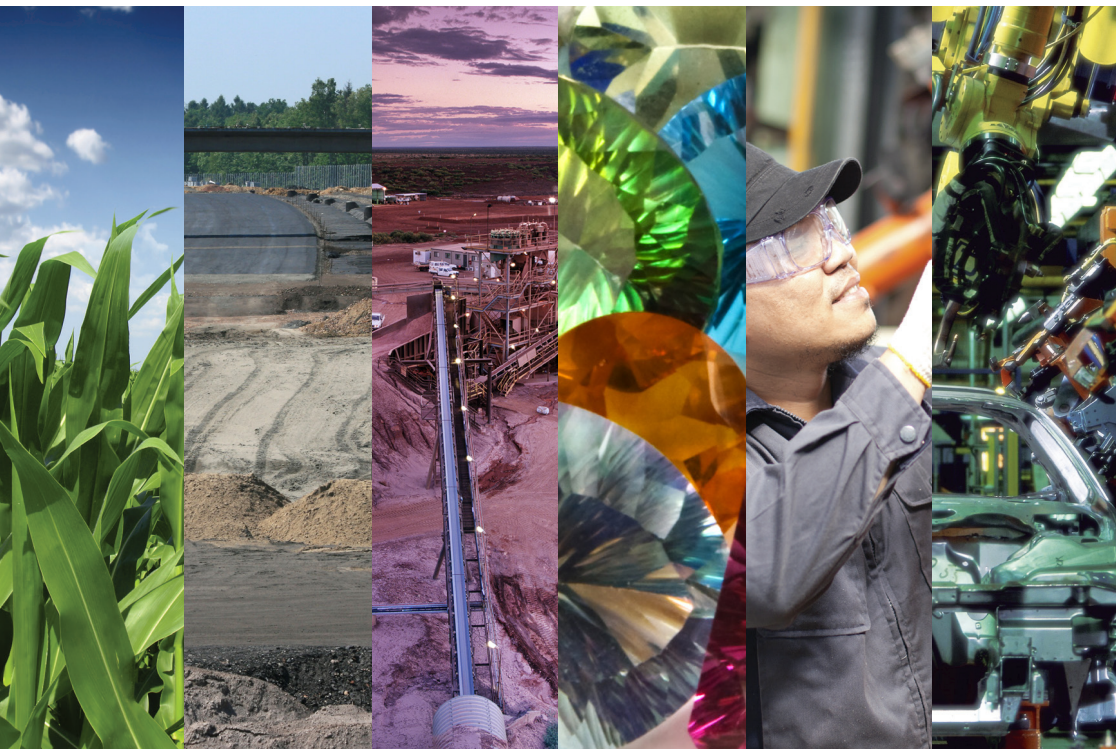


# South Africa: Investor's Handbook 2014/15



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

## Foreword

It is with great pride that the Department of Trade and Industry (**the dti**) and Deloitte bring you this updated edition of *South Africa: Investor's Handbook*.

South Africa has a number of characteristics that make it a compelling investment destination on the African continent. The *Handbook* provides investors with a broad overview of the social, regulatory and economic environment in which they can expect to operate, highlighting the key features and investment incentives that we believe make doing business in South Africa an attractive proposition.

It is hoped that this publication will serve as the single most comprehensive and authoritative source of information for investors, exporters and businesses arriving at our shores. Please contact us for further information and advisory support.

### The Department of Trade and Industry (**the dti**):

Private Bag X84  
Pretoria  
0001

National:  
0861 843 384

International:  
+27 12 394 9500

E-mail:  
investmentsa@thedti.gov.za

[www.thedti.gov.za](http://www.thedti.gov.za)

### Deloitte South Africa:

Private Bag X6, Gallo Manor,  
Johannesburg  
2052

Tel:  
+27 11 806 5000

Fax:  
+27 11 806 5003

E-mail:  
morwilson@deloitte.co.za /  
zatatpub@deloitte.co.za

[www.deloitte.com/za](http://www.deloitte.com/za)

# Contents

<b>1. Value proposition</b>	<b>1</b>
1.1. Why invest in South Africa?	1
<b>2. Fast facts about South Africa</b>	<b>2</b>
2.1. Political	2
2.2. Economic	3
2.3. Business	4
2.4. Tourism	4
2.5. Sport	5
2.6. Education	5
2.7. Environmental	6
2.8. Social and infrastructure	6
2.9. Miscellaneous	7
<b>3. General information about South Africa</b>	<b>10</b>
3.1. Introduction	10
3.2. Infrastructure	13
3.3. Art, culture and sport	16
3.4. Food and drink	18
3.5. Education	18
3.6. Law	19
3.7. Industrial relations	20
3.8. Immigration - Visas and permits	21
3.9. Immigration - Other practical aspects	28
3.10. Stock exchange	34
3.11. Key economic data	35
3.12. Overview of the Department of Trade and Industry ( <b>the dti</b> )	36
<b>4. South Africa: An economic overview</b>	<b>39</b>
4.1. Key drivers of the South African economy	39
<b>5. Foreign trade</b>	<b>54</b>
5.1. South Africa's trade agreements	54
5.2. Exchange controls	61
5.3. Importing and exporting	67
<b>6. Regulatory requirements in South Africa</b>	<b>80</b>
6.1. Corporate regulations	80
6.2. Banking	91
6.3. Money laundering	96
6.4. Labour regulations	97
6.5. Industrial procurement	106
6.6. Broad-Based Black Economic Empowerment (B-BBEE)	107
6.7. Intellectual property	116
6.8. Consumer protection law	123
6.9. Competition law	127
6.10. Environmental law	128
6.11. Climate change policy and regulations	135
6.12. Information, communication and technology law	137
6.13. Land regulations	138

## Disclaimer

*Unless otherwise stated, the information in this Handbook is based on conditions that existed in December 2014. The authors accept no responsibility for any errors this guide may contain, whether caused by negligence or otherwise, or for any loss, however caused, sustained by any person that relies on the information herein. While all attempts have been made to provide up-to-date statistics and other details, this Handbook is not exhaustive and readers are advised to consult with their advisors and/or the relevant government agency.*

# 1. Value proposition

<b>7. South African taxation</b>	<b>143</b>
7.1. Corporate taxation	143
7.2. Transaction taxes	163
7.3. Personal taxation - Individuals	168
7.4. Employment tax	179
<b>8. Incentives and industrial financing</b>	<b>185</b>
8.1. Overview	185
8.2. Investment and enterprise development incentives	186
8.3. Competitive enhancement incentives	193
8.4. Export incentives - Non-industry specific	196
8.5. Export incentives - Industry specific	200
8.6. Industrial financing	203
8.7. Industrial participation	212
8.8. Social responsibility	213
8.9. Tax incentives	214
<b>9. Contacts in South Africa</b>	<b>226</b>
9.1. Business information services	226
9.2. Banking	228
9.3. Chambers of commerce and industry	232
9.4. Investment promotion agencies	233
9.5. Government departments	235
<b>10. Acronyms and abbreviations</b>	<b>238</b>
<b>11. Addendums: Indicative costs and other practical aspects of doing business and living in South Africa</b>	<b>249</b>
11.1. Addendum 1: Telecommunication costs	249
11.2. Addendum 2: Fuel costs	253
11.3. Addendum 3: Water tariffs	255
11.4. Addendum 4: Cost of living comparison	255
11.5. Addendum 5: Education costs	258
11.6. Addendum 6: Cost of office space and industrial land	264
11.7. Addendum 7: Ease of Doing Business (DB) in South Africa	269
11.8. Addendum 8: National remuneration data	272
11.9. Addendum 9: Transportation costs for goods	275
11.10. Addendum 10: Cost of electricity in major centres	283
11.11. Addendum 11: Immigration – Permits and visas	296
11.12. Addendum 12: Customs and excise regulations – Guidelines for immigrants and travellers	302
11.13. Addendum 13: How to apply for an energy connection	307
11.14. Addendum 14: How to apply for a water connection	309
11.15. Addendum 15: How to apply for an environmental impact assessment (EIA)	310
11.16. Addendum 16: How to obtain a mining permit/right	316

## 1.1. Why invest in South Africa?

South Africa is one of the most sophisticated, diverse and promising emerging markets globally. Strategically located at the tip of the African continent, South Africa is a key investment location, both for the market opportunities that lie within its borders and as a gateway to the rest of the continent, a market of approximately one billion people.

South Africa is the economic powerhouse of Africa and forms part of the BRICS group of countries with Brazil, Russia, India and China. It has a favourable demographic profile and its rapidly expanding middle class has growing spending power.

South Africa has a wealth of natural resources (including coal, platinum, gold, iron ore, manganese nickel, uranium and chromium) and it has been enjoying increased attention from international exploration companies, particularly in the oil and gas sector. In agriculture and agro-processing, South Africa is recognised as a leader in the region.

It has world-class infrastructure, exciting innovation, research and development capabilities and an established manufacturing base. South Africa has a strong tertiary education sector that ensures the availability of highly skilled graduates, and it is at the forefront of the development and rollout of new green technologies and industries, creating new and sustainable jobs in the process and reducing environmental impact.

South Africa has sophisticated financial, legal and telecommunications sectors, and a number of global business process outsourcing (BPO) operations are located in the country.

It has political and macroeconomic stability, an abundant supply of semi-skilled and unskilled labour, and compares favourably to other emerging markets in terms of the overall cost of doing business. For both professional and manufacturing jobs, labour costs have also historically been very competitive and less costly than that of European countries.

The South African Government has introduced wide-ranging legislation to promote training and skills development and fast-track the building of world-class skills and competences.

