

31 January 2024

FAO the Chief Director: Strategy and Institutional Performance

Written Comment on the White Paper on Citizenship, Immigration and Refugee Protection

Dear Minister of Home Affairs, Dr Motsoaledi,

Thank you for this opportunity to comment on the White Paper on Citizenship, Immigration and Refugee Protection.¹

Permits Foundation is an independent, not-for-profit initiative supported by over 40 major global companies and other organisations ([listed here](#)). The Foundation engages with governments worldwide to recommend direct and open employment access for spouses/partners and where possible, other dependents of highly-skilled international employees. [Over 35 countries](#) have legislated in this way. Research data reveals that this policy can benefit the host country economy, assist attraction and retention of skills and talent and also aid integration.

South Africa is viewed by the Permits Foundation network as a priority country. More than one third of our sponsors operate in South Africa. They include companies that are participating in the Trusted Employer Scheme.

In responding to the White Paper, Permits Foundation would like to highlight the following:

- Our key recommendation: that government departments work together to enable direct work access, incident to dependent status, for accompanying spouses/partners of critical skills and intra-company transferee (ICT) visa holders.
- Our prior submissions responding to the [draft National Labour Migration Policy \(2022\)](#), [draft Critical Skills list \(2021\)](#) and to the [White Paper on International Migration for South Africa \(2018\)](#).
- That our recommendation aligns with the immigration policy proposals outlined in point 93.1 of the White Paper². Experience from other countries shows that such partner work authorisation:
 - simplifies the administrative process and provides added certainty for accompanying family members (93.1 (a))
 - contributes to countries being able to attract needed skills (93.1 (h))
 - does not negatively impact the local labour market (93.1 (i))
- That the countries cited in point 34.2 of the White Paper's explanatory note (Canada, the US, the UK and Switzerland) have *all* legislated to enable direct work authorisation for partners and/or spouses of highly-skilled international employees.
- The clear distinction between accompanying spouses/partners of highly-skilled international employees i.e. on a temporary ICT or critical skills visa, and the category of spouses cited in footnote 56 of the White Paper.

Please find below further evidence in support of our recommendation.

Yours sincerely,



Helen Frew, Executive Director, Permits Foundation

¹ Referred to hereafter as "the White Paper"

² And with the aims set out in the Preamble of the [Immigration Act](#), in particular a), d), f), h) and i).

Supporting Evidence

Why we are recommending direct and open employment access for accompanying dependents of highly-skilled international employees in South Africa.

South Africa in the global context

Over [thirty-five](#) globally competitive countries have implemented legislation that enables the partner or spouse of highly-skilled mobile employees to access employment. Most administer this directly, incident to dependent status, without requiring a separate application process. Eligible family members of permitted categories of skilled mobile employees can look for work for any employer as soon as they have completed their arrival or residence formalities. This can be issued with a card or passport stamp which shows e.g. their visa status, employment permission and end date.

In South Africa, accompanying dependents of a foreign national work visa holder are not at present granted this right, despite clear support for change here. In the Foundation's 2021 survey of global mobility professionals, South Africa was ranked 6th out of 62 identified countries where legislation to facilitate spouse/partner work access would be welcomed.³ More than one third of our sponsors operate in South Africa, including companies that are participating in the Trusted Employer Scheme.

In Xpatweb's most recent Critical Skills Survey of South African employers, an overwhelming 96% of respondents agreed that the spouse/partner of a critical skills visa holder should be authorised to work in the host country upon recognition of their dependent status. 60% said that dual career and partner issues were becoming more important to their organisation and 22% said they had always been of great importance.⁴

The significance of spouse and partner work access

Where the spouse or partner can be assured of direct employment authorisation, companies find it easier to move required talent to that country. Dual career couples look for assurance that both partners can work before the decision to move is made. Employers place great value on the resulting transfer of knowledge, skills and technology. This family-friendly policy can enhance the host country employment market, boost the economy and provide additional tax revenues.

