



## home affairs

Department:  
Home Affairs  
REPUBLIC OF SOUTH AFRICA

230 Johannes Ramokhoase Street. Private Bag X114, Pretoria, 0001  
Parliamentary Office, 120 Plein Street. Private Bag X9048, Cape Town, 8000

**Enquiries: Tel: (012) 406-7068**  
**DEPARTMENT OF HOME AFFAIRS :**

**E-mail: [Phindiwe.mbhele@dha.gov.za](mailto:Phindiwe.mbhele@dha.gov.za)**  
**HEAD OFFICE**  
**REGIONAL OFFICES**  
**PORTS OF ENTRY**  
**OPERATIONAL CENTRES**  
**VISA FACILITATION CENTRES**

**DEPARTMENT OF INTERNATIONAL : CONSULAR SERVICES**  
**RELATIONS & COOPERATION**

### **IMMIGRATION DIRECTIVE NO. 02 OF 2019**

#### **ASYLUM SEEKERS APPLYING FOR SECTION 31(2) OF THE IMMIGRATION ACT, NO. 13 OF 2002: WAIVERS & EXEMPTIONS**

In terms of the Court Order of the Constitutional Court, in the matter between Ahmed and Others v the Minister of Home Affairs and Another, case no. 273/2017, the Court made an order to the extent that Immigration Directive 21 of 2015, issued by the Director-General of the Department of Home Affairs on 23<sup>rd</sup> February 2016, imposes a blanket ban on asylum seekers from applying for visas without provision for an exemption application under section 31(2)(c) of the Immigration Act 13 of 2002, it is declared inconsistent with the Immigration Act 13 of 2002 and invalid.

Section 31(2) of The Immigration Act, No. 13 of 2002 makes provision that upon application, the Minister may under terms and conditions determined by him or her— for good cause, waive any prescribed requirement or form. The Court concluded that there is no reason why asylum seekers and persons similarly placed, may not apply for an exemption and request that the Minister waive the prescribed requirements.

This Immigration Directive replaces Immigration Directive No. 21 of 2015, and Circular No. 10 of 2008 effective from the date of signature below. Asylum Seekers should be allowed to apply for a waiver or exemption as per section 31(2) of The Immigration Act.

**B T MAVUSO**

**ACTING DIRECTOR-GENERAL: HOME AFFAIRS**

**DATE: 13/2/2019**

This Immigration Directive follows Immigration Directive No. 01 of 2019 which deals with: Authorization to conduct work on a visitors visa in terms of Section 11(2) of The Immigration Act, No. 13 of 2002