



RHODES UNIVERSITY

Grabamstown • 6140 • South Africa

POLICY FOR THE APPOINTMENT AND EMPLOYMENT OF INTERNATIONAL STAFF MEMBERS

Policy Volume	HR: General Institutional Policies & Protocols
Policy Chapter	
Responsible Committee/Unit/Division/Faculty	Employment Equity Committee
Responsible Chairperson/Director/Manager	Director: Human Resources
Dates of First and Subsequent Council Approvals	New Policy, 13 September 2018
Policy Approval Pathways (e.g. committee, Senex, Senate, Council)	
Revision History: Approved Reviews	N/A
Review Cycle (e.g. every 2/5/7 years etc)	Every 5 years or as and when a need arises
Next Review Date	2024

1. POLICY PARTICULARS

1.1. Policy Title	Policy for the Appointment and Employment of International Staff Members
1.2. Policy Statement	<p>The Department of Higher Education and Training draft Internationalisation Policy Framework confirms that the “government is committed to ensure inter-departmental policy integration and cooperation between the relevant departments, including DHA [Department of Home Affairs], DST [Department of Science and Technology], DIRCO [Department of International Relations and Cooperation], DHET, DTI [Department of Trade and Industry] and DoL [Department of Labour] to enhance the efficiency and success of internationalisation processes and activities in higher education” (DHET, 2017: 23); immigration pertaining to staff, students and postdoctoral researchers being one of them . In terms of the Immigration Act, No. 13 of 2002 (as amended), internationals have to comply with the provisions of the Act. The draft Internationalisation Policy Framework also states, , “Appropriate measures will, as far as possible be implemented by Government and other stakeholders to attract and retain international talent in the South African job market e.g. foreign nationals graduating with PhDs at South African higher education institutions” (DHET 2017: 22). However, the policy framework says that this “must not be to the detriment of job opportunities for equally qualified and experienced South African citizens (DHET 2017: 22). To ensure a smooth transition from being international PhD students to Postdoctoral fellows researching at Rhodes University and to employable academics with critical skills, DHA is increasingly issuing critical skills visas directly after the acquisition of PhDs. Employment contracts are increasingly offered on the basis of having critical skills, which include PhDs. It must be noted that academics in the creative sectors with unique skills and experiences, but who do not meet critical skills criteria may apply for other time-bound visas. The draft Policy Framework goes on to outline that “initiatives to attract and retain international talent from other African countries should be balanced against South Africa’s obligation towards the development of the African continent” (DHET 2017: 22). The period of employment for foreigners will be guided by the validity period of the work visa. Foreigners with critical skills and permanent job offers are eligible to apply for permanent residence.</p>
1.3. Reason for Policy (What this policy aims to achieve)	To uphold fair and consistent recruitment and selection processes and practices in accordance with relevant legislation and codes of good practice as it pertains to the appointment and employment of international staff.
1.4. Policy Objective/s	To provide guidance in terms of the employment of international staff in compliance with the relevant immigration legislation, and to support the institutional employment equity and transformation imperatives by ensuring that there are skills transfer plans in place to ensure skills transfer from international staff to South African residents.
1.5. People affected by this Policy	All Units of the University
1.5. Who should read this Policy	All staff and prospective staff of the University
1.6. Implementers of this Policy	Human Resources Division
1.7 Website address/link for this Policy	http://www.ru.ac.za/humanresources/policies/policiesandprotocols/selection/

2. RELATED DOCUMENTS FORMS AND TOOLS

(University Policies, Protocols and Documents (such as rules/policies/protocols/guidelines related to this policy))

Relevant Legislation
<ul style="list-style-type: none"> • The Constitution of the Republic of South Africa, 1996; • The Immigration Act, No. 13 of 2002 (as amended); • Employment Equity Act 55 of 1998 (as amended); • Basic Condition of Employment Act 75 of 1997 (as amended); • Labour Relations Act 66 of 1995 (as amended); • Employment Services Act 4 of 2014 (as amended); and • Any other applicable legislation.
Related Policies
It is recommended that all relevant/ applicable University Policies be read in conjunction with this policy.
Related Protocols
It is recommended that all relevant/ applicable University Protocols and Standard Operating Procedures be read in conjunction with this policy.
Forms and Tools
The Policy Template Skills Transfer Programme and Agreement (see Appendix 1)

