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## **Information Briefing by the Department of Home Affairs on New Measures for Zimbabwean Nationals in South Africa**

6<sup>th</sup> September 2010

The Department of Home Affairs (DHA) arranged a small briefing session on 6<sup>th</sup> September 2010 with a number of interested parties to explain the reason for the announcement made by Cabinet on 2<sup>nd</sup> September 2010 of an end to the 'Special Dispensation' for Zimbabwean nationals in South Africa. This meeting was initially scheduled for 10<sup>th</sup> September but was brought forward due to some concerns about the issues that were being raised by civil society in the media. As a result, it was decided to hold the briefing session as soon as possible. Despite the short notice for the meeting, a good number of stakeholders still attended the meeting.

### **Briefing by Home Affairs**

#### ***Context***

South Africa receives mixed migration flows of people including refugees, asylum seekers, and migrants with different ambitions. The Immigration Act at present does not cater for all as its requirements are too high for many unskilled or poor migrants who are thus unable to obtain the necessary work permit or other form of legal documentation. The Immigration Act is therefore aimed specifically at high end and highly skilled economic migrants. This poses the policy challenge of how to deal with unskilled workers and those without the necessary funds to qualify for a work permit or other form of legal documentation.

The DHA notes the abuse of the asylum process by economic migrants but recognises that there is simply no other regime for them to fit into at this stage. There is currently a low success rate for Zimbabweans who apply for refugee status. Many are indicating they are simply looking for jobs and therefore their applications are being rejected as manifestly unfounded cases.

The new Minister of Home Affairs is in the process of reviewing the whole immigration policy. Part of this involves reviewing how to accommodate economic migrants from the region. There is a possibility of developing a specific immigration regime for people from within the SADC region or from the African continent more broadly.

The previous Minister of Home Affairs had held a meeting with her Zimbabwean counterparts in 2009 and, given the context of the economic situation in Zimbabwe as well as the cholera crisis, had agreed to stop the deportation of Zimbabwean nationals, provide a free visa on arrival for Zimbabweans, and introduce a new Special Dispensation Permit for Zimbabweans (issued under Section 31(2)(b) of the

Immigration Act). This permit was never issued due to implementation challenges. Instead many Zimbabweans were instead documented under the asylum regime. These measures were to be reviewed after 12 months.

In June 2010, the new Minister of Home Affairs met with her Zimbabwean counterparts to review the measures introduced in April 2009. At this meeting there was an agreement that the measures introduced in April 2009 would come to an end and a process of trying to regularise Zimbabwean nationals in South Africa would begin.

DHA then produced a proposal on how to regularise Zimbabweans in South Africa and this proposal was sent to Cabinet. This proposal was specifically aimed at those who entered South Africa prior to 31<sup>st</sup> May 2010. This proposal was accepted and thus formed the basis for the announcement by Cabinet on 2<sup>nd</sup> September 2010.

### ***The New Measures***

The new measures specifically apply to those who have been in the country since prior to 31<sup>st</sup> May 2010. DHA considers that those Zimbabwean nationals who have been in the country since then but have not found a job are unlikely to do so now and so would not be eligible for the new measures aimed at regularising Zimbabwean nationals.

The new Zimbabwean Regularisation Project makes provision for three primary categories of Zimbabwean nationals in the country by relaxing the existing requirements for specific permits. In order to apply for one of these permits, Zimbabweans will need to obtain a passport from the Zimbabwean authorities. DHA has been assured by the Zimbabwean authorities that Zimbabwe will be able to issue passports to its nationals in South Africa through its consular offices in the country. There was no indication of the cost of obtaining passports for Zimbabweans during the meeting. DHA indicated that it believed that many Zimbabweans in South Africa do have passports but do not show them for a variety of reasons.

Each of these three permits outlined below thus requires the applicant to present a valid passport. These permits will be available from any of the regional offices of the DHA across the country. DHA hopes to make information desks available at each of these offices to assist applicants. Specific staff will be dedicated to this project and DHA expects a turn around time of 10 days for applications. Each of these permits will be issued free of charge. The applications will be adjudicated centrally to reduce the possibilities of corruption. This means that the applications will be sent to DHA Head Office. DHA is hoping that the Track and Trace service that is used for South African IDs and passports can be used for these applications. The process is intended to be rolled out within two weeks but a communiqué would be issued before then.