One of the main reasons for South Africa becoming one of the most popular trade and investment destinations in the world is due to the country ensuring that it can meet the specific trade and investment requirements of prospective investors.

South Africa has a host of investment incentives and industrial financing interventions that are aimed at encouraging commercial activity and its trade rules favour a further expansion in South Africa's burgeoning levels of international trade.

The special International Headquarter Company (IHQ) regime makes South Africa an attractive location for multinational companies wanting to invest into Africa.

South Africa is serviced by a multitude of international airlines, with good flight connections into the rest of the continent, and its unrivalled scenic beauty and reputation for delivering value-for-money, make it an attractive leisure and business travel destination.

## 2. Fast facts about South Africa<sup>a1</sup>

### 2.1. Political

- The African National Congress (ANC) has been the governing political party in South Africa since the end of apartheid.
- South Africa is the only African country that is a member of the Group of Twenty (G20) countries.
- South Africa ranked fifth overall in the *Ibrahim Index 2014*, which measures the quality of African governance. Mauritius, Botswana, Cape Verde and Seychelles took the first four places out of 52. Nigeria was ranked 37th. (*Mo Ibrahim Foundation*)
- Transparency International ranked South Africa 72nd out of 177 countries in its *Corruption Perception Index 2013*. Denmark and New Zealand took first place as the least corrupt nations, with the United Kingdom (UK) ranked 14th, the United States (US) 19th, United Arab Emirates (UAE) 26th, Mauritius 52nd, Russia 127th and Nigeria 144th.
- According to the *Open Budget Index 2012*, South Africa had the second most transparent budget in the world in 2012. In 2010, South Africa ranked first. (*International Budget Partnership*)

- South Africa ranked 31st out of 167 countries surveyed in the *Democracy Index 2012*, compiled by the Economist Intelligence Unit (EIU), ahead of France, Italy, Greece and all of the other BRICS countries. *WorldAudit.org* ranked South Africa as the 44th most democratic country in 2012.
- South Africa ranked as the 63rd strongest state out of 177 countries in the *Fund for Peace's Failed State Index 2014*. The *Index* measures state vulnerability based on 12 social, economic, political and military indicators.
- South Africa does not feature on the **brain drain** list of top 20 countries. (*Economist*). Research indicates the **brain drain** of professionals from South Africa has shown signs of reversing, with 359 000 highly-skilled South Africans having returned to the country since the global financial crisis of 2008/9. (*Adcorp*)
- South Africa is the first African country to legalise same-sex marriage. (*BBC News*)

### 2.2. Economic

- South Africa's economy is ranked as the second largest in Africa and the 33rd largest in the world. (*World Bank*)
- In terms of Purchasing Power Parity (PPP), South Africa has the seventh highest per capita income in Africa. (*World Bank*)
- South Africa is ranked as the 75th freest economy in the world in the 2014 *Index of Economic Freedom*. (In 2014 South Africa celebrated 20 years of freedom and democracy). South Africa's overall score is higher than the world and regional sub-Saharan averages of 60.3 and 54.6 respectively.
- South Africa ranked 53rd out of 148 countries in the World Economic Forum's (WEF) *Global Competitiveness Report 2013/14*.
- The Johannesburg Stock Exchange (JSE) ranked as the 12th best stock exchange in the world in terms of market value, trade and turnover in 2014. The London Stock Exchange took first position followed by the NASDAQ in second position, Swiss Exchange in 10th position, and the Hong Kong Exchange in 20th position. (*IMF, Rankopedia*)
- South Africa's debt to Gross Domestic Product (GDP) ratio is 42% (US 100%, Japan 200% and UK 90%). The World Bank recommends a ratio of 60%.
- South Africa's **tax revenue** increased from R100 billion in 1994 to R1 trillion in 2014.
- South Africa is the second largest exporter of fruit in the world. (*Economist*)

- South Africa ranks first in platinum output, second in palladium output, third in gold output, sixth in coal output and ninth in wool output. (*Economist*)
- Resources (including gold, platinum, ferrochrome, coal and palladium) account for about 30% of South Africa's export earnings.
- South Africa ranked 24th out of 192 countries in the *Largest Gold Reserves Index 2013*. (*Economist*)
- South Africa ranked first among upper middle-income economies in the *World Bank Connecting to Compete 2012: Trade Logistics* in the *Global Economy Report*. Overall, South Africa ranks 23rd out of 155 countries included in the *Logistics Performance Indicators (LPI)*. Its main competitor on the African continent, Nigeria, is ranked 121th.



<sup>a1</sup> South Africa – The Good News. [www.sagoodnews.co.za](http://www.sagoodnews.co.za). Retrieved September 2014.; <http://larktours.com/50-interesting-facts-about-south-africa>; <http://www.southafrica.info>; [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa); <http://www.imf.org>

## 2.3. Business

- One of the economic powerhouses of the African continent, South Africa was named FDi Magazine's *African Country of the Future 2013/14*.
- South Africa is ranked 10th out of 189 countries for good practice in protecting investors in business. (*World Bank Doing Business Report 2014*).
- South Africa is ranked 41st out of 189 countries for **ease of doing business**, 26th out of 189 countries in **dealing with construction contracts** and 24th out of 189 countries in **paying taxes** according to the *World Bank Doing Business Report 2014*.
- South Africa ranks 11th out of 60 countries in the *Big Mac Index 2014*.
- South Africa is placed 14th in a list of 21 countries ranked by international companies as **top prospective investment destinations** for 2012 to 2014, according to the *2012 World Investment Report* by the United Nations (UN) Conference on Trade and Development. (*Unctad*)
- In terms of **press freedom**, South ranks 41st out of 176 countries (higher than France, Italy, Spain, and Portugal).
- In terms of **national brand**, South Africa's brand was voted the most valuable on the continent in 2011. (*Brand Finance*)

## 2.4. Tourism

- South Africa is ranked among the top three countries in the world in respect of **tourism growth**.
- South Africa is ranked 62nd overall in the latest edition of the *WEF's Travel and Competitiveness Report 2013*, which surveyed 140 countries on their policies to develop the travel and tourism sector.
- Cape Town was named the **top tourist destination** in the world in the *2013 Traveler's Choice Destinations Awards*.
- The Cape Grace in the V&A Waterfront, Cape Town, was named second best hotel in the world in the *2013 Tripadvisor Traveler's Choice Awards*.
- Cape Town International was rated the **best airport in Africa**, according to the *World Airport Awards 2012*. O.R. Tambo International was second and King Shaka International came third. They were ranked 27th, 31st and 35th respectively in the world.
- National carrier, South African Airways (SAA), won the *Global Traveler's Airline of the Year Award 2012*, the highest honour awarded by the publication for global business travellers.
- Table Mountain was inaugurated as one of the **New Seven Wonders of Nature** in 2012.
- Kruger National Park supports the greatest variety of wildlife species on the African continent.

- 41 South African beaches were awarded **Blue Flags**, an international indicator of high environmental standards for recreational beaches in 2013.
- There are more than 2 000 shipwrecks, dating back at least 500 years, off the South African coast. More than one of these, including the Waratah, vanished without a trace.
- South Africa has the highest commercial bungi jump in the world (710 feet).

## 2.5. Sport

- South Africa was the first African country to host the FIFA Soccer World Cup in 2010 and FIFA president Sepp Blatter awarded South Africa a grade nine out of 10 for successfully hosting the event. (*Mail & Guardian*)
- South Africa is also only the second country in the world to have hosted the Cricket, Rugby Union and Soccer World Cups.
- In 2009, the Springboks became the first international team to be world champions in both 15-a-side and Sevens rugby.
- South Africa is home to the world's largest individually timed cycle race (the Cape Argus Cycle Race), the world's largest open water swim (the Midmar Mile) and the world's largest ultra-marathon (the Comrades Marathon).
- South Africa produced Formula One motor racing's 1979 world champion, Jody Scheckter.
- Since the 1940s, South African golfers have won more golf majors than any other nation, apart from the US.

- Five South Africans hold the world extreme swimming world record for swimming 2.5kms around Cape Horn.

## 2.6. Education

- South Africa has 30 000 ordinary public and independent schools. (*Department of Basic Education*)
- In 1994, only 12 000 schools had electricity. In 2013, approximately 25 000 had access to electricity.
- According to the 2011 Census, 81.2% (45.6%) of five-year-olds, 97% (94.6%) of nine-year olds, 95.8% (95.1%) of 13-year olds and 85.6% (81.5%) of 17-year olds attend an educational establishment. (2001 figures in brackets)
- South Africa's learner to teacher ratio improved significantly from 1:50 in 1994 to 1:29 in 2012/13. (*Department of Basic Education*)
- According to the *Global Competitiveness Report 2013/14*, South Africa ranks (out of 148 countries) 23rd in **quality of management of schools**, 33rd in **capacity for innovation** and 54th for **availability of research and training services**.
- 11 of South Africa's 23 universities rank in the top 7% of the 20 000 registered universities worldwide.
- The University of Cape Town (UCT)'s Graduate School of Business is one of just 59 of 13 670 business schools worldwide to be triple-crowned schools that are accredited by the three largest and most influential business school accreditation associations; namely, AMBA (the Association of MBAs), European

Quality Improvement System (EQUIS), and Advance Collegiate Schools of Business (AACSB).

- The University of South Africa (UNISA) is a pioneer of tertiary distance education and is the largest correspondence university in the world with approximately 300 000 students.
- The University of Pretoria's Gordon Institute of Business Science (GIBS) was the highest ranked African business school and is ranked 42nd overall in the world in 2013. (*Financial Times Executive Education rankings 2013*)
- The first MBA programme outside of the US was started by the University of Pretoria in 1949.
- Stellenbosch University was the first African university in the world to design and launch a microsatellite.

