

Werthschröder changes SA immigration policy

Crucial policy change benefits foreign professionals wishing to extend their work permit status while still in SA.



Angelika Yakovchuk.

On 21 January 2013, senior partner at the highly reputable law firm, Werthschröder Inc, Angelika Yakovchuk was instrumental in changing a South African Immigration Policy which now allows foreign professionals to apply for an extension of their work permit status in South Africa while in the country.

Yakovchuk says: "With a new management approach to the Immigration Department brought by the Minister of Home Affairs, Naledi Pandor, the attitude of the government to accommodate rather than to hinder the international business community in SA is a long-awaited timeous change, particularly in light of other African locations being identified as potential hubs for international business headquarters." This positive move and the new aspects of the policy change allows the entire international business community currently present in South Africa to enjoy the vast benefits such as the continuity of projects, major cost savings and non-intrusion on families' lives. This also undoubtedly supports foreign investment in South Africa, creation of employment and valuable skill transfer.

Previously an inefficient, expensive exercise

Until then, South African Immigration Act No 13 of 2002* dictated that a foreigner working in South Africa on a work permit, more specifically on Intra-Company transfer or under a Corporate Permit, had to leave the country upon expiry of the permit, and if there is a need to reapply for another permit, the same had to be done in the country of origin. Foreigners more often than not, sign a contract with a South African employee for a two-year period and then relocate with their families and in most cases, they are required to prolong their work activities in the country.

Examining the practical applications of this policy, it was quickly noted that not only is such a process highly inefficient for the families - their entire family is required to relocate at the time. It is an enormously expensive exercise for the company who is responsible for the employment of the foreigner, as they also have to bear all of the associated costs. At the same time, it disrupts continuity of projects that the company is involved in which necessitated the foreigner to be seconded to SA in the first place.

Plenty of negatives

In January 2013, Yakovchuk's services were retained by a large multinational organisation. Had it been subjected to this policy, it would have had to uproot close to 500 families, dispatch them to their country of origin and shut down the project for at least two months, whilst awaiting the professionals to return with a new work permit. This project also employs over 1,000 South Africans and would translate into millions of rands of lost revenue and loss of jobs for both foreigners and locals. The company would have had to relocate its African headquarters to another, more accommodating jurisdiction on the continent. This would, in a long run, impact negatively on national priority considerations such as the country's economy, local employment and skills transfer, amongst others.

Yakovchuk approached Minister Pandor to discuss reviewing this policy. By amending a policy that served no purpose other than to negatively impact on all concerned, foreign professionals are now allowed to apply in South Africa for extension of their work permit status. This enables projects to continue, avoids unnecessary high financial expenditure, allows affected children to continue with their schooling, and makes the process of reapplying for an extended work permit status non-invasive. Almost immediately, the Minister reacted positively to the proposal and within a week the policy was changed.

In Minister Pandor's budget vote speech in May 2013, she said: "If we manage immigration competently, we can attract critical skills to expand the economy and promote trade and investment for job creation and development. We have to compete globally to attract the best and the brightest to work with us in building a better South Africa in a better Africa."

* *Section 16 (9) (c) (deals with Intra-Company Transfer Work Permits) and Section 18 (3) (c) (deals with Corporate Permits) of the Immigration Regulations of the Immigration Act No. 13 of 2002.*



Minister of Home Affairs,
Naledi Pandor: Providing a
sensible and rapid response.
(Image: GCIS)

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