

Mobility: Immigration alert

October 2023

South Africa

DHA's application to terminate Zimbabwe Exemption Permits dismissed

Executive summary

On 17 October 2023, the Gauteng High Court in Pretoria dismissed the application to terminate the Zimbabwe Exemption Permits (ZEP) category submitted by the Minister of the Department of Home Affairs (DHA).

Background

The DHA introduced the ZEP in 2017 for eligible nationals of Zimbabwe who were living in South Africa at the time on a Zimbabwean Dispensation Permit. In December 2021, the DHA discontinued the ZEP and set a deadline of 31 December 2022 for holders of valid ZEPs to switch to another South African immigration category. ZEP holders subsequently took the DHA to court to challenge their decision to terminate the ZEP category. In response, the DHA extended the deadline until 30 June 2023 and again until 31 December 2023 and announced that it would not grant any further extensions. In June 2023, the Pretoria High Court ruled that the discontinuation of the ZEP was "unconstitutional, unlawful and invalid" and ordered the DHA to extend the deadline until at least 30 June 2024 pending the conclusion of a "fair process" that includes an adequate public participation process. In response, the DHA appealed the High Court's decision.

Key developments

The Gauteng High Court's recent decision holds that ZEP holders have lawful immigration status in South Africa and must be allowed to leave and enter the country freely. Previously, some ZEP holders were denied admission or subject to heightened scrutiny upon arrival.

Impact on employers

Organizations in South Africa may continue to employ ZEP holders until further notice.

Key steps

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our immigration professionals.

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