## 2.7. Environmental

- South Africa is the only country to house an entire floral kingdom (fynbos), one of only six on the planet.
- The Cape Floral Kingdom has 9 600 plant species, 70% of which are not found anywhere else in the world.
- South Africa has the third highest level of biodiversity in the world.
- Approximately 900 bird species are found in South Africa alone, which represents 10% of the world's total bird species.
- South Africa ranks 18th in terms of **biggest emitters of CO<sub>2</sub>**, ninth as a proportion of GDP and 27th in terms of CO<sub>2</sub> per person. (*Economist*)

- South Africa has the highest level of international certification of its tree plantations in the world. More than 80% of South African plantations are certified by the Forest Stewardship Council (FSC). (*Paper Manufacturers Association of South Africa*)
- In 1991, South Africa became the first country in the world to provide full protection status for the great white shark within its jurisdictional waters.
- Johannesburg ranks second among countries from Asia-Pacific, Middle East and Africa in dealing with urbanisation and environmental challenges. (*MasterCard Insights Report on Urbanisation and Environmental Challenges*)
- All paper in South Africa is produced from plantation grown trees, recycled paper or bagasse (sugar cane fibre). Fibre is not sourced from the wood of rainforests, indigenous or boreal trees. (*Paper Manufacturers Association of South Africa*)

## 2.8. Social and infrastructure

- South Africa's population is ranked among the top 30 largest populations in the world.
- Johannesburg is currently ranked as the 54th largest city in the world. Shanghai is the largest city in the world and Moscow and London are ranked ninth and 24th respectively. (*Economist*)

- South Africa has the distinction of being one of only 12 countries in the world where it is safe to drink tap water. As at 2012, the quality of South African tap water was ranked third best overall. (*Institute of Waste Management of Southern Africa*)
- In 2012/13, 16.5 million South Africans benefited from **access to social grants**, 11.5 million of which were children, 3.5 million pensioners and 1.5 million with disabilities. In 1994, only 2.5 million people had **access to social grants**, the majority of which were pensioners.
- Since 1994, 435 houses have also been built each day for the poor.
- South Africa ranked 40th out of 105 countries in the *Global Food Security Index*, which at the time ranked the US in the top spot and the Democratic Republic of Congo (DRC) at the bottom.
- According to the *Global Competitiveness Report 2013/14*, South Africa ranked (out of 48 countries) 11th for **quality of air transport infrastructure**, 48th for **quality of railroad infrastructure**, 51st for **quality of port infrastructure** and 63rd for **quality of overall infrastructure**.

- South Africa's rail network ranked 11th in terms of **longest networks** and ninth in terms of millions of tons per km transported in 2013/14. (*Economist*)
- South Africa ranked number 21 in terms of **language diversity** out of 224 countries in 2012/13. Papua New Guinea ranked as the most linguistically diverse country and the Vatican the least. (*Greenbergs Diversity Index. Ethnologue.com*)

## 2.9. Miscellaneous

- South Africa has 11 official, state-wide languages, more than any other country.
- Two of the world's most profoundly compassionate philosophies originated in South Africa – Ubuntu (the belief in a universal bond of sharing that connects all humanity) and Gandhi's notion of passive resistance (Satyagraha), which he developed while living in South Africa.
- The only street in the world to house two Nobel Peace Prize winners is in Soweto. Nelson Mandela and Archbishop Desmond Tutu both have houses in Vilakazi Street, Orlando West. South Africa ranks seventh in terms of number of Nobel Peace prizes. (*Economist*)

- South Africa houses one of the three largest telescopes in the world at Sutherland in the Karoo.
- The world's largest diamond was the Cullinan Diamond, found in South Africa in 1905. It weighed 3,106.75 carats uncut. It was cut into the Great Star of Africa, weighing 530.2 carats, the Lesser Star of Africa, which weighs 317.40 carats, and 104 other diamonds of nearly flawless colour and clarity. They now form part of the British crown jewels.
- Several important scientific and technological developments have originated in South Africa. The first human-to-human heart transplant was performed by cardiac surgeon, Christiaan Barnard in December 1967. Max Theiler developed a vaccine against yellow fever, Allan McLeod Cormack pioneered x-ray computed tomography, and Aaron Klug developed crystallographic electron microscopy techniques.
- Mark Shuttleworth founded an early, internet security company, Thawte; subsequently bought out by world-leader, VeriSign.





### 3. General information about South Africa

#### 3.1. Introduction<sup>b1</sup>

The Republic of South Africa (also referred to as South Africa, SA or RSA) is a state in Southern Africa. It is a parliamentary republic comprising nine provinces and is located at the Southern tip of Africa.

South Africa is a constitutional democracy in the form of a parliamentary republic. It is one of the founding members of the African Union (AU), and has the largest economy of all the members. It is also a founding member of the United Nations (UN) and New Partnership for Africa's Development (NEPAD). South Africa is a member of the Commonwealth of Nations, Antarctic Treaty System (ATS), Southern African Development Community (SADC), South Atlantic Peace and Cooperation Zone (ZPCSA), Southern African Customs Union (SACU), World Trade Organization (WTO), International Monetary Fund (IMF), Group of 77, G20, G8+5 and BRICS (Brazil, Russia, India, China and South Africa).

South Africa is ranked as an upper-middle income economy and is considered to be a newly industrialised country. Its economy is the second largest in Africa and the 28th largest in the world.

It has been identified as a middle power in international affairs, and maintains significant regional influence.

Poverty and inequality remain widespread, with about a quarter of the population unemployed.

According to Census 2011, the country's population stands at approximately 51.77 million people. The 2014 estimate is 54.002 million people. Africans are in the majority, making up about 79.2% of the total population. The coloured population makes up approximately 8.9% of the total population, the white population 8.9%, the Indian/Asian population 2.5% and "other", 0.5% of the total population. South Africa also contains the largest communities of European, Asian, and racially mixed ancestry in Africa and all ethnic and linguistic groups have political representation in the country's constitutional democracy.

South Africa is known for diversity in culture, languages and religious beliefs; often referred to as the "Rainbow Nation".

#### Official Name

Republic of South Africa.

#### Capitals

Cape Town (legislative), Pretoria (administrative), Bloemfontein (judicial).

#### Head of State

Mr Jacob Gedleyihlekisa Zuma - elected President of South Africa in 2009.

#### Form of State

Federal, comprising a central government and nine provincial governments.

#### National symbols

National bird: blue crane; National animal: the springbok; National fish: galjoen; National flower: protea and National tree: the yellowwood.

#### Measures

Metric system.

#### Electricity current

220 /230 Volts AC50HZ.

#### Time

Greenwich Mean Time (GMT) + 2 hours.

#### Corporate information

(Business hours - a broadly based guideline).

Monday to Friday 08h00 to 17h00

Saturday 08h30 to 13h00

In metropolitan areas, many large department stores are open until 17h00 and sometimes later on weekdays, and on Saturdays and Sundays from 09h00 to 13h00 (sometimes later).

#### Fiscal year

1 March to 28 February.

#### Banking hours

Monday to Friday 08h30 to 15h30

Saturday 08h00 to 11h00

The last working day of each month 08h30 to 15h30. Cash is readily available from Autoteller Machines (ATMs) 24 hours a day.

#### Currency

The monetary unit is the South African Rand (Rand), equivalent to 100 cents (international symbol ZAR).

#### Bank note denominations

R200, R100, R50, R20, R10.

#### Coin denominations

R5, R2, R1, 50c, 20c, 10c, 5c.

#### Public holidays 2014 /2015 <sup>b2</sup>

2014

1 January 2014 (New Year's Day)

21 March 2014 (Human Right's Day)

18 April 2014 (Good Friday)

21 April 2014 (Family Day)

27 April 2014 (Freedom Day)

28 April 2014 (Public Holiday)

1 May 2014 (Worker's Day)

7 May 2014 (Voting Day)

16 June 2014 (Youth Day)

9 August 2014 (National Women's Day)

24 September 2014 (Heritage Day)

16 December 2014 (Day of Reconciliation)

25 December 2014 (Christmas Day)

26 December 2014 (Day of Goodwill)

2015

1 January 2015 (New Year's Day)

21 March 2015 (Human Right's Day)

3 April 2015 (Good Friday)

6 April 2015 (Family Day)

27 April 2015 (Freedom Day)

1 May 2015 (Worker's Day)

16 June 2015 (Youth Day)

9 August 2015 (National Women's Day)

10 August 2015 (Public Holiday)

24 September 2015 (Heritage Day)

16 December 2015 (Day of Reconciliation)

25 December 2015 (Christmas Day)

26 December 2015 (Day of Goodwill)

<sup>b1</sup> [http://en.wikipedia.org/wiki/South\\_Africa.](http://en.wikipedia.org/wiki/South_Africa.); [SouthAfrica.info](http://www.southafrica.info). <http://www.southafrica.info/about/facts.htm>.

<sup>b2</sup> The Public Holidays Act (Act No 36 of 1994) determines whenever any public holiday falls on a Sunday, the Monday following on it shall be a public holiday.

### Geography

South Africa is divided into nine provinces covering 1 221 037 km<sup>2</sup> (471 443 miles<sup>2</sup>). Broadly speaking, South Africa comprises two main regions: an inland plateau fringed by coastal plain on three sides. The main industrial and commercial areas are centred in Cape Town, Durban, Johannesburg and Pretoria. The main harbours are: Durban, Cape Town, Port Elizabeth, East London, Richard's Bay and Saldanha Bay. There are no commercially navigable rivers.

