



DEPARTMENT OF HEALTH
Republic of South Africa

POLICY

RECRUITMENT AND EMPLOYMENT OF FOREIGN HEALTH PROFESSIONALS IN THE REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN HEALTH SECTOR

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RECRUITMENT AND EMPLOYMENT OF FOREIGN HEALTH PROFESSIONALS IN THE REPUBLIC OF SOUTH AFRICA

1. PURPOSE

To regulate the recruitment, employment, migration and support towards residency status of foreign health professionals in the Republic of South Africa (SA).

2. BACKGROUND

The recruitment and employment of foreign health professionals in the South African Health Sector must be viewed within the context of recruiting persons with duly verified qualifications obtained in those countries that meet the minimum requirements of training and education of health professionals in South Africa, who have relevant skills and competencies to work in underserved rural areas of South Africa, whilst ensuring the protection of the inherent rights of South African citizens and permanent residents to employment opportunities, which may exist in the country. Within this framework the constitutional and other legal rights of citizens and permanent residents as opposed to those of temporary residents must be upheld.

3. LEGAL RIGHTS

There are a number of different categories of health care professionals who may seek to work as such in South Africa. As a general rule, no foreign national may enter or sojourn in South Africa with a view to permanent residence herein unless he or she is in possession of an immigration permit issued in terms of section 26 of the Immigration Act, 2002 (Act No 13 of 2002)(hereinafter referred to as the Immigration Act).

Foreign nationals seeking to work as health professionals in South Africa may be categorized as follows:

- (a) Permanent residents;
- (b) Spouses of citizens or permanent residents;
- (c) Temporary residents; and
- (d) Spouses of temporary residents.

A. PERMANENT RESIDENTS

Permanent residents are legally entitled to be considered upon application for full-time employment as health professionals in the Public Service. Applicants who have secured permanent residence and who obtained their basic qualification in the Republic of South Africa must apply to do community service as defined in the relevant legislation, provided that they have satisfied

the registration requirements of a statutory Health Professional Council in South Africa.

Those applicants with who have qualified abroad, irrespective of where they obtained their qualification, and who have secured permanent residence, can apply for registration in the category 'Public Service', provided that they have satisfied the registration requirements of a statutory Health Professional Council in South Africa.

B. SPOUSES OF CITIZENS OR PERMANENT RESIDENTS

- B.1 Foreign nationals in this category marry South African citizens or permanent residents of South Africa and then seek employment to work as health professionals in South Africa. Such foreign nationals have to apply to the Department of Home Affairs for permanent residence within 90 (ninety) days of issuance of an 'accompany spouse' permit.
- B.2 Foreign spouses of citizens and permanent residents have a right to work in South Africa in order to fulfil their duty of support to their local spouses. This right, however, does not constitute the right to be employed in a specific sector of the economy or the right to a specific post or position. The right to work implies at least a right of temporary residence and the opportunity to earn an income pending the processing of an application for permanent residence. The Department of Health supports the Department of Home Affairs in its consideration of applications in terms of section 25(3) and 26(b) of the Immigration Act prior to approving such applications.
- B.3 Those applicants who have qualified abroad, irrespective of where they obtained their qualification, and who have secured permanent residence, can apply for registration in the category 'Public Service', provided that they have satisfied the registration requirements of a statutory Health Professional Council in South Africa. Upon submission of written evidence that permanent residency has been granted, health professionals in this category can apply to the National Department of Health for a letter of endorsement to facilitate their registration process and again to initiate allocation for employment.
- B.4 Health Professional Councils may not accept applications for examination or evaluation prior to documentary evidence that the application is supported by the National Department of Health, which will follow B.3 above.
- B.5 The provisions in 3(A) above are also applicable to spouses of SA citizens or permanent residents, who have already attained permanent residence status.

C TEMPORARY RESIDENTS

- C.1 Temporary residents are only entitled to be in South Africa for the initial period and purpose as endorsed in their temporary residence permits. Thus a person who is in South Africa on a temporary residence permit in order to complete a course of study in health care offered by a South African institution is not entitled to seek or to be offered employment or to work in South Africa and must leave the country when the permit period expires.

In the context of the employment of health professionals by the Department, such persons may enter the country in order to perform a specific contract or academic intervention with the definite understanding that he/she may not abuse the opportunity to seek employment. Applicants who received support towards such opportunities must leave the country upon expiry of the agreement. As a general rule, foreign nationals have no right to live or work in South Africa except that conferred by the temporary residence permit.