3. POLICY DEFINITIONS

No	TERM	DEFINITION
3.1	Academic Staff	Staff involved in directing the teaching and learning, research activities and community engagement of the University
3.2	Dean	The Dean is the head of a Faculty. A faculty comprises of a number of departments/sections
3.3	Department of Labour (DoL)	The government department responsible for publishing legislation that regulates labour practices and activities
3.4	Department of Higher Education and Training (DHET)	The government department whose responsibility is to develop capable, well-educated and skilled citizens who are able to compete in a sustainable, diversified and knowledge-intensive international economy, which meets the development goals of South Africa
3.5	Department of Home Affairs (DHA)	The government department responsible for efficient determination and safeguarding of the identity and status of citizens and the regulation of migration to ensure security, promote development and fulfil international obligations. It is responsible for updating the critical skills lists, which includes PhDs, and issuing work visas to international staff
3.6	Department of International Relations and Cooperation (DIRCO)	The government department whose mission is to formulate, coordinate, implement and manage South Africa's foreign policy and international relations programmes, and promote South Africa's national interest and values and the African Renaissance

3.7	Department of Science and Technology (DST)	The government department whose mission is to provide leadership, an enabling environment, and resources for science, technology and innovation in support of South Africa's development
3.8	Department of Trade and Industry (DTI)	The government department responsible for the creation of a dynamic industrial, globally competitive South African economy, characterised by inclusive growth and development, decent employment and equity, built on the full potential of all citizens
3.9	Executive Management	The Vice-Chancellor, Deputy Vice-Chancellor: Academic and Student Affairs, Deputy Vice-Chancellor: Research and Development, Registrar and the Executive Director: Infrastructure and Operations
3.10	Head of Department (HoD)	The head of a department within a Faculty
3.11	Equity and Institutional Culture Committee (E&IC Committee)	A committee of Council mandated to drive equity and the transformation of institutional culture
3.12	Internationalization Committee	A committee responsible for infusing internationalization throughout the institution
3.13	International Staff Member	A staff member who is not a South African citizen/permanent resident.
3.14	Line Manager	The person to whom the incumbent reports directly
3.15	Senior Management	Deans, Directors and staff on grades 18 and above
3.16	Skills Transfer	A plan that must be developed for the transfer of skills from the international staff member to a South African citizen or permanent resident
3.17	Support Staff	Staff that are not directly involved with teaching and/or research. This includes those staff who support the academic staff in their teaching and research activities
3.18	The Act	The Immigration Act, No. 13 of 2002 (as amended)

4. PRINCIPLES GOVERNING THIS POLICY

OVERVIEW	
Rhodes University strives to carry out the following, as far as is reasonably practicable:	
4.1.	Compliance with relevant legislation and codes of good practice.
4.2.	The transfer of skills from international staff to South Africans
4.3.	Adherence to sound governance and administration as it pertains to the appointment and employment of international staff.

5. DIRECTIVES FOR IMPLEMENTING THIS POLICY

(Actions and processes by which the objectives of the policy will be achieved.)

5.1. Compliance with relevant legislation

The period of employment of international staff is guided by the Immigration Act, No. 13 of 2002 (as amended), which stipulates that an International Staff Member may only be employed for the period that their work permit is valid. Therefore, an employment contract for an International Staff Member will be a fixed-term contract, the duration of which shall be determined by the work visa. It is the responsibility of the International Staff Member (both prospective and current) to ensure that:

- a) They are in possession of a valid work visa for the duration of their contract;
- b) They work with the HR Practitioner and the University's immigration service provider in respect of their needs;
- c) Notwithstanding the support provided by Rhodes University in respect of its service provider who can assist in terms of advice and with the submission of the relevant documentation for a work visa, the ultimate responsibility for obtaining a valid work visa rests with the International Staff Member; and
- d) Rhodes University will not be held liable for delays in the issuing of work visas or if applications are unsuccessful.

5.2. Costs and Eligibility

In the case of appointment to Council-funded posts on a contract of three years or more, the University will pay the costs incurred for prospective international members of staff. The following applies:

- a) The onus is on the International Staff Member to ensure that they are in possession of a valid work permit at all times during their employment at Rhodes University, failing which their employment with Rhodes University will be terminated.
- b) In terms of the Act, Rhodes University shall duly inform the Director-General of the Department of Home Affairs should the staff member fail to comply with the Act as amended, or leave the employer.
- c) If registration with a professional council or body is a requirement for appointment in the relevant post, such registration must be obtained before the appointment of the International Staff Member. The onus of proof rests with the staff member to comply with such registration.
- d) Rhodes University may not remunerate a staff member who is not in possession of a valid work visa. Staff who are not in possession of a valid work visa and whose employment contracts are still valid will be given three months to ensure that their work visa is renewed, failing which their employment contract will be terminated. During this time, it will not be possible to be paid and the staff members' remuneration and benefits will be suspended until such time as they are in possession of a valid work visa and return to work.
- e) The University will pay the costs incurred for prospective international members of staff who are appointed in Council-funded posts and on a contract of three years or more only.