### Climate

Temperate, warm and sunny.

Summer 15°C to 35°C. Winter 0°C to 20°C.

Overall, dry. Annual rainfall, 464mm; world average, 857mm.

### Natural resources

Gold, chromium, antimony, coal, iron-ore, manganese, nickel, phosphates, tin, rare-earth elements, uranium, gem diamonds, platinum, copper, vanadium, salt, natural gas.

### Economic region

Sub-Saharan Africa.

### Official languages

Eleven official languages: Afrikaans, English, Ndebele, Sepedi, Sesotho, Swati, Setswana, Tsonga, Venda, Xhosa and Zulu. Though English is commonly used in public and commercial life, it is only the fifth most-spoken home language. English is the business language.<sup>b3</sup>

### Population<sup>b4</sup>

54.00 million (2014 mid-year estimate).

51.77 million (Oct 2011 Census).

44.80 million (Oct 2001 Census).

Country comparison to the world: 28.

Growth rate: 1.58% (2014 estimate).

### Economy<sup>b5</sup>

Mixed economy, upper middle-income, emerging market. Considered a newly industrialised country. Ranked 26th in the world in terms of GDP (PPP). Also considered to be the 36th safest tax haven in the world.

Second largest economy in Africa after Nigeria. In 2013, ranked as top African country in terms of economic potential, cost effectiveness, infrastructure, business friendliness and foreign direct investment.

Main industries include: mining (world's largest producer of platinum), gold, chromium, automobile assembly, metalworking, machinery, textiles, iron and steel, chemicals, fertiliser, foodstuffs and commercial ship repair.

Abundant supply of resources, well-developed financial, legal, communications, energy, and transport sectors, a stock exchange that ranks among the top 20 in the world and a modern infrastructure supporting an efficient distribution of goods to major urban centres throughout the entire region.

Largest energy producer and consumer on the continent.

**The South African Rand (ZAR) has in recent years been one of the most actively traded emerging market currencies in the world.**

Principal international trading partners of South Africa (besides other African countries) include: Germany, the US, China, Japan, the UK and Spain.

Main exports are metals and minerals. Machinery and transportation equipment make up more than one-third of the value of the country's imports. Other imports include: automobiles, chemicals, manufactured goods and petroleum.

### Ease of doing business in South Africa<sup>b6</sup>

South Africa ranked 41st out of 189 countries in the World Bank and International Finance Corporation's *Doing Business 2014 Report*, an annual survey that measures the **time, cost and hassle** for businesses to comply with legal and administrative requirements.

South Africa fell below developed countries such as Japan (27) and France (38), and above developing economies such as Mexico (53), China (96), Russia (92), Brazil (116) and India (13).

The report placed South Africa 10th for its protection of investors, the best of all African countries, and it recorded improvements in the areas of **trading across borders, paying taxes and getting electricity**.

For the World Bank's 2014 results of *Doing Business in South Africa* refer to: **Addendum 7: Doing Business in South Africa in 2014**.

### 3.2. Infrastructure<sup>b7</sup>

South Africa has a modern and well-developed transport infrastructure. The roads are world-class. The air and rail networks are of the largest on the continent and the country's ports provide a natural stopover for shipping to and from Europe, the Americas, Asia, Australasia and both coasts of Africa.

The transport sector has been highlighted by the Government as a key contributor to South Africa's competitiveness in global markets. It is increasingly being seen a crucial engine for economic growth and social development.

South Africa ranked 34th out of 160 countries in the World Bank's *2014 Logistics Performance Index (LPI)* topped by Germany, with Somalia ranked the lowest. Besides China, South Africa also performed above its BRICS counterparts.<sup>b8</sup>

#### Ports and shipping

Major shipping lanes pass along the South African coastline in the South Atlantic and Indian oceans.

Approximately 96% of the country's exports are conveyed by sea, and the eight commercial ports are the conduits for trade between South Africa and its Southern African partners, as well as hubs for traffic to and from Europe, Asia, the Americas and the east and west coasts of Africa.

The state-owned Transnet National Ports Authority (NPA) manages the country's ports. These are: Richards Bay and Durban in KwaZulu-Natal; East London, Port Elizabeth and the Port of Ngqura in the Eastern Cape; and Mossel Bay, Cape Town and Saldanha in the Western Cape.

<sup>b3</sup> [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa).

<sup>b4</sup> Statistics South Africa website; World Bank. *Development Indicators Database*

<sup>b5</sup> [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa).

<sup>b6</sup> <http://www.southafrica.info/business/investing/open.htm#cost>

<sup>b7</sup> <http://www.southafrica.info/business/economy/infrastructure/>

<sup>b8</sup> [lpi.worldbank.org](http://lpi.worldbank.org)

**Durban is Africa's busiest port and the largest container facility in Southern Africa, while Richard's Bay is the world's largest bulk coal terminal.**

The Port of Ngqura, developed off the coast from Port Elizabeth, is the deepest container terminal in Africa, and is a key part of Coega, one of the country's strategic Industrial Development Zones (IDZs).

The Dube Trade Port, launched in March 2012, includes King Shaka International Airport. The port is operated by a state-owned company and includes a cargo terminal, trade zone, agrizone and IT and telecommunications platform.

The old Durban International Airport will be turned into a multibillion-rand dug-out port by Transnet. Expected to be ready by 2019, development plans include the creation of an automotive component supplier park around the port.

### Roads

South Africa's total road network is about 754 000 km, of which more than 70 000 km are paved or surfaced roads.

While the Department of Transport is responsible for overall policy, road-building and maintenance is the responsibility of the South African National Roads Agency (SANRAL), as well as the nine provinces and local governments.

About 3 000 km of the national roads are toll roads. About 1 800 km of these are maintained by SANRAL, while the rest have been concessioned to private companies to develop, operate and maintain.

A multibillion-rand freeway improvement scheme has significantly eased congestion on the roads in Gauteng, the country's busiest province.

In addition, South Africa's Public Transport Strategy plans to integrate rail, taxi and bus services in cooperation with private operators, both operationally and through ownership.

Johannesburg's successes with the Bus Rapid Transport System (BRTS) has led to it being adapted and implemented in other South African cities, including Cape Town, Nelson Mandela Bay, Rustenburg, Tshwane and Ekurhuleni.

### Railways

South Africa has an extensive rail network managed by the Department of Public Enterprises via Transnet.

The country's rail infrastructure, which connects the ports with the rest of South Africa, and major networks in the Sub-Saharan region, represents about 80% of Africa's total.

Improving the country's rail network is a top Government priority, with projects aiming to increase freight rail volumes and increase market share of container traffic.

The Government has also taken the safety of passengers seriously, increasing the number of railway police officers and building rail police stations in several stations in the Western Cape, KwaZulu-Natal and Gauteng, and also created a new rail and bus operator, the Passenger Rail Agency of South Africa (Prasa), by merging the operations of the South African Rail Commuter Corporation, Metrorail, Shosholoza Meyl and Autopax, the company that runs the Translux and City-to-City buses.

Metrorail commuter services can be found in Cape Town, the Eastern Cape Province, Durban, and greater Johannesburg and Pretoria, focusing mainly on poorer South Africans.

Tourists and well-heeled passengers can travel on the Blue Train, one of the world's most famous luxury trains, while Shosholoza Meyl transports passengers between the country's major cities.

### Gautrain rapid rail link

The Gautrain is an 80 km rapid railway system in Gauteng, South Africa, which links Johannesburg, Pretoria and OR Tambo International Airport.

This railway is intended to relieve the traffic congestion in the Johannesburg-Pretoria traffic corridor and offer commuters a safe and viable alternative to road travel as Johannesburg has limited public transport infrastructure.<sup>b9</sup>

The train offers international standards of public transport. Travelling at maximum speeds of 160km to 180km per hour, it reaches Pretoria from Johannesburg in less than 40 minutes. The minimum frequency between Johannesburg and Pretoria is six trains per hour per direction and it operates approximately 18 hours per day. Approximately 40 000 people use the service every day.

### Airports and airlines

South Africa's main airport is OR Tambo (Johannesburg) International, and Cape Town International is the secondary airport.

Other international airports (that do not handle intercontinental flights) include: King Shaka Airport (Durban), Kruger Mpumalanga International Airport and Mafikeng International.<sup>b10</sup>

The smaller airports (i.e. Bloemfontein, Port Elizabeth, East London, George, Kimberly, Pilansberg and Upington) handle only domestic flights.

The 10 airports are run by Airports Company South Africa (ACSA), and handle more than 98% of the country's commercial air traffic.

The Airports Council International named Cape Town International the best airport in Africa in 2011. OR Tambo International is Africa's busiest airport and was named third best airport on the continent.

South African Airways (SAA) is the largest air carrier in Africa, with connections to more than 28 cities across the continent. SAA also offers its customers 1 356 destinations in 193 countries and 215 000 flights daily.

In 2012, South African Airways (SAA) was voted the best airline in Africa for the 10th year in a row by UK global aviation research organisation, Skytrax.

<sup>b9</sup> Business Report. 28 July 2011. <http://www.iol.co.za/business/business-news/gautrain-joburg-to-pretoria-line-ready-1.1107888>.

