



19 May 2015

Bula Members,

Notice to membership on Work Permit Issues

Members of your Board, led by the President, met with the Minister for Immigration and his team, in the presence of the Minister of Tourism at 08.30am on Wednesday 06 May 2015. Meeting venue was at the Ministry of Immigration and Defense, 1st Floor, New Wing, Government Buildings, Suva. The meeting was to discuss the issues raised by the membership on “Work Permit Issues”

The Minister of Immigration clarified that there has been no change in policy; however the Ministry would ensure better compliance with existing regulations. He also advised that N. Vuniwaqa is currently the Acting Deputy Permanent Secretary but will soon return to his substantive position of Director of Immigration. (***N. Vuniwaqa is now back as Director Immigration***).

Work permit checklist

The Minister has agreed that the work permit checklist will be a public document and the latest checklist was published in the Fiji Sun on Saturday 02 May 2015. This will ensure that the Immigration processes are more transparent. (***A copy of the latest checklist has been uploaded into the FHTA website and a new updated version will be published soon***)

Changes to work permits requirements.

The Minister agreed that where practicable, any changes to work permit requirements will be advised in advance. To facilitate discussions on the requirements and to obtain tourism industry input on the effects of any proposed changes or to highlight any ongoing issues, a FHTA Board Subcommittee will meet the Ministers of Immigration and Tourism on a monthly basis. (SOFTA will be invited to join the FHTA Team).

Compliance

The Association has advised the Minister that FHTA Members are law abiding and also adhere to the FHTA Code of Conduct and Ethics. FHTA position is that persistent offenders who appear to deliberately flaunt the law should be prosecuted under the law. However, law abiding corporate citizens should not be made to suffer.

Clarity of new requirements

The Association highlighted instances of where the requirements were unstated or unclear. The Ministry has pointed out that:-

1. Job advertisements must keep open for a minimum of 7 (seven) days to allow local applicants time to submit their application.
2. Work Permit Applications need to be submitted 30 (thirty) days in advance but there were instances of rejection because the application was not submitted 60 (sixty) days prior. The Ministry has clarified that 30 (thirty) days is the minimum requirement.
3. Government will not issue a work permit retrospectively.



The Minister acknowledged that full permit requirements should be included into the checklist and has requested the Immigration staff to prepare this.

Processing time

The Minister acknowledged that there have been delays in the process and advised that this was an internal issue. He has instructed that the “Work Permit Committee” (WPC) would need to meet on a weekly basis. The Chair of the WPC will revert to the Director of Immigration or in his absence, the Deputy Director. It was also agreed that the following time frames need to be adhered to:-

1. Short term work permit to be actioned within 3 (three) days.
2. Long term work permits to be actioned within 14 (fourteen) days.
3. Appeals to be actioned within 14 (fourteen) days.

The Ministry was very clear that the above processing times are basis the full submission of relevant documents at the time of application. They explained that often applications are held back at submitting office and not sent to the WPC due to insufficient documentation.

Urgent requests (where the work permit is required for exceptionally urgent operational issues) would need to be channeled via the FHTA Secretariat for endorsement for “Priority” clearance. Such requests would need to be channeled to the CEO with an explanation of the urgency at exec@fhta.com.fj. This request would then be referred to the FHTA Board Immigration Subcommittee for endorsement. Members forgetting to file an application on time would not be considered urgent.

It was also agreed that the Director of Immigration and the CEO of FHTA will meet weekly to discuss operational matters and to issue notices or updates as and when relevant for membership. ***(One meeting has occurred already).***

Applicant must be out of the country when applying for work permit

The Ministry reiterated that it is a requirement for the applicant to be out of the country when applying for a work permit. However, it was agreed that those already working and requesting for an extension does not need to depart the country. Extension applications submitted less than 30 days in advance will require the applicant to leave the country while his/her application is processed. The Association requested that at times the need to leave should be waived on humanitarian grounds and the Ministry has agreed look at this on a case by case basis.

