

31 March 2021

Attention: Mr Phindiwe Mbhele
Department of Home Affairs
(Hallmark Building) 17th Floor
236 Johannes Ramokhoase Street
Pretoria 0001

Dear Mr Mbhele,

Permits Foundation: Response to draft critical skills list and invitation to comment

Permits Foundation would like to thank the Department of Home Affairs for the opportunity to provide comment on the draft Critical Skills List 2021. In doing so, we appreciate the emphasis placed by the Department on ensuring that the economy can access the required skills and contribution of mobile employees where needed, while at the same time protecting the South African labour market, existing labour standards and the rights and expectations of South African workers.

[Permits Foundation](#) is an independent, not for profit initiative [supported](#) by over 40 major international companies and other organisations. The Foundation engages with governments worldwide to help enable employment access for dependants of highly-skilled mobile employees. South Africa is viewed by the Foundation as a priority country. One third of our sponsors operate here and are supportive of policy that would facilitate dual-careers in the global workplace, particularly in relation to dependants of critical skills work visa holders and intra-corporate transferees (ICTs).ⁱ

In addressing the parameters applicable to the critical skills visa, we therefore suggest that consideration also be given at this point to the dependants of critical skills (and ICT) work visa holders and the conditions around their access to employment. The Immigration Act and related regulations currently allow for family members of critical skills visa holders to be issued with an “appropriate” visa to reside in South Africa. We recommend that access to employment be officially recognised as a feature of such an appropriate visa. This would help to meet the goals set out in the consultation – boosting agility, innovation and skills in country and without adversely impacting the local labour market.

Supporting information

[Over thirty countries](#) worldwide have adopted policy allowing direct work access for spouses or partners of highly-skilled mobile employees. As a result, South African families living and working abroad currently benefit from regulations enabling dual-careers in these countries. Because of the small numbers of dependants involved, this has been cited as a policy that can boost talent and investment without adversely impacting the local labour market.ⁱⁱ The numbers of dependants of critical skills and intra corporate transferee visa holders are extremely small in South Africaⁱⁱⁱ and are likely to be much lower for the coming period in light of COVID-19.

The [Technical Report](#) for the 2020 Critical Skills List highlighted that an agile response to rapid economic shifts within labour markets could help to fill skills gaps where needed. [Research](#) findings from Permits Foundation's surveys and those of our network show the clear link between partner employment access and talent acquisition, growth and investment. Concern about a partner's career is the number one factor affecting the success of an assignment and the decision to relocate.

In recent discussions with our sponsors, we have noted that as countries are beginning to come out of lockdown and travel restrictions are lifted, there is increased reluctance from mobile families to take up assignment where there is a perceived risk of family separation in the future or added uncertainty. As a result of lockdown, some families have been split, including where the principal employee has been on assignment in a country where their dependant could not work.

Conclusion

Recognising the government objective to address potential skills gaps in a timely manner and to attract investment in certain sectors where needed, we recommend that consideration be given to the issue of access to employment for legally recognised family members of critical skills visa holders and ICTs. Particularly in light of COVID -19, the added assurance before the decision to move, that both members of a dual careers couple can work, would help to make South Africa a preferred destination in the sectors associated with the critical skills list. Moreover, the experience from other countries shows that there would be no adverse impact on the local labour market.

Permits Foundation thanks you for the opportunity to respond via this consultation. We would be happy to provide further information at your request.

Your Sincerely,



Helen Frew
Director, Permits Foundation

ⁱ Further information on Permits Foundation's engagement in South Africa can be found in our [response](#) to the Draft White Paper on International Migration.

ⁱⁱ For example, in 2015, the UK Migration Advisory Committee review of measures to help bring down immigration levels while still attracting the brightest and best foreign talent to the UK resulted in the recommendation to retain automatic work rights for dependants of skilled workers concluding that "the total number of dependant workers is too small to significantly impact the UK labour market".

ⁱⁱⁱ In 2014-16, only 2% of temporary residence visas were issued as ICTs and 6% as critical skills visas. Draft White Paper on International Migration in South Africa, Chapter 5, Table 4, Critical Skills Visa Section 19(1) and Work Visa Section 19(5). Permits Foundation experience is that approximately 65% of such assignees are accompanied by family members.