<sup>b10</sup> <http://www.southafrica.org.za/south-africa-info-airport-infrastructure.html>

## World heritage sites

There are eight UNESCO World Heritage Sites in South Africa; namely:<sup>b11</sup>

- iSimangaliso Wetland Park (KwaZulu-Natal: cultural heritage)
- Robben Island (Western Cape: cultural heritage)
- Cradle of Humankind (Gauteng: cultural heritage)
- uKhahlamba Drakensberg Park (KwaZulu-Natal: mixed heritage)
- Mapungubwe Cultural Landscape (Limpopo: cultural heritage)
- Cape Floral Region (Western and Eastern Cape: natural heritage)
- Vredefort Dome (Free State: natural heritage)
- Richtersveld Cultural and Botanical Landscape



## 3.3. Art, culture and sport

### Art and culture<sup>b12,b13</sup>

The arts and culture of South Africa is as rich and diverse as the country itself.

The Department of Arts and Culture of South Africa endeavours to safeguard and develop the country's cultural, artistic and linguistic heritage.

Interesting websites to visit are those of the Department of Arts and Culture (<http://www.dac.gov.za>) and Science and Technology (<http://www.dst.gov.za>) and the South African National Gallery (<http://www.iziko.org.za/sang>).

**South African arts** - Historically, the art community makes up a very small percentage of the total population.

With the lifting of the cultural boycott towards the end of the century, the South African artists received recognition in the international art world. Today South Africa is a storehouse of the oldest and finest rock paintings in the world in addition to the contemporary masterpieces and other works of arts and crafts that the country can be proud of.

**South African music** - South African music is characterised by a fusion of local ideas with influences from other countries. From the days of colonisation, the indigenous people of the country were influenced by the Westerners and adopted their musical instruments and ideas. Today several pop and rock musicians have made their mark in the world of international music.

**South African dance** - South Africa possesses a long tradition of fine classical ballet with the oldest dance company being the Cape Town City Ballet.

South African dance is characterised by its vitality and has gained much international acclaim. Contemporary dance companies of South Africa include: Jazzart Dance Theatre (Cape Town), the Soweto Dance Company, the Napac and Pact Dance Companies (Johannesburg).

**South African theatre** - South Africa offers an endless variety of theatrical experiences, ranging from the indigenous drama, dance, music and cabaret to the classical opera, ballet, West End and Broadway hits. South African theatre has an international reputation for being unique and top class. Major performing arts companies in South Africa include: State Theatre (Pretoria) and ArtsCape (Cape Town).

**South African literature** - South Africa has some great writers and poets whose literary outputs have been acclaimed worldwide and have also won several major awards. These authors and poets have contributed greatly towards enriching the English literature. Renowned literary geniuses of South Africa include: Alan Paton, JM Coetzee, Allister Sparks, Nadine Gordimer and Zakes Mda. Fiction has been written in all of South Africa's 11 official languages, with a large body of work in Afrikaans and English.<sup>b14</sup>

### Sport<sup>b15</sup>

Sports in South Africa have a passionate following, although remaining largely divided on ethnic lines.

Football (or "soccer" as it is known in South Africa) is the most popular sport in South Africa. South Africa's soccer team is called "Bafana Bafana". South Africa hosted the 2010 FIFA World Cup, the first one hosted in Africa. Cricket is the second most popular sport in South Africa. The national cricket team is nicknamed the "Proteas".

Other popular sports include: rugby union, boxing, hockey, surfing, netball and running. The national rugby union team is nicknamed the "Springboks".

South Africa's sporting achievements goes wider than the "big three" sports, however. In a country of magnificent golf courses, for example, South Africa has bred some world-beating stars including: Bobby Locke, Gary Player, Ernie Els, Retief Goosen, Trevor Immelman, Charl Schwartzel, Louis Oosthuizen and others. South Africa has also bred world champions among our swimmers, athletes, surfers, boxers, tennis players and more.<sup>b16</sup>

South Africa was absent from international sport for most of the apartheid era due to sanctions.

<sup>b11</sup> <http://www.southafrica.info>

<sup>b12</sup> [123independenceday.com](http://123independenceday.com).

<sup>b13</sup> <http://www.southafrica.info/about/arts/>

<sup>b14</sup> <http://www.southafrica.info/about/arts/literature.htm#ixzz2aWKOPHMn>

<sup>b15</sup> <http://en.wikipedia.org>

<sup>b16</sup> <http://www.southafrica.info/about/sport/sportsa.htm>

### 3.4. Food and drink<sup>b17,b18</sup>

South Africa has a fantastic culinary tradition and its wines are famous throughout the world. The cuisine can be generalised as:

- Cookery practised by indigenous people of Africa such as the Sotho and Nguni-speaking people.
- Cookery that emerged from several waves of colonialisation and immigration introduced during the colonial period by people of Dutch, German, French and Indonesian descent (since 1652) Afrikaner, British descent (since 1805 and 1820 Settlers) and their slaves or servants. This includes the cuisine of the so-called Cape Malay people, which has many characteristics of Indonesia and cooking styles from neighbouring colonial cultures such as Portuguese Mozambique.

South Africa also has a significant “eating out” culture. While there are some restaurants that specialise in traditional South African dishes or modern interpretations thereof, restaurants featuring other cuisines such as Moroccan, Chinese, West African, Congolese and Japanese can be found in all of the major cities and many of the larger towns.

In addition, there are also a large number of “home-grown” chain restaurants such as Spur and Nando’s and a proliferation of fast food restaurants such as McDonald’s and Steers.

Typical South African foods and dishes include: mealie pap, biltong, biryani and bobotie, chutney, frikkadelle (meatballs), potjiekos (stew), koeksisters (syrup-coated doughnut), milktart and rusks.

Wine made from imported grape varieties such as chenin blanc, chardonnay, merlot and shiraz has been made in the Western Cape for three centuries. Two local specialities are Muscat d’alexandrie (made from hanepoot), a sweet dessert wine, and Pinotage, a uniquely South African cultivar developed from pinot noir and cinsaut (hermitage) grapes.

South Africans are also prolific beer drinkers.

### 3.5. Education<sup>b19</sup>

South Africa’s Constitution guarantees equality and non-discrimination, cultural freedom and diversity, the right to basic education for all and equal access to educational institutions.

The majority of learners in South Africa attend government-assisted schools, under a single national system that is organised and managed on the basis of nine provincial sub-systems. However, private schools run by church denominations or private enterprises are an important feature of the educational system. Private school pupils generally follow the same syllabuses as their fellow learners in government schools.

The education of the poorest of the poor remains a priority, and includes two notable programmes. One is no-fee schools, institutions that receive all their required funding from the State and so do not have to charge school fees. These have been carefully identified in the country’s most poverty-stricken areas.

During a child’s school career, he/she will probably attend the following schools:

- Pre-primary: To become compulsory between six and seven in the near future.

- Primary: It is compulsory for children to start in the year they turn seven. Primary education usually takes seven years to complete.
- Secondary: This usually takes five years and most subjects can be taken on the higher or standard level (grade).
- Post-school and tertiary training: Provided countrywide by numerous universities, technical colleges, numerous teacher training colleges and a number of other institutions. UNISA offers correspondence courses worldwide.

The school year commences in January and ends in December.

Notable developments include:

- With a new curriculum at its heart, the focus is on literacy and numeracy. Known as the Curriculum and Assessment Policy Statement (CAPS), the new curriculum provides very specific guidelines to streamline what is taught in schools with the aim to close the divide between well-resourced and poor schools. Curriculum implementation is supported through the national educational portal, *Thutong* (Setswana, meaning “place of learning”).
- The introduction of standardised assessments of grade three, six and nine to better track progress; an emphasis on early child development and universal access to Grade R; ensuring learners have access to good quality textbooks; and improving school infrastructure and strengthening school management.

- Phasing in the learning of an African language at South Africa’s schools. Cabinet has welcomed the Education Department’s recent announcement to start preparing for the introduction of African languages as an additional language subject at all schools in 2014 by phasing it in in selected schools in each province.
- Teacher education and development programmes have been strengthened, including funding for bursaries for trainee teachers.
- The National Schools Nutrition Programme, which gives more than 8.8 million school children a cooked meal five days a week.

### 3.6. Law

South African law is founded on the Roman-Dutch law, although aspects of our law (particularly the company laws and the law of evidence) have been heavily influenced by English law. General commercial legal practices relating to transactions and the drafting of commercial agreements are generally globally applicable and in line with developed countries.

There is a world-class and modern Constitution (including a Bill of Rights) in place that regulates human rights and all legislation.

Trade and industry is undertaken within the framework of a free enterprise economy. The courts are open to foreigners on exactly the same terms and conditions as South African citizens, although many commercial disputes are resolved through arbitration by agreement between the parties.

<sup>b17</sup> 20 [http://en.wikipedia.org/wiki/South\\_African\\_cuisine](http://en.wikipedia.org/wiki/South_African_cuisine)

<sup>b18</sup> <http://www.zuidafrika.nl/food-and-drink>

<sup>b19</sup> [http://old.southafrica.co.za/coming\\_to\\_sa\\_37.html](http://old.southafrica.co.za/coming_to_sa_37.html)

### 3.7. Industrial relations

Any foreign employees working in South Africa for a South African employer will be protected by South African employment laws. The employment relationship will, therefore, be governed and regulated by South African employment law.

Trade unions remain an important force in South Africa, active in most industries, representing a significant percentage of the workforce. The Congress of South African Trade Unions (COSATU) is the largest of three major trade union centres (COSATU, Federation of Unions of South Africa (FEDUSA) and National Council of Trade Unions (NACTU) in South Africa. A list of registered trade unions can be accessed at: [www.workinfo.com/registeredtradeunions.htm](http://www.workinfo.com/registeredtradeunions.htm) or [www.labourguide.co.za/general/registered-trade-unions-in-South-Africa](http://www.labourguide.co.za/general/registered-trade-unions-in-South-Africa).