Research data from Permits Foundation and others shows a clear link between partner employment access, talent acquisition, investment, inclusion and country reputation. Permits Foundation's 2021 international survey of employers found that for 91% of respondents, where a host country allows partners to work, their organisation's ability to attract people with desired qualifications and skills increases.⁵ 80% said that the reputation of the host country as being open for business improves. Respondents highlighted a negative impact where a country does not authorise spouse/partner direct work access. More than half of respondents reported that employees in their organisation had turned down international assignments in the past three years due to partner employment concerns. Increasingly, families report that it is critical or significant for them to have two incomes in the host location.⁶

Accordingly, Permits Foundation supported section 5.3.3.11 of the draft National Labour Migration Policy regarding factors that play a decisive role in the attraction and retention of migrants with needed skills. In particular we were encouraged by reference in the text to establishing joint visa procedures and automatic issuance of work visas for spouses and dependents.⁷

³ Permits Foundation International Dual Careers Survey Report Part 1 (2022). South Africa was ranked 6th behind the US, China, India, the UK and Singapore. (available [here](#))

⁴ <https://www.xpatweb.com/participate-in-xpatwebs-2022-2023-critical-skills-survey>

⁵ Permits Foundation International Dual Careers Survey 2021 and report (2022)

⁶ The 2023 NetExpat EY Relocating Partner Survey Report found that the importance of a second income to families increased from 69% to 74% since 2018 (available [here](#))

⁷ Draft National Labour Migration Policy for South Africa (February 2022) Section 5.3.3.11, page 85.

The national impact

The new proposals within the White Paper (highlighted in point 34.2 of the explanatory note) reference current practice in Canada, the United States, Great Britain and Switzerland, stating that these countries have “*developed strict immigration, citizenship and refugee laws in order to protect the rights of their citizens*”. In all four of these countries there is also legislation in place that authorises the spouse and or partner of highly-skilled international employees to access work directly. In these countries and in over 30 others, the spouses of highly-skilled international employees – including South Africans - may access employment incident to their dependent status. References to the corresponding legislation in these countries can be freely accessed via Permits Foundation’s [world map of mobile spouse and partner work authorisation](#).

Governments worldwide are balancing policies to ensure protection of the local labour market while continuing to be seen as an attractive business destination and addressing future skills need. Policy makers often explicitly reference the link between partner work access and meeting national objectives. In the revised EU Blue Card Directive adopted by Council in 2021, recital 50 states that: *Favourable conditions for family reunification and access to work for spouses should be a fundamental element of this Directive in order to better attract highly qualified workers from third-countries.*⁸ In 2019 the Irish Minister for Business, Enterprise and Innovation, upon announcing new legislation enabling work access for spouses and partners of Critical Skills Employment Permit holders said, “*fundamentally, this is about ensuring Ireland’s continued competitiveness as a place in which to live, work and invest.*”⁹

In December 2022, the Canadian Government [cited](#) that expanding the eligibility for work permits to family members accompanying the principal applicant to Canada “*will help address labour shortages by assisting employers in finding the workers they need*” and the Canadian Minister of Immigration, Refugees and Citizenship [stated](#) that its “*going to make our immigration system more compassionate by recognizing that a person who is here, making a contribution to our economy, deserves to be with their loved ones while they make that contribution*”.

Should the government extend direct employment access to spouses of highly-skilled foreign workers, the evidence suggests that this policy would not negatively impact employment opportunities for South African citizens.

