



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

**PRESS STATEMENT ON THE GRANTING OF EXEMPTIONS TO THE
LESOTHO AND ZIMBABWEAN NATIONALS IN TERMS OF SECTION 31 (2)
(b) OF THE IMMIGRATION ACT 13 OF 2002**

Background

0. Exactly eight years ago, the erstwhile Minister of Home Affairs decided to grant exemptions to the Lesotho nationals in terms of section 31 (2) (b) of the Immigration Act 13 of 2002 under certain terms and conditions. The decision was taken due to prevailing circumstances at the time, including easing the burden on the asylum system and the fact that most of the affected Lesotho nationals were in reality economic migrants.

1. The current exemption permits were granted in 2019. The permits issued to Lesotho nationals pursuant to the said exemption regime are approximately 54 653 and will expire on 31 December 2023.
2. The same process was followed in respect of approximately 178 000 Zimbabwean nationals starting from 2009.

Provisions of section 31 (2) (b) of the Immigration Act 13 of 2002

3. Section 31 (2) (b) of the Immigration Act 13 of 2002 bestows upon the Minister of Home Affairs wide powers to grant a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision.
4. I have considered carefully the following special circumstances:
 - 4.1 The exemptions issued to the Lesotho nationals will expire on 31 December 2023 and the validity of the exemption permits issued to the Zimbabwean nationals was extended by Minister's directive no:2 of 2023 to 31 December 2023 and by the Court to 28 June 2024;
 - 4.2 The decision not to extend the exemptions granted to the Zimbabwean nationals is a subject of litigation brought by Helen Suzman Foundation and others. The

application for leave to appeal to the Supreme Court of Appeal (“SCA”) has already been launched, following dismissal of the application for leave to appeal the negative judgment. The parties are still in the process of exchanging the necessary court papers;

- 4.3 The outcome of the said application for leave to appeal to the SCA or any other appeal process is unknown at this stage;
- 4.4 The Department of Home Affairs (“DHA”) budgetary constraints;
- 4.5 The affected Lesotho and Zimbabwean nationals continue to be employed or study or conduct business in the Republic of South Africa;
- 4.6 The need to avoid unfair and differential treatment of the same category of foreigners in similar circumstances; and
- 4.7 All other relevant factors.

Lesotho nationals

5. I have decided to grant exemptions to approximately 54 653 Lesotho nationals for a period of two years. The affected Lesotho nationals will be entitled to apply for new exemption permits under the following terms and conditions:

- 5.1 A holder of the exemption permit will be entitled to work, seek employment and conduct business in the Republic of South Africa;
- 5.2 A holder of the exemption permit due to expire on 31 December 2023 or such extended period of validity will be entitled to apply for a new exemption permit;
- 5.3 A holder of the exemption permit will be entitled to sojourn in the Republic of South Africa during the validity of the exemption permit;
- 5.4 New exemption permits to be issued will expire on 29 November 2025;
- 5.5 A holder of the exemption permit will not be entitled to apply for permanent residence in terms of sections 25,26 and 27 of the Immigration Act 13 of 2002 or any other provisions in any other law, irrespective of the period of stay in the Republic of South Africa;
- 5.6 New Exemption permits will not be renewable;
- 5.7 A holder of the exemption permit will be allowed freedom of movement between Lesotho and South Africa or any other country;

5.8 A holder of the exemption permit cannot change his or her status in the Republic of South Africa as contemplated in section 10 (6) of the Immigration Act 13 of 2002 during the validity of the permit issued;

5.9 When a holder of the exemption due to expire on 31 December 2023 or such extended period apply for a new exemption permit, he or she must disclose and/or register all the minor children born and staying in the Republic of South Africa.

Zimbabwean nationals

6. I have decided to grant exemptions to approximately 178 000 Zimbabwean nationals for a period of two years in terms of section 31 (2) (b) of the Immigration Act 13 of 2002. The affected Zimbabwean nationals will be entitled to apply for new exemption permits under the following terms and conditions:

6.1 A holder of the exemption permit will be entitled to work, seek employment and conduct business in the Republic of South Africa;

6.2 A holder of the exemption permit due to expire on 31 December 2023 or June 2024 and such extended period of validity will be entitled to apply for a new exemption permit;

- 6.3 A holder of the exemption permit will be entitled to sojourn in the Republic of South Africa during the validity of the exemption permit;
- 6.4 Exemption permits to be issued will expire on 29 November 2025;
- 6.5 A holder of the exemption permit will not be entitled to apply for permanent residence in terms of sections 25,26 and 27 of the Immigration Act 13 of 2002 or any other provisions in any other law, irrespective of the period of stay in the Republic of South Africa;
- 6.6 Exemption permits will not be renewable;
- 6.7 A holder of the exemption permit will be allowed freedom of movement between Zimbabwe and South Africa or any other country;
- 6.8 A holder of the exemption permit cannot change his or her status in the Republic of South Africa as contemplated in section 10 (6) of the Immigration Act 13 of 2002 during the validity of the permit issued;
- 6.9 When a holder of the exemption due to expire on 31 December 2023 or 28 June 2024 or such extended period apply for a new exemption permit, he or she must disclose and/or register all the minor children born and staying in the Republic of South Africa.

