



Response

13th September 2022

An Extension, but far from a Resolution...

On 2nd September the Department of Home Affairs issued a communique advising that the Minister had extended the validity of the Zimbabwe Exemption Permits (ZEPs) to 30th June, 2023; they had been due to expire on 31st December, 2022. The spokesperson indicated that there would be no further extensions after the June deadline, and the Minister warned that holders of the permit should not count on endless extensions as a way of resolving their status in South Africa. He regarded the extension as offering Zimbabweans a fair chance to apply for alternative visas and waivers.

Apparently, a special advisory committee told the Minister that the processing of permit holders' applications for alternate visas could not be properly addressed within the original time period. This, despite the fact that the Department had previously been granted additional financial support to employ extra staff to ensure that the process was handled expeditiously. The Department further acknowledged that a very small percentage of the permit holders had actually made application for other types of visas or for the waiver. The first account put the figure at 6000, though the Minister later spoke of 9000 applications. This low number (there are an estimated 180 000 Zimbabweans in South Africa holding ZEPs) was to be expected. The reality is, of course, that few of the holders actually qualify for the alternative visas such as those linked to critical skills, spousal connections and the like. A number of holders have also mentioned that they will await the outcome of the three pending court cases before making any applications.

While it was always clear that possession of a ZEP did not imply an entitlement to permanent residence, no matter how long the holder remained in South Africa, this might be a good time to open that possibility for ZEP holders. Given that all who hold such a permit have been in the country for at least thirteen years, if not longer, and have contributed to the economy, started families, raised children and settled into regular patterns of social and economic engagement, they should surely qualify for permanent residence. This is a reasonably limited group, and it would make sense to resolve the issue in this way and thus avoid the endless practical difficulties and expenses of trying to enforce the consequences attached to implementing the non-renewal of the permits – arrests and deportations, no doubt accompanied by numerous court cases and legal actions.

In the meantime, the spokesperson for Operation Dudula has called the extension of the ZEPs a “slap in the face of South Africans, especially the unemployed.” ActionSA has said that the extension is a “mockery of our constitutional democracy and chips away at the autonomy of our state and its function, especially on managing our borders.” FEDHASA, the hospitality industry association, has on the other hand declared that the additional time will allow the various parties to find amicable solutions. The organisations involved in court cases on this issue have been clear that they will continue with litigation since the extension will not eliminate the underlying problems.

Some observers have noted that this is not the first time that the Minister has had to backtrack on strong positions taken with regard to the ZEPs. One notable instance was the withdrawal of Immigration Directive 10 of 2021, which stipulated that the bank accounts and employment contracts of ZEP holders

could only continue as normal if they could show proof of having applied for alternative visas or waivers. The Minister also previously declared that there would be no extensions, and yet he has now granted an extension of six months.

In his communique the Minister specifically added the following for clarity: “The holder of the exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act. 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 a valid permit indicated in his or her passport; and no holder of the exemption should be required to produce a valid exemption certificate...”

It is obviously premature to read too much into the extension; in the present hostile environment, we should probably not get our hopes too high for a positive, just outcome.

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