The University will pay for the costs for the international staff member, their partner and dependents under the age of 18 only, unless a dependent over the age of 18 has a disability such that they are fully dependent on the staff member. Adopted children shall be regarded as dependents provided that this is a legal adoption. Parents are not regarded as dependents, even where the staff member is fully responsible for their living costs.

The costs that will be paid by Rhodes University include:

- the cost of a work visa and permanent residence permits
- the cost of the immigration agency/consultant recommended by the University
- the reasonable cost of travel to acquire such work visas
- medical examinations and radiology reports
- police clearance certificates

Costs that are not included are:

- costs that are deemed to be unreasonable and/or unnecessary, for example business class travel

- subsistence costs whilst out of the South Africa
- any other costs that the University deems appropriate not to include.

- f) As a condition of costs being paid by Rhodes University for the International Staff Member (both current and prospective), the International Staff Member shall be required to sign a service contract for three years in which the following shall be stated:
- a) The full amount of the costs of securing work visas and/or residence permits incurred by Rhodes University.
 - b) That the staff member shall be liable for this cost, on a pro-rata basis, should (s) he resign from Rhodes University within three years of commencement of employment.
 - c) That any outstanding liability may be deducted from the individual's penultimate/ultimate salary.
 - d) That in the event of death of the staff member, there shall be no liability.
 - e) That in the case of prospective staff, the payment of such costs shall have no tax implications for the individual.
 - f) That in the case of current staff members, the payment of such costs is regarded as a fringe benefit and is therefore taxable in the hands of the staff member.

5.3. The transfer of skills from international staff to South African residents

The Immigration Act of 2002 as amended, Section 19(5) & (6) (to be read with the Immigration Regulation 18(9)) states that the employer must ensure that "a plan is developed for the transfer of skills to a South African citizen or permanent resident". In this Institution, transfer of skills is understood to be transfer between teacher and student.

A Transfer of Skills Plan and Agreement must be signed by the Dean and HoD and/or Director. The plan must articulate what skills will be developed and transferred from the International Staff Member to a South African citizen or permanent resident. The Dean will work with HR in this regard. This plan and agreement will serve as an addendum to the Offer of Employment for an International Staff Member.

The Transfer of Skills programme is designed to develop the skills of South African citizens or permanent residents, and in particular South Africans from under-represented designated groups who have an interest in academia and/or pursuing a career in academia. Consequently, the Transfer of Skills plan should focus on increasing capacity in the dissemination of knowledge (teaching and learning), the development of knowledge production (research) and community engagement.

The Skills Transfer Plan must be submitted to the Department of Home Affairs when the international staff member is applying for an Intra Company Transfer, as it is a prerequisite for this visa to be issued. For other types of work visas, it is not required that Employers should submit the Skills Transfer Plan to the Department of Home Affairs, however it should be kept on employee's file for record purposes only. It is important to note that Department of Labour is authorised to conduct unscheduled site visits to the premises of the employers to ensure that above was adhered to, in respect of all the foreign nationals irrespective of work visa they are on.

When an international staff member is employed:

- a) The Dean and HoD are required to develop and sign a Transfer of Skills Agreement with the International Staff Member. (See Appendix 1.)
- b) The Transfer of Skills Agreement shall be included as an addendum to the employment contract and shall contain:
 - i) Mentoring and coaching details
 - ii) A developmental programme and milestones to be drawn up for the identified staff member to whom skills will be transferred. This shall include a readiness timeline (assignments, on-the-job projects and project lead opportunities).
- c) The Dean and HoD shall draft an evaluation report on an annual basis.
- d) HR will present an annual update to the Employment Equity Committee in Quarter 4 of each year.

5.4. Governance and Administration

- a) HR is responsible for drawing up the employment contract.

- b) The Dean/Director and HoD/Line Manager are responsible for the preparation of the Skills Transfer Agreement which must accompany the employment contract as an addendum.
- c) HR will ensure that every prospective International Staff Member is given a copy of this policy.
- d) HR is responsible for ensuring that a service contract and acknowledgement of debt in respect of costs incurred in respect of work visa applications is drafted, signed by the staff member and sent to Salaries for processing.
- e) The Dean and HoD must provide feedback on an annual basis with regard to the progress in respect of the Transfer of Skills Agreement.
- f) HR will present an annual update in Quarter 4 to the Equity and Institutional Culture Committee in respect of the number of international staff employed and progress with regard to the transfer of skills and trends that are emerging.
- g) An annual evaluation report will be completed by the Dean and the Training and Development Manager.