**Work Permits:** Zimbabweans who have been in employment since prior to 31<sup>st</sup> May 2010 can apply for a work permit. They will need to provide an affidavit from their employer stating how long they have been employed for and how long they are expected to remain in that employment. They will also have to complete the usual application forms for a work permit. Work permits will then be issued for four years. The relaxation of the requirements means that the skills requirements for a work permit are dropped and thus any category of employee can apply for this permit including eg domestic workers, farm workers etc. The work permit would be renewable.

**Study Permits:** Those who are currently studying and have been registered with a recognised institution prior to 31<sup>st</sup> May 2010 will be issued with a study permit for the duration of their course (up to a maximum of four years).

**Business Permits:** Those who run small businesses, including those within the informal sector, must produce registration with the South African Revenue Service (SARS) or the Companies and Intellectual Property Registration Office (CIPRO) and will then be issued with a Business permit for four years. People can also show documentation if they have registered as a hawker with the local municipality. This removes the requirement to demonstrate a certain amount of capital before being issued with a Business permit.

All of these permits are renewable if for example, the person on a work permit is still employed or the business permit holder is still running the business. DHA stressed that this is a voluntary process. People can choose to remain within the asylum process or could choose to relinquish their asylum application.

Those with criminal convictions are not eligible for any of these permits. This excludes those convicted of an immigration offence.

In addition, there is an amnesty for Zimbabweans who hold fake South African documents such as IDs. Those with such fake documents are requested to return them to a DHA regional office and those who have a Zimbabwean passport and meet the criteria for a work permit, a study permit or a business permit will be issued with the appropriate document. No action will be taken against people returning fake documents. This amnesty will continue until 31<sup>st</sup> December 2010. This process will allow South Africa to clear up its National Population Register.

If this process of regularising Zimbabwean nationals works well, this will then potentially be rolled out to citizens of other SADC countries eg Lesotho and Swaziland. The process is not aimed at introducing mass deportations but those who are in the country after 31<sup>st</sup> December 2010 without appropriate documents will be deported. People will however still have the option of applying for asylum.

## **Discussion**

It was noted that some problematic cases may arise and DHA has indicated that it will continue to engage on how to resolve these. They will soon identify people within the DHA who can handle such specific enquiries and provide their contact numbers.

Concern was expressed about the potential to roll out this process and complete it prior to 31<sup>st</sup> December. DHA indicated that the deadline of 31<sup>st</sup> December 2010 may be extended if necessary depending on the progress that is made up until that point.

DHA also noted that the new measures were not based on a political decision regarding Zimbabwe. The Cabinet briefing on 2<sup>nd</sup> September had suggested the decision followed Cabinet's belief that "some form of stability has returned to Zimbabwe". Instead, DHA indicated that the new measures followed discussions between the Minister of Home Affairs and her counterparts and an agreement on how to regularise Zimbabweans currently in South Africa.

DHA indicated that people will be given a receipt once they have applied for a permit and this will provide protection against arrest and deportation. DHA is also in the process of developing a communications strategy to communicate the new measures to Zimbabweans and the public.

The new relaxed permit requirements will not apply to those arriving in the country after 31<sup>st</sup> May 2010. DHA indicated that instead the existing measures would apply.

Concern was raised about vulnerable groups who do not qualify for the three permits. A suggestion was made that the free visas for Zimbabweans be made more widely available as they were previously where these visas were issued on arrival and then renewable once inside South Africa. A new visa was also obtainable simply by crossing back to Zimbabwe. DHA recently changed the position to restrict the provision of such visas to 90 days within a calendar year. DHA responded that the SADC protocol and the law required the visas to be restricted to 90 days within a calendar year. There is also the option of the Minister granting exemption for specific individual cases if necessary.

DHA stated its willingness to hold a follow up consultation meeting.

Since the meeting, CoRMSA has also learnt that the cost of Zimbabwean passports has been lowered from US\$140 to US\$50 with immediate effect. Penalty fees for lost passports are also believed to have been waived.

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