Collective bargaining is regulated by the Labour Relations Act. The Labour Relations Act 66 of 1995 (the Act) promotes collective bargaining and, in particular, sectoral level collective bargaining, as the desired method of setting wages and conditions of employment. The Act strongly promotes centralised bargaining at industrial or sectoral level. Most collective bargaining occurs at employer level, but some industries are regulated by industry level bargaining councils where bargaining between employer and employee organisations will take place.

The Labour Relations Act also regulates and deals with dismissals or termination of employment, which must be both substantively and procedurally fair. Minimum terms and conditions of employment on the other hand is regulated by the Basic Conditions of Employment Act 75 of 1997.



### 3.8. Immigration - Visas and permits<sup>b20</sup>

South Africa's immigration system is regulated by the Immigration Act, 2002 (Act No. 13 of 2002) (the Act). This Act ensures, *inter alia*, that economic growth is promoted through the employment of needed foreign labour, foreign investment is facilitated, the entry of exceptionally skilled or qualified people is enabled, skilled human resources are increased, academic exchanges within the Southern African Development Community (SADC) is facilitated, and tourism is promoted, while at the same time ensuring that security considerations are fully satisfied.

As of 26 May 2014, the new Immigration Regulations, 2014 (the Regulations), came into operation and brought about significant changes regarding the classes of visas that may be issued to foreigners wishing to enter South Africa, as well as a number of other administrative measures. The Department of Home Affairs' website ([www.dha.gov.za](http://www.dha.gov.za)), or South African High Commission or Embassy or Consulate, should be consulted for the latest Regulations.

The Immigration Act provides for two main categories under which a person may sojourn in South Africa, being visas for temporary sojourn and permits for permanent sojourn.

In order to determine which visa would be suitable to apply for, the applicant must have a clear purpose for which he/she would want to be in South Africa, and approach the nearest South African Embassy in his/her country of origin or permanent residence, to make an application in person.

<sup>b20</sup> Department of Home Affairs. [www.dha.gov.za](http://www.dha.gov.za)

### Key principles

Key principles to understanding the current process to obtain a work visa, or any other visa to allow a person to reside in South Africa include:

- Every foreign national in South Africa (unless he/she is an asylum seeker/refugee or also has South African citizenship), no matter what their age or their reason is for being in their country, must have a visa endorsed into their passport that sets out the reason for being in the country and for what period/length of time;
- The visas that a person can apply for to sojourn in South Africa are activity-based (i.e. to study, to invest or to work). There is no "general" or all-purpose visa that allows a foreign national to do whatever he/she wants and for however long he/she wants; and
- As a matter of policy, it is preferred that people enter South Africa on the correct category of visa. Other than in exceptional circumstances, foreign nationals who are issued with a visitor's visa or medical treatment visa, will not be allowed to change their visas or terms and conditions attached to their visa from inside the country. Such foreign nationals would have to return to their country of origin or permanent residence to apply for an appropriate visa to re-enter the country for the purpose for which they would like to be in South Africa.

- If a person's visa expires before he/she leaves South Africa, he/she is deemed to have "overstayed" and will be regarded an "illegal" person. Such persons may, upon voluntarily leaving South Africa, be declared undesirable for a period of time depending on the length of the overstay. A person who overstays, may, if found by the police/immigration officials inside the country, be detained pending deportation as an illegal foreigner. Where a person has obtained a false or fraudulent visa, he/she will be deemed to be a "prohibited" person and such a person would not qualify for a port of entry visa, visa, and admission into the Republic or a permanent residence permit.

### Visas (port of entry visas)

The Act has been amended to refer to all categories of temporary residence permits as visas, such as visitor's visa, work visa, study visa etc. and the work permit shall remain for purposes of permanent residence permit, which is for a longer stay in the Republic. This amendment seeks to make a clear distinction between short stay visas and permanent residence permits.

Foreign nationals from some countries are exempt from obtaining visas before coming to South Africa; others are not. Nationals from countries that are exempt from obtaining visas can enter South Africa, and will have their passports endorsed with the visitor's visa at the port of entry (up to the limit of their visa exemption), for visits that justify this form of entry, such as business meetings and holidays. Nationals that are not exempt from obtaining visas are required to obtain a visa at the South African Embassy before they depart for South Africa.

As the list for visa exemptions can change without notice, it is advisable that applicants confirm their visa exemption status on the official website of the Department of Home Affairs, or alternatively contact the nearest South African Embassy. **(Addendum 11: Immigration - Permits and visas** also includes a list of visa exempt countries). A list of South African Embassies can be obtained from the Department of International Relations and Cooperation at: [www.dfa.gov.za](http://www.dfa.gov.za).

All applications for visas must be made in person at the South African Missions, and this will allow the implementation of the risk-based approach, including verification of the applicant's credentials, supporting documents, etc. (for temporary sojourn). Applications for renewals, or extension of visas, can be made inside South Africa and must be lodged at one of the 11 VFS Global Centres countrywide ([www.vfsglobal.com/dha/southafrica/](http://www.vfsglobal.com/dha/southafrica/)).

A change of status, or terms or conditions in the Republic, will be permitted on all other visas, unless provided otherwise, except for a person who is on a visitor's visa or medical treatment visa, who would have to make an application from outside the Republic for the relevant visa that he/she may be wishing to apply for.

### Temporary residence visas

There are various categories of temporary residence visas, ranging from visitor's visa for tourism to work visas. These visas are valid for periods of between one month and 24 to 36 months. Generally, the principle is to apply for the visa that most closely applies to your circumstances prior to coming to South Africa, at the relevant South African Embassy or High Commission in your country of origin or

permanent residence. The following categories of temporary residence visas can be applied for:

- Visitor's visa.
- Study visa:
  - Issued for the duration of the applicant's studies; and
  - Study visa holders no longer have to renew their visas on a yearly basis.
- Treaty visa:
  - This gives foreigners permission to enter South Africa to participate in programmes that have been agreed upon by South Africa and the applicant's respective country.<sup>b21</sup>
- Business visa:
  - To establish a business or to invest in an existing business venture.
- Medical treatment visa:
  - Applications must be made at any South African Mission in the applicant's country of origin or permanent residence; and
  - A medical treatment visa holder may not work or apply for work while in the country, and cannot change his/her status or terms or conditions of his/her visa, while resident in the Republic.
- Relatives' visa:
  - Immediate family members, or members of a South African citizen or permanent resident, may apply for a relative's visa. The South African citizen, or permanent residence permit holder, must provide financial assurances as contemplated in the Act (minimum financial assurance of R8 500);
  - Relatives' visas are valid for a maximum period of 24 months at a time and may be extended;
  - Applications must be made at any South African Mission in the applicant's country of origin or permanent residence; and
  - For a spouse, or a dependent child of a South African citizen or permanent resident, the permit is issued free of charge, while there is a fee for other relatives wishing to join their family members in South Africa.
- General work visa:
  - Issued where the South African employer can show that it has been unable to find a South African citizen (or permanent resident) with the same skills (or better) than those a foreign national has;
  - A general work visa may be issued for a period not exceeding five years (renewable); and

<sup>b21</sup> [www.vfsglobal.com/dha/southafrica/Treaty.html](http://www.vfsglobal.com/dha/southafrica/Treaty.html)

- An application for a general work visa must, among other requirements, be accompanied by a certificate from the Department of Labour (DOL) confirming that: despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant; the applicant has qualification or proven skills and experience in line with the job offer; the salary and benefits of the applicant are not inferior to the average salary benefits of citizens or permanent residents occupying similar positions; and the contract of employment stipulating the conditions of employment and signed by both the employer and the applicant is in line with the labour standards in the Republic and is made conditional upon the general work visa being approved.

confirming skills and qualifications; a certificate of registration (or proof of application for a certificate) if required by law from the recognised professional body or council; and a SAQA evaluation.

- Intra-company transfer work visa:
  - This visa allows for employees to be temporarily transferred/deployed to a branch, subsidiary or an affiliate of that company in South Africa;
  - Intra-company transfer work visas are issued for a period of four years and are not renewable; and
  - An application for an intra-company visa must be accompanied by a contract of employment with the company abroad that is valid for a period of not less than six months. (The relevant employer shall ensure a skills transfer plan is developed for the transfer of skills to a South African citizen or permanent resident).
- Retired person visa:
  - Retired persons' visas may be issued to persons who wish to retire in South Africa, provided that such persons comply with the financial requirements provided for in the Act and its Regulations.
- Corporate visa:
  - The corporate visa (which allows for bulk employment) may be issued for a period not exceeding three years (not renewable);
  - Companies will be required to provide proof that at least 60% of the total staff complement are citizens or permanent residents; and

- Critical skills work visa:
  - The introduction of this category of work visa aims to assist in the attraction of critical skills to the Republic;
  - Both the quota and exceptional skills work permits have been replaced with the critical skills work visa. It will be issued for a period not exceeding five years (renewable); and
  - An application for a critical skills visa must be accompanied by proof that the applicant falls within the critical skills category in the form of: a confirmation in writing from an accredited professional body or council recognised by the South African Qualifications Authority (SAQA)



- **the dti** and DOL will make a recommendation in respect of the corporate visa application.
- Exchange visa:
  - Exchange visas may be issued to foreigners who are not older than 25 years of age and wish to participate in cultural, economic or social exchange programmes administered by an organ of state or a learning institution, in conjunction with an organ of a foreign state or learning institution.
- Business visa:
  - The amendments to both the Act, and its Regulations, are such to ensure that business visas are to be issued for businesses that will enhance the national interests, and to provide a procedure for **the dti** to first assess the feasibility of the prospective business venture, and the benefit it would have for the South African economy, before a business visa may be issued. This will entail a recommendation from **the dti**;
- The amount in cash, originating from outside the Republic, to be invested in a business to be established, or in an existing business in the Republic, is to be at least R5 million;
- The capital contribution must be to new machinery or equipment; and
- The visa is valid for three years and is renewable.

