

Home Affairs clarifies misunderstanding on work visas

Home Affairs Minister, Dr Aaron Motsoaledi, has moved to clarify a misunderstanding on the gazetted regulations recommendations on the Critical Skills and General Work Visas.



Image source: rrrdoorits – [123RF.com](https://www.123RF.com)

This comes after some media reports had stated that the department had done away with the Critical Skills Visa in favour of a point-based system.

Briefing the media on the Second Amendment of the Immigration Regulation 2014 on Tuesday, Motsoaledi pointed out that section 19(4) of the Immigration Act states that a Critical Skills Work Visa may be issued by the Director-General to an individual possessing such skills or qualifications determined to be critical for the Republic from time to time by the Minister by notice in the gazette.

However, section 19(2) of the Act states that a General Work Visa may be issued by the Director-General to a foreigner not falling within the category contemplated in sub-section 4 and who complies with prescribed requirements.

“Sub-section 4 is the one dealing with critical skills [and] this means general work is anything that is not covered in the critical skills list. The prescribed requirements mentioned in the Act are found in regulation 18 (3) of the previous regulation before the amendments.” Motsoaledi said.

Compiling the critical skills list

He emphasised that the department has not cancelled the Critical Skills Work Visa but has changed the manner in which the visa was previously operating.

“In the past, a critical skills list visa was issued every four years, and the Minister of Home Affairs is supposed to gazette skills that are critical to the economy of the country. But Home Affairs does not have the capacity, nor the knowledge, nor the skills to know what is required.

“What Home Affairs does is go to the Department of Higher Education and Training (DHET). The DHET usually asks the Human Sciences Research Council (HSRC), and the council will work with other institutions, including labour market surveys, to put up a list of skills which they think are critical for the economy of the country,” Motsoaledi explained.



Technical report on critical skills list published

28 Feb 2022



The Minister also noted that critical skills are not necessarily referring to important skills or prestigious skills like some people believe.

“A critical skill is that which is critical for the functioning of the economy but there are few South Africans who can do that work, and so we are forced to go beyond the borders of this country to look for those people with such skills.

“Once the profession we have got appears on that critical skills list, which would have been gazetted by the Minister of Home Affairs, you get a letter of employment, then Home Affairs is forced to give you a Critical Skills Work Visa,” Motsoaledi explained, adding that the visa is one of the easiest to give, as it only requires a profession.

General Work Visa approval system

On the General Work Visa amendment, Motsoaledi said employers are no longer required to go to the Department of Employment and Labour, but the visa would be approved through a point-based system.

“We are going to give you points, and on the basis of that point you have to reach a particular mark, then you get your visa,” the Minister said.

The Minister said the point-based system will consider at least six criteria, including age; qualifications; language skills, work experience; offer of employment; and the ability to adapt within the Republic.



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However, Motsoaledi said the department is considering replacing the ability to adapt within the Republic with income or salary being offered to an individual.

New work visa regulations withdrawn

Meanwhile, Motsoaledi announced the withdrawal of the new work visa regulations, which were gazetted on 28 March 2024 for public comments, a day before the closing date for public comments on the draft policy.

This follows the National Economic Development and Labour Council (NEDLAC) meeting held last week, where the process was questioned and Nedlac demanded the withdrawal of the regulations.

"These regulations are being withdrawn in the government gazette, simply to rectify this small error, not that we are going to change them. In the process we will change other smaller issues which we have picked up which may not [have] been understood," he said.

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