- C.2 Applicants, who were issued an 'Asylum Seeker temporary permit' in terms of section 22 of the Refugees Act, 1998 (Act no 130 of 1998) by Home Affairs, are not eligible to be employed in a full-time basis on the fixed establishment or enrolled for the examination processes by a statutory Health Professional Council in South Africa. Job offers issued to asylum seekers will not be endorsed until the applicants have secured formal recognition of his/her refugee status in the RSA in terms of the Refugees Act, 1998 (Act No 130 of 1998). This is to prevent any legitimate expectations that a longstanding employment relationship in South Africa may be entered into.

Health Professional Councils may not accept applications for examination or evaluation or registration prior to documentary evidence that the applicants in the category "Asylum Seeker" have secured formal recognition of their refugee status in the RSA in terms of the Refugees Act, 1998 (Act No 130 of 1998) and relevant letters of endorsement from the National Department of Health, a first letter to support the Council's initial evaluation/examination processes and a second letter thereafter in support of the actual issuance of an endorsed certificate based on the allocation by the Department.

- C.3 Applicants who present documentary evidence that they have secured formal recognition of his/her refugee status in the RSA in terms of the Refugees Act, 1998 (Act No 130 of 1998), can apply to the National Department of Health for support towards enrolment and to be accepted for examination by a statutory Health Professional Council in South Africa.

Health Professional Councils may not accept applications for examination or evaluation or registration prior to documentary evidence that the applicants have relevant letters of endorsement from the National Department of Health, a first letter to support the Council's initial evaluation/examination processes and a second letter thereafter in support of the actual issuance of an endorsed certificate based on the allocation by the Department.

The employment relationship will be on a full-time basis in fully funded posts and applicants are to sign an undertaking to serve the Public Service diligently in an underserved institution to which he/she will be allocated too. The applicants will at no time be employed on terms and conditions inferior to those offered to SA citizens/residents.

D SPOUSES OF TEMPORARY RESIDENTS

Spouses of temporary residents can be granted permits to accompany the temporary resident during his or her stay in South Africa. If such a spouse wishes to work as a health professional in South Africa, he/she will have to apply in his/her own right to the National Department of Health for support

towards examination by a statutory Health Professional Council in South Africa.

Health Professional Councils may not accept applications for examination or evaluation or registration prior to documentary evidence that the applicants have a letter of endorsement from the National Department of Health, a first letter to support the Council's initial evaluation/examination processes and a second letter thereafter in support of the actual issuance of an endorsed certificate based on the allocation by the Department.

The employment relationship will be on a full-time basis in fully funded posts and applicants are to sign an undertaking to serve the Public Service diligently in an underserved institution to which he/she will be allocated too. The applicants will at no time be employed on terms and conditions inferior to those offered to SA citizens/residents. Each application will be considered on its own merit.

4. GENERAL POLICY PRINCIPLES

Registration with a statutory health professional council in SA is a prerequisite for employment as a health professional in South Africa (prior to assuming duty in any capacity). Applicants should at all times comply with all the pre- and post registration requirements of the National Department of Health as well as with the rules and regulations of the professional health councils in South Africa and the Department of Home Affairs.

- 4.1. Subject to the provisions of section 3 on Legal Rights above, where there is an adequate supply of trained SA health professionals, recruitment and employment of foreign health professionals should not occur and applications by foreign health professionals for permanent residence should not be supported;
- 4.2. Where there is an adequate supply of trained SA health professionals, the continuous employment of foreign health professionals should be duly managed and applications for permanent residence should not be supported;
- 4.3. Employment must not be offered to a foreign applicant where a South African citizen or permanent resident is available for the post in question;
- 4.4. The practice of employing foreign health professionals must at no time displace a South African citizen or permanent resident from a post in which he or she is currently employed;
- 4.5. Recruitment of *individual* applicants from any developing country, in particular from another SADC country, will not be supported;
- 4.6. This policy will at all times be subject to South African laws regulating the entry of foreigners into the Republic, their residence and employment status; (*inter alia* the Immigration Act, 2002 (Act No 13 of 2002) and the Refugees Act 1998, Act 130 of 1998);
- 4.7. Subject to the provisions of section 3 above on Legal Rights, migration by a foreign health professional, temporary or permanent residents, from one

employer to another (public/private) or between provinces or who wishes to change his or her purpose of entry or any of the other conditions of his or her temporary residence permit to secure extended stay/employment in South Africa, will not be supported;

- 4.8. Where inter- or intra-provincial transfers take place, the respective Heads of Health of the Provinces must approve the process. Inter-provincial transfers must address the issue of equity between Provinces. Migration to urban areas will not be supported. The National Department of Health must endorse each individual application to update the foreign workforce database.
- 4.9. Employment of foreign health professionals on valid work permits who are not married to SA citizens and who do not have permanent residence status, must be bounded by an employment contract, aimed at addressing a temporary and specific human resource need;
- 4.10. Foreign health professionals who are temporary residents and who obtain suitable registration for employment in the Public Service will not be allowed to take up employment outside the scope of their registration status and employment contracts.
- 4.11. This policy does not apply to South African citizens and permanent residents who have obtained foreign health qualifications.

