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**BRIEFING DOCUMENT**

**NEW WHITE PAPER ON INTERNATIONAL MIGRATION**

**DEPARTMENT OF HOME AFFAIRS**

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# INTRODUCTION

South Africa (SA) as a sovereign state has defined borders that are recognised by approximately two hundred other states into which the political and legal world is divided. As a sovereign state, SA reserves the right to determine who is allowed entry into the country, and under what conditions. Therefore, the new White Paper on International Migration affirms SA’s sovereign right to determine the admission and residence conditions for foreign nationals in line with its national interest. The policy on international migration will reflect how our nation of 55 million people will relate to the rest of the 7 billion humans who share planet Earth.

In recent past, the Department of Home Affairs (DHA) amended the Immigration and Refugees Acts and implemented regulations and strategies to address glaring gaps in legislation. However, what is required is a comprehensive review of the policy framework that can inform systematic reform of the legislation. Essentially, the country’s formal international migration policy has remained in place since 1999 despite significant changes in the country, region and world.

# PROBLEM ANALYSIS

The current policy on international migration is set out in the 1999 White Paper on International Migration. It is implemented through the Immigration Act, 2002 (Act No. 13 of 2002) and partly through the Refugees Act, 1998 (Act No. 130 of 1998). The new White Paper argues that the current policy does not enable SA to adequately embrace global opportunities while safeguarding our sovereignty and ensuring public safety and national security.

# VISION 2030

This new White Paper on International Migration takes its cue from the NDP which has been adopted by the government as a macro policy that should guide the development of new public policies, legislation and strategies. The vision **(Vision 2030)** of the new international migration policy is that South Africans must embrace international migration for development while guarding sovereignty, peace and security.

The new vision will be underpinned by sound principles that have been formulated to focus the policy and to ensure that it is in line with other government policies. The principles include the following:

* SA has a sovereign right to manage international migration in its national interest;
* SA’s international migration policy must be responsive to the African development agenda;
* SA’s international migration policy must contribute to nation-building and social cohesion;
* SA’s international migration policy must support emigration for development purposes; and
* A whole of government and society management approach is the bedrock for the new international migration policy.

# OVERVIEW OF THE POLICY INTERVENTIONS

The White Paper recommends policy and strategic interventions in eight (8) policy areas:

**Management of admissions and departures:** The purpose of policy interventions introduced in this area is to strengthen a strategic, modern, integrated and risk-based approach in managing a secure and efficient cross-border movement of people, goods and conveyances. Key interventions include, amongst others:

* Relaxation of visa requirements for certain nationals and categories of international migrants, including frequent travellers, academics and business persons;
* Externalisation of borders through the Advance Passenger Processing (APP) and Airline Liaison Officers (ALO); and
* The establishment of the BMA, OSBP and community border crossings.

**Management of residency and naturalisation:** The purpose of policy interventions introduced in this area is to enable SA to grant residence and citizenship status to foreign nationals based on strategic, security considerations and the national priorities of SA. Key interventions include, amongst others:

* The granting of residency and citizenship should be delinked. That is, there should be no automatic progression from residency to citizenship in law or in practice on the basis of a number of years spent in the country;
* The permanent residence permit will be replaced by a long-term residence visa in order to dispel a misconception that immigrants have a constitutional right to progress towards citizenship status on the basis of a number of years spent in the country; and
* The granting of citizenship to foreign nationals should be considered as being exceptional and requiring an executive decision of the Minister; this is contrary to the current administrative decision making process.

**Management of international migrants with skills and capital:** The purpose of policy interventions introduced in this area is to increase SA’s international competitiveness for critical skills and investment (attraction and retention of high-valued migrants). Key interventions include, amongst others:

* Utilisation of a long-term residence visa to attract foreign investors and skilled international migrants;
* Granting of critical skills and business visas that will cater for family members; and
* International students who graduate within the critical skills occupations will qualify to apply for a long-term residence visa.

**Management of ties with SA expatriates:** The purpose of policy interventions introduced in this area is to enable SA to manage emigration such that it contributes to the achievement of national development goals. Key interventions include, amongst others:

* The establishment of an institutional capacity within the state to proactively manage and harness emigration for development.
* The policy will support citizens who intend to emigrate for study, work and investment purposes and expatriates who intend to invest back in the country.

**Management of international migration within the African context:** The purpose of policy interventions introduced in this area is to facilitate cross-border movement for African citizens and provide a legal route for SADC economic migrants. Key interventions include, amongst others:

* Elimination of visa requirements for African citizens in a secure manner; granting of a long-term multiple-entry visa for frequent travellers, business people, and academics; and
* Management of SADC economic migration (SADC special work quota, cross-border traders and SMME visas).

**Management of asylum seekers and refugees:** The purpose of policy interventions introduced in this area is to enable SA to provide refugee protection and basic services to asylum seekers and refugees in a humane and secure manner. Key interventions include, amongst others:

* The establishment of humane and secure Asylum Seeker Processing Centres closer to the borderline. The centres will provide shelter and basic needs of asylum seekers during their status determination process;
* Asylum seekers would not have the automatic right to work or study since their basic needs will be catered for in the processing centres; and
* Refugees may only apply for a long-term residence visa after ten (10) continuous years of living in RSA as a refugee.

**Management of the integration process for international migrants:** The purpose of policy interventions introduced in this area is to establish a secure, strategic and integrated approach for the integration of bona fide migrants into communities. Key interventions include, amongst others:

* The integration policy will apply to international migrants who are in the country legally and are holders of residence visas and permits; and
* Inter-sectoral and intergovernmental institutional machinery with strong coordination and accountability mechanisms will be established at national, provincial and local government levels.

**Management of enforcement:** The purpose of policy interventions introduced in this area is to reduce irregular migration and increase compliance with immigration and related legislation and by-laws. Key interventions include, amongst others:

* A risk-based deportation strategy which will prioritise deportation of high risk over low risk migrants; and
* Prioritisation of investigation and case flow management for immigration related cases.

# IMPLEMENTATION PLAN

The new White Paper will provide a policy framework that will guide the comprehensive review of the immigration and related legislation. Those elements of the new policy, which require only administrative action, will be implemented immediately. However, those elements of the new policy, which require major changes, will not be implementable immediately as the amendment of legislation will be required. At least the following DHA legislation will require amendment before the full implementation of the new policy:

* Immigration Act, 2002 (Act No. 13 of 2002);
* Refugees Act, 1998 (Act No. 130 of 1998);
* SA Citizenship Act, 1995 (Act No. 88 of 1995);
* Passports and Travel Documents Act, 1994 (Act No. 4 of 1994), and
* Marriage Act, 1961 (Act No. 25 of 1961).

The capacity of the RSA to implement the new policy on international migration depends, to a large degree, on the capacity of the state to lead and to coordinate across the three spheres of government: local, provincial and national. Thus, the need for a whole of government and society approach for the management of international migration is one of the main themes of the new White Paper.