



GMS Flash Alert

Immigration Edition

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South Africa – New Critical Skills List Published

On 2 February 2022, South Africa's Minister of the Department of Home Affairs signed the newly-gazetted Critical Skills list into law¹. The Critical Skills list stipulates which skills and qualifications are deemed to be critical in the Republic of South Africa for either an application for a work visa or permanent residence permit. The list is comprised of 101 occupations that have been identified as critical for the South African labour market.

WHY THIS MATTERS

Foreign nationals who possess the relevant skills and/or qualifications will be eligible to apply for a critical skills work visa under the new regime. Critical skills work visas issued in terms of the Critical Skills list of 2014 held by individuals will still remain valid and the holders must adhere to the terms and conditions of their specific work visa. However, holders of critical skills work visas who wish to extend their work visas, must renew them in terms of the Critical Skills list of 2022, provided that the holder meets the prescribed requirements.

More Details

Critical skills work visa applications submitted to the Department of Home Affairs prior to 31 January 2022, will be processed in terms of the Critical Skills list of 2014, including appeals arising out of these applications. The Department of Home Affairs is not accepting any new work visa applications in terms of the Critical Skills list of 2014, as from 1 February 2022, with the exception of those applicants who have already secured an appointment with the South African High Commission or with the Visa Facilitation Application Centre (VFS) prior to 1 February 2022.

KPMG NOTE

Holders of critical skills work visas issued in terms of the 2014 list, still have the opportunity to apply for a Permanent Residence Permit application from the date upon which they qualify.

Then... and Now

Previously, the Department of Home Affairs would issue a 12-month critical-skills work visa to qualifying foreign nationals in order to seek employment within this period. Once, the foreign national secured employment, the Department of Home Affairs would extend the work visa for an additional period of four years.

With the implementation of the new Critical Skills list, the Department of Home Affairs will no longer issue critical skills work visas for a period of 12 months to foreign nationals who have not secured employment nor received an offer of employment. The provisions under the new Critical Skills list require applicants to be in possession of an offer of employment when applying for a critical skills work visa. The employer must be verifiable and in good standing with the Department of Employment and Labour for an application to be accepted by the Department of Home Affairs and to be granted the full five-year period of the work visa.

Waiver Withdrawal

In 2016, the Minister of Home Affairs granted a waiver which allowed foreign graduates who studied at South African tertiary institutions towards degrees in the areas of critical skills to apply for permanent residence status without submitting a certificate from the professional body, board, or council recognised by the South African Qualifications Authority (SAQA) or the relevant department confirming the skills or qualifications of the applicants, including acquiring five-years of post-qualification experience or requiring them to submit testimonials from previous employers.

The Minister of Home Affairs has withdrawn the waiver for the exemption of these requirements on Permanent Residence Permit applications. However, the withdrawal will not impact applications submitted to the Department of Home Affairs prior to the withdrawal date, 31 January 2022, which will continue to be processed. That will also not impact the validity of the Permanent Residence Permit issued by the Department of Home Affairs. This means foreign graduates who are studying towards degrees in the areas of critical skills are now required to meet all the prescribed requirements for an application for the critical skills work visa and a Permanent Residence Permit.

The Immigration Directive 22 of 2014, which relates to a confirmation letter from an accredited professional body recognised by SAQA on skills or qualifications of applicants in support of their critical skills work visa application has also been revoked by the Minister of Home Affairs. Applicants submitting critical skills work visa applications only needed a membership registration with the relevant professional body, council, or board having to obtain an additional confirmation letter attesting to their skills or qualifications. Therefore, applicants for a critical skills work visa under the new regime will be required to meet all the prescribed requirements including obtaining a confirmation letter in writing from an accredited professional body, council, or board recognised by SAQA.

FOOTNOTE:

1 See, Department of Home Affairs:

<http://www.dha.gov.za/> .

"Critical Skills List, Checklist and Immigration Directive No.1 of 2022" at: <http://www.dha.gov.za/index.php/notices/1512-critical-skills-list-checklist-and-immigration-directive-no-01-of-2022> .

"Withdrawal of waivers granted in terms of section 31(2)(c) of the Immigration Act 13 of 2002: Granting of permanent residence status in terms of section 27(b) of the Immigration Act: Graduates from SA tertiary institutions in the area of critical skills" at: <http://www.dha.gov.za/index.php/notices/1510-immigration-directive-02-of-2022> .

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Contact us

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The information contained in this newsletter was submitted by the KPMG International member firm in South Africa.

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