5. SPECIFIC PROVISIONS

5.1 Foreign Health Professionals

Primary Policy Objective

The policy on the recruitment and employment of foreign health professionals from abroad seeks to restrict such recruitment and employment to health professionals with relevant qualifications obtained in those countries that meet the minimum requirements of training and education of health professionals in South Africa, skills and experience in need for and necessary to serve in under served areas of South Africa, whilst ensuring the protection of the inherent rights of South African citizens and permanent residents to employment opportunities.

The fundamental tenets of this policy are dependent on:

- The ability of South Africa to meet the human resource needs of the health sector in the short, medium and long term;
- Creation of job opportunities for SA citizens and permanent residents, as well as to pursue and encourage their ongoing training and development;
- Impact of the recruitment on the human resource needs of developing countries;
- A Code of Conduct on the International Recruitment of Health Professionals that the Republic of South Africa is signatory to; and

- Government-to-government agreements between the Republic of South Africa and any other country on the recruitment of health professionals

Registration Process

A fast-tracking registration process is in place at the Health Professional Councils in South Africa. Each individual applicant has to apply to the National Department for to consider support towards the fast-tracking process. The main reason why the fast tracking system was introduced was that foreign health professionals from identified educational institutions were regarded equally qualified to their South African counter parts. A secondary reason for the introduction of the fast tracking system was to support the recruitment and employment strategies of the Public Health Sector in assisting foreign medical practitioners from those identified institutions in the cumbersome registration process by exempting them from writing the entry/initial acceptance examination.

The Public Service is experiencing difficulties in recruiting and employing foreign health professionals in the medical, pharmaceutical and nursing fraternities. It is the view of the Department that foreign health professionals from the relevant identified educational institutions would be equally qualified as their South African colleagues. Furthermore, should foreign health professionals from these educational institutions/countries be exempted from writing the relevant Council's exams, it would greatly ease the registration process for them and promote recruitment opportunities. If taken into consideration the work permit application process, employment application process and the registration process, it could take a foreign health professional up to 12 months and sometimes even longer to finally assume duty at a given employer. The fast tracking system enhances the Department's capacity to recruit foreign health professionals.

It is, therefore, a recommendation of the Department that all the relevant Professional Health Councils should exempt foreign health professionals with qualifications obtained in those countries that meet the minimum requirements of training and education of the relevant health professionals category in South Africa from writing the Council's examination in order to obtain registration for employment in the Public Service only.

Policy Requirements

Prior to the recruitment and employment of a foreign health professional, the South African labour market must be tested through national recruitment campaigns. Proof of attempts to recruit within SA should be submitted. To prevent the depletion of the health professional workforce of developing countries, recruitment of *individual* applicants of developing countries will not be considered.

Applications for fixed-term employment from foreign health professionals who are citizens of developed countries will be considered, subject to the applicants meeting the following criteria:-

- 5.1.1. Competing fairly for the prospective position and on condition that no qualified South African citizen or permanent resident is readily available or has applied for the position;
- 5.1.2. Obtaining a written job offer and signing a contractual agreement of employment of which the maximum term thereof is three years. If the need exists, the Head of Health of the Province can determine if a new contract will be signed with the individual.
- 5.1.3. Submission of a written undertaking to return to their country of origin upon completion of their employment contracts;
- 5.1.4. Securing of suitable registration with the relevant statutory health professional council;
- 5.1.5. Compliance with the normal statutory requirements for work permits and temporary residence in the Republic of SA;
- 5.1.6. Demonstration of professional competence, and high ethical standards;
- 5.1.7. Fluency in English, or at least one of the official languages of South Africa; and
- 5.1.8. Continuous employment with the same employer in South Africa.

The availability of local health professionals will be monitored and evaluated to strengthen local recruitment of health professionals.