6. ROLES AND RESPONSIBILITIES

(Roles and responsibilities of Key personal/Divisions/Faculties/Departments)

ROLE	RESPONSIBILITY
1) Dean/Director and HoD/Line Manager	Is responsible for supporting the institutional employment equity and transformation imperatives of the institution and ensuring skills transfer from International Staff Members to South African residents.
2) Human Resources	Is responsible for implementing the policy and ensuring that the institution meets the requirements set out by the Department of Labour and the relevant immigration legislation pertaining to the appointment of International Staff Members.
3) International Staff Member	Is responsible for ensuring that (s)he is in possession of a valid work visa for the duration of his/her employment contract. Is responsible for executing the Transfer of Skills Agreement with the identified South African resident.

7. CONTACTS

Direct any questions about the policy to the Employment Equity Committee. These can be channelled through the HR Division via the Senior HR Practitioner or HR Officer.

8. POLICY REVIEW PROCEDURE

<p>Actions and processes by which the policy will be reviewed</p> <ul style="list-style-type: none"> • The Employment Equity Committee will review this policy every 5 years.
<p>Communication of the review process</p> <ul style="list-style-type: none"> • The Employment Equity Committee will engage stakeholders through toplist@lists.ru.ac.za, monthly HR and Union meetings and the Human Resources website.

9. POLICY CONTEXT: RELEVANT DOCUMENTS CITED/CONSULTED/ADOPTED

1	
2	
3	
4	

Appendix 1

Skills Transfer Programme and Agreement

Overall Purpose

In terms of section 18(9) of the Immigration Act, No. 13 of 2002 (as amended), the relevant employer shall ensure that:

- (a) an international staff member is only employed in the specific position for which the visa has been issued;
- (b) the international staff member will at all times comply with the provisions of the Act and conditions of his or her visa and the employer undertakes to notify the Director-General immediately if the employee refuses to comply with the provisions of the Act or conditions of the visa; and
- (c) a plan is developed for the transfer of skills to a South African citizen or permanent resident.

Objectives of the Transfer of Skills Programme

Roles and Responsibility

- 1) **The Dean/Director**
 - Oversees the implementation of the programme.
 - Provides guidance and support where necessary.
 - Works with the HoD in ensuring the implementation of the skills transfer method for teaching, research and Community Engagement (CE), etc. within the programme. Where there are problems, the Dean, working with the HoD, champions the resolution of these productively.
 - Signs off on the annual progress report.
- 2) **The Head of Department / Line Manager**
 - Facilitates a process to identify a transferee.
 - Engages with other stakeholders inside and outside the institution, e.g. CHERTL, senior staff members in the Department and/or Faculty, Research Office, Finance, HR, Community Engagement, etc. to ensure effectiveness of the programme.
 - Assists the incumbent with the support, guidance and development of the transferee.
 - Ensures the implementation of the skills transfer method for teaching, research and community engagement, etc. within the programme. Where there are problems, the HoD working with the Dean champions the resolution of these productively.
 - Ensures that conflicts between the incumbent and the transferee are effectively navigated and effective solutions are found.
 - Monitors progress and signs off on the annual progress report.
- 3) **International Staff Member and Post-graduate students who are employed**

- Shares disciplinary knowledge to the benefit of the transferee and others where feasible.
- Provides intellectual academic leadership to the transferee in terms of the Department's teaching and learning, research and/or community engagement activities, etc.
- Identifies and accesses funding sources to support own research and where feasible, that of the transferee.
- Commits to assist the University in meeting its set goals and legislative requirements.
- Ensures the implementation of the methods as outlined in the table below within the required time frame.
- Is expected to navigate and find effective solutions to conflicts between him/herself and the transferee.
- Engages with the HoD and possibly the Dean if there are differences that will obstruct the effectiveness of the programme.
- Will be expected to submit an annual progress report.

Key Responsibility Areas	Skills Transfer Method	Timeline	Action
Teaching and Learning			
Research and Supervision of Postgrads			
Community Engagement			
Administration and/or Leadership			
Professional Involvement			

Comments

	Action Taken	Progress Report
Staff Member		
Head of Department/Line Manager		
Dean/Director		

Summary

ENTERED INTO BETWEEN

EMPLOYER: RHODES UNIVERSITY

(DEAN/DIRECTOR)

(HEAD OF DEPARTMENT/LINE MANAGER)

AND

(EMPLOYEE NAME)

(EMPLOYEE SIGNATURE)

I, the undersigned, accept the appointment at Rhodes University in accordance with the provisions of the contract of employment.

I undertake to assume duty with effect on _____ 20__.

Signed: _____
(EMPLOYEE)

Date: _____