearly impossible for me to get a general worker's visa.
- 21 It is not just me who will lose the rights and privileges that come with the ZEP, my wife and children will also lose their hopes and dreams of a future. We will become undocumented migrants because we do not qualify for any other visa in terms of the Immigration Act. My children will lose access to quality basic services such as education and healthcare. In Zimbabwe, the healthcare system is falling apart and the quality of the public education system is not at the same level as it is in South Africa. I will have to enrol my children in private schools in Zimbabwe, which is unaffordable. In addition, there are no social assistance services in Zimbabwe that I can rely on for financial assistance for my children.
- 22 I have considered the possibility of re-applying for an asylum-seeker permit, but I have concluded that this is not a viable solution. An asylum-seeker permit would afford me a temporary right to lawfully work, reside and operate a business in South Africa. However, it is general knowledge, that asylum seekers are treated poorly in South Africa and they have to go to the greatest of lengths to obtain services such as bank accounts, loans, licences etc. I have experienced this first hand at the time that I held an asylum-seeker permit. In the light of the fact that I want to grow my business interests, I do not consider asylum a feasible solution as I will be faced with uncontrollable systemic struggles.

J. E. A.



- 23 I am also aware of the fact that there is a crisis within the asylum unit of the Department of Home Affairs, this much is stated in the Minister's reasons for terminating the ZEP. An influx of ZEP holders who will look to migrate to asylum permits, if the ZEP is terminated, will place further pressure on the Department's infrastructure. I am concerned that the existing struggles that asylum seekers have to deal with will increase and life as an asylum-seeker permit holder would become more burdensome.
- 24 Without any legal right to live and work in South Africa, I will have to return to Zimbabwe. But I will have no chance of economic stability in Zimbabwe.
- 24.1 In [REDACTED] I visited the country to explore the possibility of establishing my business interests in the food industry in Zimbabwe.
- 24.2 During my visit, I engaged with a businessman who opened South African [REDACTED] in Zimbabwe. His businesses failed because of the failing state of the economy and the upheaval caused by political violence.
- 24.3 I realised that there is no market for [REDACTED] in Zimbabwe, because of the poor state that the economy is in. I cannot fathom that any business could succeed in a country where half of the population cannot even afford to buy maize.
- 25 There is, unfortunately, no future for me or my family in Zimbabwe.

J E K

**CONCLUSION**

26 My [REDACTED] lose everything that we have worked for over the past decade, if the ZEP is terminated. Our family will be devastated and I imagine that there are a great number of other ZEP holders who will face the same fate because of the Minister's decision.

27 I humbly place my story and that of my family before the Court to inform its decision.

[REDACTED]

Signed and sworn before me at [REDACTED] on this the 14 day of June 2022, the deponent having acknowledged that he knows and understands the contents of the affidavit, that he has no objection to taking the prescribed oath and that he considers such oath to be binding on his conscience.

*Jaqueline Siegelauer CST*

**COMMISSIONER OF OATHS**

TITLE / OFFICE: *CST*  
FULL NAMES: *Jaqueline Siegelauer*  
ADDRESS: [REDACTED]