Bilateral agreements will be entered into with countries to supplement human resource needs in underserved areas. These agreements are of a temporary nature and are specifically designed to redress the gaps in service delivery, until such time that South Africa has improved its capacity to meet its own human resource requirements, especially in underserved areas.

5.2. Specialist/Postgraduate training

Preference for postgraduate training will be given to South African citizens and permanent residents, and citizens from countries where government-to-government agreements exist. Any applicant from another country should be fully sponsored by their respective governments or a donor/agency.

- Sponsored supernumerary registrars and other post-graduate students should not receive remuneration from any source within South Africa and no job offers made to this category of temporary residents will be considered.
- Health Professional Councils should not allow for this category of temporary residents to be considered for the prescribed examinations.

Prospective applicants for supernumerary registrar and other post-graduate student opportunities available in South Africa should also apply to the National Department of Health for a letter of endorsement prior to taking up any positions in the South African labour market. The following criteria must be satisfied:

- 5.2.1. Submission of documentary proof, upon application, that they are fully sponsored by the government of the country of origin or a donor/agency;
- 5.2.2. Copies of contractual agreements with their respective countries of origin to study in South Africa and to return home upon completion of the basic post-graduate training programme;
- 5.2.3. Proof of suitable registration with or proof that the applicant meets the minimum requirements for registration with a relevant statutory health professional council in SA;
- 5.2.4. Obtaining of a formal study permit prior to entering the training programme, endorsed to do practical exposure in a Public Service hospital, where applicable;
- 5.2.5. Submission of proof that the applicant will, on an annual basis, lodge documentary evidence of sufficient funds to cover tuition fees, maintenance, medical and/or incidental costs whilst residing in South Africa;
- 5.2.6. Signature of a fixed-term contractual agreement for practical training of which the maximum term thereof is for the minimum duration of the period of the post-graduate study course; and
- 5.2.7. The Head of Department of Health in the Province must approve the practical engagement (attachment to a provincial hospital) of an application for post-graduate training.
- 5.2.8. Completion of the required undertakings to be provided by the National Department of Health.

5.3. Exchange Registrars

- 5.3.1. The Department would support structured regulated exchange programmes with other countries, mainly other SADC countries.
- 5.3.2. A study permit for an exchange registrar will be supported for a limited period, generally one year per applicant and the applicant should apply for the study permit abroad, which will be endorsed as conditional, with the contractual provision that the individual returns to her/his home country upon completion of the one-year exchange programme.

5.4. Academic Appointments at Tertiary Institutions

The employment of foreign health academic staff should be on a contractual basis and the maximum duration of the job offer must be clearly defined by the prospective employer, to facilitate the drive to train and recruit SA citizens and permanent residents. If the need exists for continued employment of the individual, proper motivation must be given to the Head of Health in the Province, who will determine if the contract must be extended. The motivation must include efforts made by the university to recruit or train South African citizens and permanent residents.

All applicants in this category should have a valid work permit from the Department of Home Affairs prior to assuming duty with a prospective academic institution.

5.5. Undergraduate Training in South Africa

- 5.5.1. In terms of co-operation agreements between SADC Member States, foreign students from SADC nations, fully sponsored by their governments, will receive preference over other foreign applicants with regards to access to universities and tertiary institutions in South Africa.
- 5.5.2. Undergraduate students are to be fully sponsored by their respective governments or donors.
- 5.5.3. Entrance into an undergraduate training programme will be strictly conditional, with the contractual undertaking that the individual returns to her/his home country upon completion of the basic training programme.
- 5.5.4. Applicants must submit proof of suitable registration and on an annual basis, of sufficient funds to cover tuition fees, maintenance, medical and/or incidental costs whilst residing in South Africa.
- 5.5.5. South African employers, Public and Private sector, cannot make job offers to or raise expectations of foreign citizens who are due to or who have completed their studies in SA.

5.6. Internship

- 5.6.1 Internship constitute full-time employment at full remuneration and foreign health professionals will, subject to the relative provisions of section 3 above on Legal Rights, not be allocated to internship positions in South Africa, with the exception of the following cases:
 - 5.6.1.1 Foreign applicants who are permanent residents in South Africa.
 - 5.6.1.2 Foreign applicants who have matriculated and subsequently graduated in South Africa and who have lodged applications for permanent residence and whose parents/guardians are citizens or permanent residents of South Africa. Each application for exemption will be considered on its own merit. Applicant should apply for a work permit; and
 - 5.6.1.3 Foreign applicants from SADC countries where the home country does not have accredited academic facilities, e.g. Lesotho, Swaziland, Botswana, etc. One-year contract only. Countries of origin should consent. Each case will be considered on merit. Successful applicants should apply to have their study permits extended to cover the year of internship. This category should be employed on a one-year fixed-term employment contract and should return to their respective home countries upon expiry thereof.
 - 5.6.1.4 **Applications for exemption from the above, as exceptional cases, will be submitted to the Director-General: Health for consideration on merit. Applicants will not qualify for registration with the HPCSA as an intern without a letter of support from the National Department of Health.**