7. I have issued directives extending the validity of the exemption permits in respect of the Lesotho nationals to 31 December 2024 and in respect of the Zimbabwean nationals to 31 December 2024. The directives are annexed hereto marked “**A**” and “**B**”. The directives will be published in the *Government Gazette* on Monday, 4 December 2023. It will be seen from the directives in respect of the Zimbabwean nationals that approximately 78 126 of those who applied for waivers and 10 427 of those who applied for other visas are afforded certain protections while they await the outcome of their waiver and visa applications. In other words, there is no need for them to apply for new exemption permits as the validity of their expired exemption permits has been duly extended.
8. I call upon all the affected Lesotho and Zimbabwean nationals to make use of the window of opportunity to apply for new exemption permits through VFS Global.
9. VFS Global has been instructed to distribute this press statement and directives directly to all affected Lesotho and Zimbabwean nationals without any further delay. VFS Global has also been instructed to fast-track the application process for new exemption permits.
10. A dedicated team will be set up to deal with the applications for new exemption permits.

ISSUED BY THE MINISTER OF HOME AFFAIRS

DR AARON MOTSOLEDI, MP

DATE: 1 DECEMBER 2023

All media enquiries must be directed to:

Thabo Mokgola, 060 962 4982 (Spokesperson for the Minister of Home Affairs)



**MINISTER OF
HOME AFFAIRS
REPUBLIC OF SOUTH AFRICA**

Private Bag X741, Pretoria, 0001, Tel: (012) 432 6635 Fax: (012) 432 6675
Private Bag X9102, Cape Town, 8000, Tel: (021) 469 6507, Fax: (021) 461 4191

DEPARTMENT OF HOME AFFAIRS: HEAD OFFICE

**BORDER MANAGEMENT AUTHORITY
PROVINCIAL OFFICES
REGIONAL AND DISTRICT OFFICES
IMMIGRATION OFFICERS: PORT CONTROL
IMMIGRATION OFFICERS: INSPECTORATE
PERMITTING SECTIONS
CIVIC SERVICES**

MINISTER'S IMMIGRATION DIRECTIVE NO 3 OF 2023

**IMPLEMENTATION OF THE DECISION IN RESPECT OF GRANTING EXEMPTIONS
TO LESOTHO NATIONALS IN TERMS OF SECTION 31(2)(b) OF THE IMMIGRATION
ACT 13 OF 2002**

I, Dr PA Motsoaledi, MP, Minister of Home Affairs having, with the powers bestowed upon me in terms of section 31(2)(b) of the Immigration Act, decided to extend the validity of exemption permits issued to Lesotho nationals for a period of 12 months in order to allow the holders thereof to apply for exemption permits provided for in the Immigration Act and to give effect to my decision granting exemptions, hereby direct that this decision should be implemented as follows, during the 12 months' period, starting from 29 November 2023 and ending 29 November 2024:

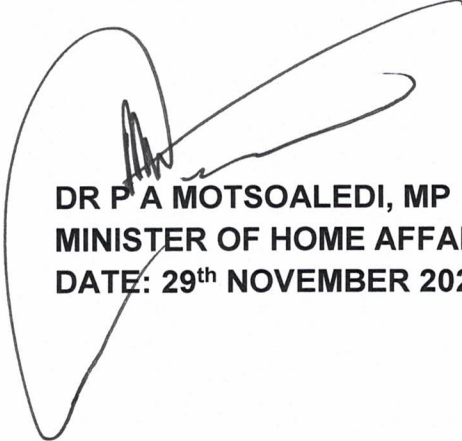
1. No holder of a valid exemption permit may be arrested, ordered to depart or be detained for purposes of deportation or deported in terms of the section 34 of the Immigration Act for any reason related to him or her not having any valid exemption certificate (i.e permit label / sticker) in his or her passport. The holder of a valid exemption permit may not be dealt with in terms of sections 29, 30 and 32 of the Immigration Act.

2. The holder of a valid exemption permit 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 having an expired exemption permit indicated in his or her passport; and

3. No holder of exemption should be required to produce—
 - (a) a valid exemption certificate/permit;
 - (b) an authorisation letter to remain in the Republic contemplated in section 32(2) of the Immigration Act 13 of 2002 when making an application for exemption permit.

Any enquiry related to the contents of this Directive, should be directed to the Acting Deputy Director- General: Immigration Services, Mr Modiri Matthews at Modiri. Matthews@dha.gov.za or at **082 881 5308**

THUS DONE AND SIGNED AT PRETORIA ON THIS THE 29th DAY NOVEMBER 2023.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

**DR P A MOTSOLEDI, MP
MINISTER OF HOME AFFAIRS
DATE: 29th NOVEMBER 2023**