To facilitate the tourism industry, the following procedures (where the applicant can be within the country when applying) may be used to bring in expatriate workers speedily:-

1. Workers may enter Fiji on a Business Visa (you will require return tickets) which will allow the worker to commence work immediately.
2. The Business Visa is available for a 14 (fourteen) day period, therefore the employer would need to submit immediately for a Short Term Work Permit. The application should be processed within 3 (three) working days. If rejected, the applicant needs to leave the country before expiry of his Business Visa.
3. If Short Term Work Permit is granted, the applicant will have 6 months to work. Within the first 5 months he needs to apply for a Long Term Work Permit which should take 2



weeks to process. The Ministry advises that they will not accept any excuses for failing to produce Police Clearances – this is a regulatory requirement. (Expatriates often state that this is difficult for them to obtain from their home country whilst working in Fiji.) If the application is submitted within the 30 days expiry of the Short Term Work Permit, the applicant will need to leave the country.

Association members who use this system should ensure that all applications are submitted early before the mandatory deadlines. Alert the Secretariat early if there are any delays to your applications so we can assist. It would be difficult to overturn a “Prohibition Order” if the rejection is based on an error of your making.

Company Registration and other documents

The Minister acknowledged that the supply of Foreign Investment Registration Certificate, Investment Fiji Approval, and Business Registration, etc. was required for new companies setting up in Fiji or employing expatriates for the first time. It was agreed that business' that have been established and operating in Fiji for several years can refer to the record for previous applications.

The Minister noted that one of the requirements is for certified copies of references from companies worked for proof of work experience. This was a difficult requirement for people whose work record goes back more than 20 or 30 years in various parts of the world or where such companies are no longer operational. The Immigration team is to review this requirement. Meanwhile the applicant is welcome to provide other documentary proof such as appointment letters, commendation letters, newspaper clippings, etc.

Please note that the Ministry has already sent instructions to the various Immigration Offices around the country of these changes.

Endorsement Authority

The Minister noted that for the previous 15 years the FHTA Dive Committee has been the endorsing authority for divers requiring work permits in tourism dive activities. The Association has been able to do this by working with the relevant professional dive association. The Association is also mandated under the “Super Yacht Decree” to carry out certain industry roles.

The Association has advised the Minister that the Association will be able to certify that a particular business operation is a member of good standing. However, the Association would not be in a position to endorse a particular position. It was agreed that FHTA will endorse the member but the individual member will need to justify why an expatriate was required over a local. The Ministry requires each application to be accompanied by an endorsement letter.

The Minister was briefed on the FHTA “Code of Ethics and Disciplinary Procedures”.

Members requiring an Endorsement Letter should send a request to the Secretariat (addressed to reception@fhta.com.fj copied to exec@fhta.com.fj with the following information:-

- ***Name(s) of the applicant***
- ***Position(s) applied for***
- ***Dates required***



Local Understudies

The Minister expressed concerns that some operators are continuing to apply for work permits for particular job positions where there have been local understudies for long periods (up to 20 years). The Association advised that the Association membership train and promote local employees and many examples were quoted. It was also highlighted that suitable locals are cheaper to employ than expatriates; therefore our continued hiring of expatriates is basis the additional skill sets that the expatriate worker brings in.

The issue for the Ministry is being able to identify where genuine training and suitable exposure has been given to a local understudy and where the understudy is not considered ready for the ultimate promotion. The Minister has requested that a MOU be prepared where FHTA can assist the Ministry to assess the suitability of local understudies for the top level positions. This would only cover Executive Positions including General Managers, Director of Sales, Chief Engineers, etc.

Work Permit Errors

The Minister acknowledged errors within Immigration where permits had the wrong name, wrong nationality or wrong company information and stated that staff will be requested to be more diligent.

FHTA members should carefully check the documents provided and point out early any errors so these can be corrected and not impact operations later.

Bond Cancellations

The Minister noted the complaint of varying processing time for cancellation of bonds after an expatriate has left the country. He has requested the Acting D/PS to ensure that this is facilitated as this adds to the cost of doing business.

Please refer any queries to the Secretariat.

Vinaka,

Michael Wong
Chief Executive Officer