- 5.6.2 All applicants should apply to the National Department of Health to consider each case on merit and to issue a letter of endorsement;
- 5.6.3 The applicants will at no time be employed on terms and conditions superior or inferior to those offered to SA citizens/residents.

5.7 Community Service

- 5.7.1 Community Service constitute full-time employment and foreign health professionals will, subject to the relative provisions of section 3 above on Legal Rights, not be allocated to designated community service posts in South Africa, with the exception of foreign health professionals who have qualified in South Africa and who have secured permanent residence in South Africa.
- 5.7.1 All applicants should first apply to the National Department of Health to consider each case on merit and to issue a letter of endorsement; and
- 5.7.2 The successful applicants will at no time be employed on terms and conditions superior or inferior to those offered to SA citizens/residents.

5.8 NDOH certification of support towards first applications for Work Permits extension of work permits

- 5.8.1 All applicants for first work permits should contact the NDOH for a letter of endorsement and certification in terms of section 19 of the Immigration Act (to endorse the job offer and to certify the employability).
- 5.8.2 It is a statutory requirement for all foreign workers in SA obtain to maintain their legal residency status in the country at all times. Should a foreign health professional fail to do so, the Department will not support an application for reconsideration.
- 5.8.3 In terms of section 19 of the Immigration Act, Employers are obliged to monitor the validity of the work permits of their workforce and to compile a status report (i) at the time of employment, (ii) six months thereafter and (iii) annually thereafter for the duration of the employment engagement.
- 5.8.4 The Employees will at no time be employed on terms and conditions superior or inferior to those relevant and applicable to SA citizens/residents.

5.9 NDOH certification and letter of support towards applications for extension of work permits

In order to update and verify information on the Foreign Workforce Database, all Employers and applicants for extension of work permits, must submit an application to the National Department to endorse the status of the applicant.

5.10 NDOH certification of support towards applications for permanent residence

- 5.9.1 All applicants should, in terms of exemptions on specific requirements in the Immigration Act, apply to the NDOH for certification in support towards their applications for permanent residence.
- 5.9.2 Applicants should be on valid work permits for a period of five years and longer and have secured a permanent job offer from an employer within the Public Health Sector.
- 5.9.3 All applications will be considered in terms of section 26 and 27 of the Immigration Act and regulation 33 of the Immigrations Regulations, 2003.
- 5.9.4 The applicants will be required to submit the following documents (where applicable) in order to open a file to record the application in the Foreign Workforce Management Program (all documentation in English):
- 5.9.4.1 Letter of application for certification towards permanent residence by applicant; introduction of him/herself, provide some background, current employment status and future plans;
 - 5.9.4.2 Spouse to co-sign the letter in 5.9.4.1;
 - 5.9.4.3 Copies of used pages of passport (main applicant and family).
 - 5.9.4.4 Comprehensive CV.
 - 5.9.4.5 Marriage certificate/divorce certificate.
 - 5.9.4.6 Birth certificates (applicant and family).
 - 5.9.4.7 Copies of relevant qualifications.
 - 5.9.4.8 Duly signed letter of support from employing institution (highest level of management authority)(letter not older than three (3) months)
 - must clearly support applicant in his/her application for permanent residence
 - certify initial date of employment
 - must clearly make an offer permanent employment subject to applicant securing permanent residence
 - must indicate if problems with absenteeism are experienced and whether any record of misconduct or professional incompetence was previously recorded.
 - 5.9.4.9 Letter of support from relevant head of clinical department in which he/she is also certifying the relevant skills, qualifications and experience of the applicant (letter not older than 3 months).
 - 5.9.4.10 Letter of support from Provincial Head of Health or delegate.
 - 5.9.4.11 Current valid employment contract with the Province.
 - 5.9.4.12 Proof of current professional registration status with a relevant Professional Health Council
 - 5.9.4.13 Proof of current valid work permit from Home Affairs
 - 5.9.4.14 Written statement (separate) by the applicant that he/she is undertaking to serve the SA Public Health Sector (name specific Province) for the duration of his/her permanent residency status.