The Department of Home Affairs, a South African Embassy or High Commission, or one of the VFS Global Centres countrywide, may be approached for assistance with advice. There is a prescribed fee chargeable by the Government for the processing of these visa applications, as well as a separate administrative fee charged by VFS Global, which is responsible for the processing of visa and permit applications on behalf of the Department of Home Affairs. The relevant fees are available from VFS Global Centres at: [www.vfsglobal.com/dha/southafrica/index.html](http://www.vfsglobal.com/dha/southafrica/index.html).



## Permanent residence permits

The permanent residence permits are, as the name implies, permanent in nature, and holders of permanent residence status have all the rights of South African citizens except for those expressly reserved for citizens (e.g. voting).

The various classes of permanent residence permits are as follows:

- Foreigner with five years continuous work visa status:
  - This category applies to a foreigner who has been a holder of a work visa for a period of five years and has proven to the satisfaction of the Director-General of Home Affairs that he/she has received an offer for permanent employment.
- Spouse of a South African citizen or permanent resident for a continuous period of five years:
  - This category applies to a person who has been the spouse of a South African citizen or permanent resident for a period of five years, provided that a good spousal relationship exists and on condition that the permit shall lapse if, within two years after the date of issue of the permanent residence permit, the relationship no longer exists, except in the case of death.
- Child of a South African citizen or permanent resident under 21 years of age:
  - This section applies to the child of a South African citizen or permanent resident under the age of 18 years. A permanent residence permit under this section is issued on condition that it shall lapse, unless an application for its confirmation is submitted within two years after the date on which the child turns 21 years of age.
- Child of a South African citizen:
  - This section applies to the child of a citizen and no age restriction applies, since the child of a South African citizen by birth or descent qualifies for South African citizenship on the basis of his/her parent's citizenship status. This category is applicable to South African citizens by naturalisation.
- Person possessing extraordinary skills or qualifications:
  - This applies to a foreigner who has demonstrated to the Director-General's satisfaction that he/she possesses extraordinary skills/qualifications, and to those members of such foreigner's immediate family determined by the Director-General under the circumstances, or as may be prescribed.
- Person who wishes to establish or invest in an existing business:
  - This category is applicable to a foreigner who intends to establish a business in the Republic, or who already holds a temporary residence permit to conduct a business in the Republic, or who intends to invest in an existing business in the Republic.
- A refugee as referred to in Section 27(c) of the Refugees Act:
  - This category is applicable to Refugees as referred to in Section 27(c) of the Refugees Act, 1998 (Act No. 130 of 1998), subject to any prescribed requirement.
- A retired person:
  - This category is applicable to a foreigner that intends to retire in South Africa, provided that such foreigner proves to the satisfaction of the Director-General that he/she has: the right to a pension, or an irrevocable annuity, or a retirement account that will give such a foreigner a minimum prescribed amount for the rest of his/her life; or that the person concerned has a minimum prescribed net worth.
- Financially independent:
  - This category is applicable to a foreigner who has proven to the satisfaction of the Director-General that he/she has a prescribed minimum net worth of R12 million, of which R120 000 shall be paid to the Director-General of the Department of Home Affairs upon approval of the application.
- A relative of a South African citizen or permanent resident within the first step of kinship:
  - This category applies to a foreigner who is a relative of a citizen or a permanent resident within the first step of kinship.

### Notes:

- A permanent residence application takes between one to two years to process.
- It is advisable to seek advice before applying for permanent residence as there could be tax and Reserve Bank implications.
- The categories of permanent residence applications can be divided into those for workers and those who are not workers.
- It is important to ensure that the individual qualifies for a permanent residence permit before applying. The requirements for the different classes of permanent residence can be obtained from the Department of Home Affairs, or alternatively from one of the VFS Global Centres.

For additional information on permits and visas (published by the Department of Home Affairs) refer to: **Addendum 11: Immigration - Permits and visas.**

### 3.9. Immigration - Other practical aspects

#### Customs and excise regulations

For information on customs and excise regulations refer to: **Addendum 12: Customs and excise regulations – Guidelines for immigrants and travellers.**

#### Registering a business in South Africa<sup>b22</sup>

To successfully register a business in South Africa the following procedures would be required:

- Decide on the type of business entity to form;
- Decide on a name for the enterprise (with at least two other alternatives);
- Undertake a name search on the Companies and Intellectual Property Commission (CIPC) website ([www.cipc.co.za](http://www.cipc.co.za)) to ensure that your preferred name has not been reserved by another enterprise;
- Reserve a proposed name by completing the relevant forms available from the CIPC.
- Draw up a business plan;
- Await a registration number for the proposed enterprise;
- After receiving the enterprise number, apply for a VAT number, income tax number, Pay-As-You-Earn (PAYE), Skills Development Levy (SDL) and Unemployment Insurance Fund (UIF) number from the South African Receiver of Revenue (SARS);

- Register the enterprise logo as a trade mark with CIPC;
- Ensure that all of the enterprise's intellectual property has copyright on them; and
- Where the product is unique, register the product as a patent with the CIPC.

For further information on registering a business in South Africa contact the CIPC at:

Website:	<a href="http://www.cipc.co.za">www.cipc.co.za</a>
E-mail:	<a href="mailto:info@cipc.co.za">info@cipc.co.za</a>
Customer contact centre:	0861 002 472
International fax:	+27 12 394 1015
International tel:	+27 12 394 9973

#### Choice of business entity

The principal methods of doing business in South Africa are by using a:

- Company (public or private) incorporated under the Companies Act 71 of 2008)
- Personal liability company
- Partnership
- Business trust
- Sole proprietorship
- External company (branch of a foreign company)

#### Note:

- South African law used to provide for a business entity type called Close Corporations (CCs) until the Companies Act 71 of 2008 came into force on 1 May 2011. CCs may no longer be created. However, existing CCs will continue to operate until they are converted into companies.
- Companies operate on the basis of limited liability. As a general rule, members are not liable for the debts of a company. However, there are exceptions to this rule. Branches of foreign companies are accorded legal status in South Africa by virtue of registration as external companies but are not recognised as separate legal entities (except for exchange control purposes). Tax and other considerations affect the choice of a particular form of business entity. The most commonly adopted forms of doing business by foreign investors are private companies and branches.

#### Opening a bank account in South Africa<sup>b23</sup>

As a foreigner, opening a bank account in South Africa requires the possession of a valid work or residency permit. In addition, you would have to provide a passport and proof of address (a utility bill usually suffices) and may also have to make an opening deposit of a significant amount.

The type of bank account that you are able to open in South Africa depends on the type of permit that you have been issued with i.e. should you have a work permit you will be able to open a normal resident account with no restrictions. Should your entry visa not permit you to earn an income in South Africa, a non-resident account will be opened. This account is subject to the restriction of not permitting South African currency to be deposited, i.e. can only be funded by foreign currency. In both instances you will require the following documentation:

- Valid passport with entry visa
- Letter of introduction from your foreign bank
- Three month's bank statements from your current bank
- Proof of residential address

Some exceptions may nonetheless be made.

A resident's account may only be opened by a person holding a valid resident's permit.

**Opening an account for a business in South Africa is subject to the company being registered in South Africa.** The bank will most likely request providing the founding documents of the company, as well as proof of the company's operating address. These documents should be on hand after obtaining a business permit.

<sup>b22</sup> [www.cipc.co.za](http://www.cipc.co.za)

<sup>b23</sup> <http://www.initiateimmigration.com/working-in-south-africa/bank-accounts/>

Credit and charge cards commonly accepted in South Africa include: Diners, Mastercard, Standard Bank Card, Visa and American Express. Cash can be drawn from most ATMs, with withdrawal fees varying from bank to bank. Traveller's cheques are also a form of accepted payment or exchange, incurring variable commission fees. All major credit cards are accepted and South Africa possesses both a nationwide network of ATMs and a robust, rapidly growing online banking system. Daily withdrawal limits for ATM cards have historically been capped at R2 000 with each withdrawal incurring a fee. This fee varies widely depending on size of withdrawal and bank type.

#### Applying for a business permit/licence<sup>b24</sup>

A business permit/licence may be required to establish a business or invest in South Africa. In certain instances trading without a valid licence is illegal and a punishable offence.

Foreigners may apply for a business permit at a South African Foreign Office or at the Department of Home Affairs' office.

**To establish a business in South Africa, a capital of at least R2.5 million is required. To invest in an existing business, the capital contribution of the business must be R2.5 million and be part of the intended book value of the business.** (The amount may be only reduced if your business falls within the sectors of national interest.)

Suggested procedures to follow in **applying for a business permit/licence** include the following:

- Go to any nearest Home Affairs office or South African Foreign Office if applying from abroad.
- Complete forms BI-947 and BI-29 if you have a representative.
- Submit the following:
  - A passport valid for no less than 30 days after expiry of the intended visit;
  - A medical report and radiological reports, if applicable;
  - Police clearance certificates in respect of all countries resided in for one year or longer;
  - A business plan, outlining the feasibility of the business;
  - Proof or an undertaking that at least five South Africans or permanent residents will be permanently employed in the business;
  - A written partner agreement containing full details of the partners/directors and their residential status in the Republic, if the application is in respect of an investment in an existing business;
  - An undertaking to register with SARS; and
  - A certification by a chartered accountant that at least R2.5 million in cash or a capital contribution of at least R2.5 million or a combination of cash and a capital contribution amounting to R2.5 million is available.

