

**TERMS OF REFERENCE FOR A MINISTERIAL COMMITTEE TO REVIEW THE ISSUANCE OF PERMANENT RESIDENCE PERMITS, CORPORATE PERMITS, PROFESSIONAL (SCARCE SKILLS) PERMITS AND RETIRED PERSONS VISA AND THE DEVELOPMENT OF GUIDELINES ON THE IMPLEMENTATION OF THE IMMIGRATION ACT**

1. **INTRODUCTION**
   1. The Minister of Home Affairs seeks to establish a Ministerial Committee to review the issuance of permanent residence permits, corporate permits, professional (scarce skills) permits and retired person’s visa between 12 October 2004 and 31 December 2020. The Committee will further develop guidelines on the implementation of the Immigration Act.
2. **BACKGROUND**

2.1 South Africa’s Immigration Act No.13 of 2002 came into effect on 31 May 2002. In 2004, there was an Amendment of the Immigration Act. The Act “provides for the regulation of admission of foreigners to, their residence in, and their departure from the Republic; and for matters connected therewith”.

* 1. The Act aims and objectives are amongst others are to:
* Ensure that visas and permanent residence are issued as expeditiously as possible and on the basis of simplified procedures and objective, predictable and reasonable requirements and criteria, without consuming excessive administrative capacity;
* Facilitating and simplifying the issuance of permanent and temporary residence to those who are entitled to them, and concentrating resources and efforts in enforcing the Act at community level and discouraging illegal migration;
* Detecting and deporting illegal foreigners;
* The South African economy may have access at all times to the full measure of needed contributions by foreigners;
* Further, the Act enables the promotion of needed foreign labour, foreign investment is facilitated, the entry of exceptional skilled or qualified people is enabled, skilled human resources are increased, academic exchanges within the Southern African Development Community is facilitated and tourism promoted;
* Security considerations are fully satisfied and the State retains control on the immigration of foreigners to the Republic;
* Interdepartmental coordination constantly enriches the functions of immigration control;
* Immigration laws are efficiently and effectively enforced, deploying to this end significant administrative capacity of the Department of Home Affairs, thereby reducing the pull factors of illegal immigration.

1. **PURPOSE OF THE REVIEW**

3.1 The purpose of the review is to establish whether the issuance of permanent residence permits, corporate permits and professional (scarce skills) visa’s was done according to legislative prescripts in particular, the Immigration Act and related legislation. Further, the Ministerial Committee will be required to develop guidelines on the implementation of the Immigration Act.

1. **SCOPE OF THE REVIEW**

4.1 To establish whether in pursuance of the objectives of the Immigration Act, the Department of Home Affairs corporate permits issued between 12 October 2004 and 31 December 2020 were in accordance to the Immigration Act and other relevant legislative prescripts.

4.2 Review business and corporate permits issued between 12 October and 31 December 2020 in terms of the Immigration Act and applicable legislation.

4.3 Review permanent residence permits issued between 12 October 2004 and 31 December 2020 in terms of the Immigration Act and applicable legislation.

4.4 Review the citizenship by naturalisation of some foreign nationals in terms of the Citizenship Act, No.88 of 1995 for the period 12 October 2004 to 31 December 2020 including those done through Ministerial discretion.

4.5 Review the issuance of exceptional skills permits issued to individuals of exceptional skills or qualifications in terms of the Immigration Act, between 12 October 2004 and 31 December 2020.

4.6 Review the issuance of retired persons issued to individuals between 12 October 2004 and 31 December 2020.

1. **METHODOLOGY**

5.1 The Ministerial Committee will review all applications pertaining to the issuance of business and corporate permits in terms of Immigration Act for the period 12 October 2004 and 31 December 2020.

5.2 Review exceptional skills permits, citizenship through naturalisation, corporate and business visas issued for the period 12 October 2004 and 31 December 2020.

5.3 Conduct a comparative analysis of Immigration policies of other countries both on the continent and elsewhere in the world and how these are implemented.

5.4 Interviews with key stakeholders including Department of Home Affairs’ officials, Department of Employment and Labour, Department of Trade, Industry and Competition, Department of International Relations and Cooperation, Department of Mineral Resources and Energy and other identified role-players.

6. **DELIVERABLES**

6.1 Table a report to the Minister of Home Affairs on key findings and recommendations.

6.2 Develop guidelines on the implementation of the Immigration Act.

6.3 The Ministerial Committee is expected to brief and advise the Minister as and when required on the Immigration Act.

1. **ADMINISTRATION**

7.1 The Ministerial Committee must establish its administrative needs as well as operational and meeting procedures, including the engagements it will require with its key stakeholders. The Department of Home Affairs will provide a secretariat for the Committee.