Where highly-skilled international employees move with family members, the numbers involved are typically low. This seems to be the case irrespective of whether partners are granted work access. Data in South Africa from 2014-2016 shows that 2% of temporary residence visas were issued as ICTs and 6% as critical skills visas.¹⁰ Looking at the 2022 figures from EU Member States post implementation of the Intra-corporate transferee Directive which authorised partner work access, of the 19 Member States who submitted data, the average number of ICTs issued per country was only 362.¹¹

The Foundation estimates that on average, highly-skilled international employees make up less than 2% of the total company workforce and not all international assignees are accompanied. The impact on the local workforce is therefore minimal. This was a view reflected in the 2015 UK Migration Advisory Committee [review](#) of measures to help bring down immigration levels while still attracting

⁸ Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC

⁹ Ministers Humphreys and Flanagan announce change to immigration arrangements for spouses and partners of Critical Skills Employment Permit Holders (September 2019) <https://www.gov.ie/en/press-release/290559-ministers-humphreys-and-flanagan-announce-change-to-immigration-arrs/>

¹⁰ 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).

¹¹ 2022, average of 361.47, based on 6868 intra-corporate transferee permits issued in the 19 countries submitting data (Belgium, Bulgaria, Czech Republic, Estonia, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Luxembourg, Hungary, Malta, Netherlands, Poland, Romania, Slovenia, Slovakia and Finland). See [Eurostat](#).

the brightest and best foreign talent, when it concluded that *“the total number of dependant workers is too small to significantly impact the UK labour market”*.

A more recent academic study looking at the impact of enabling H-4 spouses in the United States to access employment concluded that it had *“provided a positive and significant economic and fiscal boost to the U.S. economy”* and *“the data suggest that this cohort does little to displace domestic workers in the occupations and industries where they predominate”*.¹²

Dependents of international employees, if authorised to work, would be unlikely to exacerbate shortages of low-skilled employment. Both Permits Foundation and NetExpat/EY surveys found that over 80% of accompanying partners hold either a bachelor’s, master’s degree or PhD.¹³ Authorising direct employment access simply allows dependents to have the opportunity to look for work. There is no job guarantee. Yet if employed, they can make a fiscal and skills contribution to the economy. Our research shows that family integration and well-being is then improved.¹⁴

Overarching rights

Permits Foundation works to support aims to achieve a rights based, gender sensitive approach to labour migration policy development. We congratulate the South African government for the substantial work carried out at UN level and the progress achieved. When contributing to the Global Forum on Migration and Development, Permits Foundation promoted the inclusion of reference to facilitating work authorisation for family members as seen in 21(i) of Objective 5 in the UN’s Global Compact for Safe, Orderly and Regular Migration GCM to *“Enhance availability and flexibility of pathways for regular migration”*.¹⁵

Policies enabling partner work access also help to support [Sustainable Development Goals](#) 5 and 8.8 by improving diversity, equity and inclusion in the global workplace. Over 75% of accompanying partners are women. Current expectations around global mobility mean that enforced career breaks are less and less acceptable to dual career couples who, particularly in the wake of COVID-19, look for assurance before the move that they can stay together as a family unit and continue to work. Increasingly, relocating couples depend on the income of both partners with 77% of partners now working before assignment.¹⁶ Our research shows that families with dual career earners report more positive family relationships, well being and adjustment into the host country.

Permits Foundation would like to thank the Department of Home Affairs for this opportunity to submit feedback to the White Paper on Citizenship, Immigration and Refugee Protection. We applaud the transparent and inclusive nature of this consultation and would be happy to provide further information at the request of the Department.

¹² Repealing H-4 Visa Work Authorization: A Cost-Benefit Analysis, Jack Kemp Foundation and UW Oshkosh, (2019)

¹³ Permits Foundation International Dual Careers Survey Report Part 2 and NetExpat and EY 2018 Relocating Partner Survey Report (both available [here](#))

¹⁴ Partners of international employees who were not working were more likely to report a negative impact on their adjustment to the host country (44%), family relationships (36%), general health or well-being (47%). Permits Foundation International Dual Careers Survey Report Part 2 (2022).

¹⁵ [Global Compact for Migration 2018](#)

¹⁶ NetExpat and EY Relocating Partner Survey Report (2018) (available [here](#))