

(5) An immigration officer may at any time during a crossing require the holder of a cross-border permit to produce that permit.

(6) An immigration officer may, for good cause, withdraw a cross-border permit.

### **Permanent residence**

**22.** (1) An application for a permanent residence permit contemplated in section 25(2) of the Act shall substantially correspond to Form 18 contained in Annexure A and shall be submitted by—

(a) the applicant; or

(b) an attorney, advocate or immigration practitioner holding a power of attorney,

which form shall be signed by the relevant applicant who shall, where necessary, be assisted by a legal guardian or curator.

(2) Where an applicant is represented as contemplated in subregulation (1)(b), that applicant shall avail himself or herself to be interviewed upon application.

(3) The application contemplated in subregulation (1) shall be accompanied by—

(a) the application fee as determined in the regulations made under section 7(1)(i) of the Act;

(b) a full set of fingerprints in respect of each applicant over the age of 18 years;

- (c) a yellow fever vaccination certificate if that person travelled or intends travelling from or through a yellow fever endemic area: Provided that the certificate shall not be required where that person travelled or intends travelling in direct transit through such area or where an application is made in the Republic;
  - (d) a police clearance certificate;
  - (e) medical and radiological reports in respect of each applicant: Provided that a radiological report shall not be required in respect of children under the age of 12 years or pregnant women;
  - (f) the documentation contemplated in regulation 9(3)(c) relating to minor dependent children accompanying the applicant or joining the applicant in the Republic;
  - (g) the documents relating to his or her marital status or spousal relationship contemplated in regulation 9(3)(a) and (b) respectively;
  - (h) an unabridged birth certificate in respect of each applicant;
  - (i) a deed poll in the case of an applicant who has changed his or her name, surname or gender; and
  - (j) where the application is made in the Republic, a valid temporary residence permit in respect of each applicant.
- (4) The documents contemplated in subregulation (3)(b), (c), (d), (e), (f), (g), (h), (i) and (j) shall be original or copies authenticated by the issuing authority of the country of origin and, if applicable, translated into one of the official languages of the Republic, which translation shall be certified as a correct translation by a sworn translator.

- (5) An application made in a foreign country shall be submitted or mailed to—
- (a) the mission of the Republic in the foreign country of the applicant's normal residence, which includes permanent residence and long-term temporary residence;
  - (b) the mission of the Republic in a foreign country of which the applicant holds a valid passport; or
  - (c) any mission of the Republic that may from time to time be designated by the Director-General to receive applications in respect of an adjoining or nearby foreign country in which a mission of the Republic is not present.
- (6) An application made within the Republic shall be submitted or mailed to the designated office of the Department in the area in which the applicant intends to work or, in respect of any permit for purposes other than work, where he or she intends to reside.
- (7) An applicant is not required to submit documentation that is already in the possession of the Department and which can be retrieved or copied from the records of the Department.
- (8) A foreigner contemplated in section 26(b) of the Act who has been issued with a permanent residence permit shall, after a period of two years since the issuing of that permit, inform the Director-General whether or not the good faith spousal relationship still exists by submitting to the Director-General an affidavit on a form substantially corresponding to Form 12 contained in Annexure A.
- (9) In the case of an application contemplated in section 25(2) of the Act in respect of a permit contemplated in sections 26(c) and (d) and 27(g) of the Act,

the citizen or permanent resident shall satisfy the Director-General that he or she is able and willing to support and maintain the foreign relative making the application.

### **Residence on other grounds**

**23.** (1) The advertisement contemplated in section 27(a)(i) of the Act shall be an original clipping from the national printed media and shall—

- (a) reflect the full particulars of the relevant newspaper or magazine, as well as the dates on which the advertisement was published;
- (b) stipulate the minimum qualifications and experience required to fill the position;
- (c) clearly define the position offered and the responsibilities to be performed;
- (d) measure at least 60 millimetres by 60 millimetres;
- (e) state the closing date for the application in the advertisement; and
- (f) not be older than three months at the time of application, which period shall be calculated from the closing date for applications.

(2) The permanent residence permit contemplated in section 27(a) of the Act shall be issued on condition that the holder of that permit shall remain employed for a period of five years in the field in respect of which the offer of employment was made.

(3) The requirement contemplated in section 27(b) of the Act shall be the submission of—

- (a) a letter from a foreign or South African organ of state or from an established South African academic, cultural or business body, confirming the extraordinary skills or qualifications of the applicant;
- (b) testimonials from previous employers and a comprehensive *curriculum vitae*;
- (c) other proof to substantiate exceptional skills or qualifications, such as publications and testimonials; and
- (d) a letter of motivation indicating that the exceptional skill possessed by the applicant will be to the benefit of the South African environment in which the person intends to operate.

(4) An application for a permit contemplated in section 27(c) of the Act shall be accompanied by a certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants to the effect that—

- (a) at least R2,5 million in cash;
- (b) a capital contribution of at least R2,5 million; or
- (c) at least R2 million in cash and a capital contribution of at least R500 000,

originating from abroad, is available to be invested as part of the book value of the business.

(5) In addition to subregulation (4), an application for a permit contemplated in section 27(c) of the Act shall be accompanied by—

- (a) a business plan outlining the feasibility of the business, both in the short and long term;

- (b) proof or an undertaking that at least five citizens or permanent residents shall be permanently employed;
  - (c) an undertaking to register with the South African Revenue Service;
  - (d) proof of registration with the relevant body, board or council, if applicable;
  - (e) in the case of a spouse accompanying him or her to or joining him or her in the Republic, the documentation contemplated in regulation 9(3)(a) and (b); and
  - (f) in the case of a minor child accompanying him or her or joining him or her in the Republic, the documentation contemplated in regulation 9(3)(c).
- (6) For the purposes of section 27(c)(i) of the Act, a business in one of the following sectors is a business in the national interest:
- (a) Information and Communication Technology;
  - (b) clothing and textile manufacturing;
  - (c) chemicals and bio-technology industry;
  - (d) agro-processing industry;
  - (e) metals and minerals refinement industry;
  - (f) automotive manufacturing industry;
  - (g) tourism industry; and
  - (h) crafts.
- (7) A foreigner who invests or has invested in an existing business shall, subject to this regulation, submit financial statements of the business in respect of the preceding financial year.

(8) A foreigner who invests or has invested in an existing business as a partner shall, subject to this regulation, submit—

- (a) financial statements in respect of the preceding financial year; and
- (b) a partnership agreement.

(9) The requirements contemplated in section 27(d) of the Act shall be—

- (a) the submission of the certification contemplated in section 27(c) of the Refugees Act, 1998 (Act No. 130 of 1998);
- (b) where applicable, the submission of affidavits with regard to aliases used by the applicant and family members; and
- (c) the submission of the documentation contemplated in regulation 22(3)(b), (f), (g), (h) and (i): Provided that in the case of documents issued by the country from which he or she fled not being available, a sworn affidavit shall be submitted.

(10) The payment contemplated in section 27(e)(i) of the Act shall be R20 000 per month and the net worth contemplated in section 27(e)(ii) of the Act shall be a combination of assets realising R20 000 per month.

(11) The net worth contemplated in section 27(f) of the Act shall be R7,5 million, and the amount to be paid to the Director-General shall be R75 000, which amount has to be paid upon approval of the application.

(12) For the purposes of this regulation, “relative” means biological or judicially adopted children or adoptive parents and step parents.