

Call for comment on draft regulations for Employment of Foreign Nationals

Towards the end of 2018, discussions arose around the impending implementation of Section 8 of the Employment Services Act pertaining to the employment of foreign nationals.



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The public has now been invited to comment on the Draft Regulations on the Employment of Foreign Nationals released by the Department of Labour.

The draft regulations include proposals affecting the applications of work visas, corporate visas and the submissions of skills transfer plans.

The regulations centre around the protection of local labour by first seeking employers to exhaust the local labour market before looking at employing foreign nationals.

Where a foreign national is then approved where a citizen is not available, skills transfer is required in a monitored manner and requiring annual reporting.

The Draft Regulation notches up the requirements for work and corporate visas in the following areas:

- Requesting proof of registration with a Professional Body (before only needed for Critical Skills visas);

- Proof that 60% of total staff compliment employed are SA citizens or Permanent Residents (before only required for Business Visas and Corporate Visas);
- Additional requirements when advertising available positions;
- Legislated timelines of 10 days for the Department to provide feedback on suitable candidates from the ESSA system; and
- Reciprocally only allows companies 10 days for feedback on the candidates provided.

It further increases the involvement of Department of Labour by legislating the need for an annual skills transfer report submitted to the Department to monitor the skills transfer progress.

This provides an opportunity for industry leading Human Resource and mobility practitioners alike to help shape law.

Those interested in participating and providing input cancontact Marisa Jacobs on marisa@xpatweb.com.

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