Forms to be completed include the following:

- Application for permanent residence permit (BI-947)
- Power of attorney in respect of an application/extension of (an) immigration permit(s) or temporary residence (BI-29)

Tips include:<sup>b25</sup>

- Depending on the location of the business, you will either be dealing with a metropolitan council, a local town municipality or an area district council. It is advised you first call your local council to confirm whether or not you need a business or trade licence, and where you can obtain the necessary information and application forms. Also find out whether or not your business will require any additional permits or certificates;
- Business or trade licence requirements are governed by the National Business Act and apply throughout the country, whereas permits and certificates are generally issued in terms of local authority by-laws. These by-laws tend to differ from municipality to municipality; and
- Make sure that the licensing department issues you with proof of application and payment of fees before you leave their offices.

Once an application has been submitted, the licensing department will send a report to the other municipal departments involved in the process. Each of these departments will then need to do a site inspection to ensure that the business complies with the following:

- Any law that relates to health and safety;
- Any law and/or town planning scheme that relates to land use rights;
- Any law applicable to building control in compliance with the national building regulations and Building Standards Act, 1977;
- Any law applicable to noise and air pollution; and
- Any law applicable to public safety.

Once all the departments have approved the application, the business or trade licence is issued. The licence remains valid until such time as ownership changes or the activity specified on the licence changes.

For any further advice or information regarding business permits/licences (including costs) contact the Department of Home Affairs at: 0800 601 190 (within SA) +2712 406 2500 (abroad).

<sup>b24</sup> <http://www.services.gov.za/services/content/Home/ServicesforForeignNationals/Permanentresidence/Applicationforbusinesspermit/>

<sup>b25</sup> <http://bizconnect.standardbank.co.za/start/registrations-legalities/a-licence-to-trade.aspx>

## Buying property<sup>b26</sup>

Essentially, there are no restrictions on non-residents/foreigners buying property in South Africa except for a prohibition on "illegal aliens" owning immovable property in South Africa.

Non-residents will naturally have to adhere to the same rules, regulations and processes that residents are subject to, should the non-resident not wish to purchase property in his/her individual name and alternatively purchase

in the name of an entity (e.g. company or trust) then this entity would need to be locally registered and meet the requirements associated with the chosen entity, such as those contained in the Companies Act.

Should a non-resident not acquire property in an entity, then that money brought in will be represented as a loan to the local entity that would require exchange control approval. In most cases, however, property is registered in the name of the purchaser as an individual.

### Note:

- A non-resident is permitted to purchase South African property without entering the country. However, should they intend to live on the property, they would need to comply with the Immigration Act, and have either a valid permit to temporarily remain in the country or be in possession of a permanent residency permit.

With regard to bringing foreign funds into South Africa for a property acquisition, foreign funds may be deposited into any nominated bank account in South Africa (usually the estate agent or transferring attorney's trust account into which the deposit for the property and the balance of the purchase price is paid). When the non-resident transfers funds into a South African account from a foreign source, a record of such funds entering South Africa are kept (known as a "deal receipt"). This is an important piece of documentation that must be kept for purposes of repatriation of the funds.

As far as borrowing money in South Africa to purchase property, the South African Reserve Bank will consider all foreigners not having their domicile in South Africa to be non-residents, barring foreigners with South African work permits who will be considered residents for the duration of their work permit. Non-residents are thereby restricted in their borrowing ratio to 50% of the purchase price, while the remaining 50% must be brought into the country in cash from a foreign bank.

To qualify for a South African mortgage bond, the non-resident will need to provide proof of earnings and comply with the Financial Intelligence Center Act. In order for a non-resident to service repayments on a mortgage bond, a non-resident account would need to be opened. This can be done from abroad or from within the country.

Where non-residents decide to sell the property, they will be allowed to remit the proceeds offshore. Money from a foreign source may be repatriated in due course according to South Africa's exchange control regulations, together with any profit, proportionate to that non-residents shareholding in the property. On transfer to the non-resident purchaser of the property, the title deed will be endorsed "non-resident" and/or a "deal receipt" retained by the banking institution when the foreign funds were originally introduced into the country.

### Note:

- If the purchase was financed with funds borrowed in South Africa, that portion of the purchase price cannot be repatriated out of the country unless the bond has been settled in full.
- Furthermore, if a foreigner takes up permanent residency in South Africa and signs a "Declaration and Undertaking" at a South African bank, they will be considered a resident for exchange control purposes and only able to repatriate funds within five years of their immigration, following which they will be considered akin to a South African and subject to the same regulations and limitations. The repatriation of funds will also be subject to capital gains tax.

## Health insurance<sup>b27, b28</sup>

It is recommended that immigrants take out medical/life insurance upon arrival in the country thereby securing private medical aid scheme coverage. South African, as well as international companies, should be considered.

**South African companies** - The largest medical insurer in South Africa is Discovery Health ([www.discovery.co.za](http://www.discovery.co.za)). One of the smaller recommended healthcare providers is Selfmed ([www.selfmed.co.za](http://www.selfmed.co.za)).



<sup>b26</sup> <http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44>

<sup>b27</sup> [www.justlanded.com](http://www.justlanded.com).

<sup>b28</sup> <http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44>

**Foreign companies** - There are a number of foreign health insurance companies with agents or offices in South Africa or offering cover for people living in South Africa, including AXA PPP Healthcare ([www.axapphealthcare.co.uk](http://www.axapphealthcare.co.uk)), BUPA International ([www.bupa-intl.com](http://www.bupa-intl.com)), the Exeter Friendly Society ([www.exeterfriendly.co.uk](http://www.exeterfriendly.co.uk)) and HealthCare International ([www.healthcareinternational.com](http://www.healthcareinternational.com)).

**Note:**

- If you aren't covered by South African social security and need comprehensive private health insurance to obtain a residence permit, you must ensure that your health policy will be accepted by the authorities.
- Most international insurance companies offer health policies for different areas, e.g. Africa, Europe, worldwide excluding the US, and worldwide including the US.
- Most companies also offer different levels of cover, e.g. basic, standard, comprehensive and prestige. Each level has a different limit on the total annual medical costs, and some companies limit the charges for specific treatment or care such as specialists' fees, operations and hospital accommodation.
- If you already have private health insurance in country other than South Africa, you may be able to extend it to include South Africa rather than taking out a new policy.

### 3.10. Stock exchange

The JSE Ltd (JSE) is Africa's premier exchange. It has operated as a market place for the trading of financial products for nearly 120 years and in this time, it has evolved from a traditional floor-based equities trading market to a modern securities exchange providing fully electronic trading, clearing and settlement in equities, financial and agricultural derivatives and other associated instruments, and has extensive surveillance capabilities. The JSE is also a major provider of financial information and a valuable commodity in South Africa's economic landscape.

As South Africa's only full service securities exchange, it connects buyers and sellers in five different markets: equities, equity derivatives, agricultural derivatives, and interest rate instruments. The JSE provides companies with the opportunity to raise capital in a highly regulated environment through its markets: the Main Board and the Alternative Exchange (AltX).

The JSE holds a treasured position as one of the top 20 exchanges in the world in terms of market capitalisation. It is also regarded as a mature, efficient, secure market with world-class regulation, trading, clearing, settlement assurance and risk management. It has harmonised its listing requirements, disclosure and continuing obligations with those of the London Stock Exchange (LSE) and offers excellent investor protection.

Listing on the JSE can provide a company many benefits including: access to capital to grow your business; an enhanced public profile; an ability to attach a value to your company; B-BBEE deals are facilitated; and if you're an international company, a listing can be used as a springboard into the rest of Africa.

Future developments may include: the creation of a market along the lines of the Alternative Investment Market on the London Stock Exchange or the Neuermarkt (in Frankfurt) for bracket venture capital and development boards; the demutualisation of the JSE and its listing; the purchasing of the South African Futures Exchange; the creation of a pan-African exchange; and working together with the BRICS member exchanges to develop new equity index related products representing the BRICS economies.

For additional information refer to the JSE website at: <https://www.jse.co.za>.

### 3.11. Key economic data<sup>b29</sup>

#### Interest rates

Prime rate (October 2014): 9.25%  
 Interbank rate (October 2014): 4.25%  
 Repo rate (October 2014): 5.75%  
 Sabor rate (October 2014): 5.650%  
 Treasury bills – 91 day (October 2014): 5.97%

#### Currency

US\$ = R11.28 (October 2014)  
 £ = R18.22 (October 2014)  
 € = R14.20 (October 2014)

#### Rate of inflation

CPI – Headline (October 2014): 6.4%  
 CPI – Total country (October 2014): 6.4 %  
 PPI – Headline (October 2014): 7.2%  
 PPI – Intermediate manufacturing (October 2014): 6.7%  
 PPI – Agriculture (October 2014): 3.9%

#### Market capitalisation

Market capitalisation (October 2014):  
 R8 725 billion

#### Other

Gold (October 2014): \$1209.51  
 Oil (October 2014): \$94.96  
 Real GDP growth rate (Q2, 2014): 1.00%  
 GDP (Q2, 2014): - 0.6 %  
 Gross saving (as % of GDP) (October 2014): 14.243%  
 Current account balance (% of GDP) (October 2014): -5.367%  
 Government net debt (% of GDP) (October 2014): 41.483%  
 Foreign debt (% of GDP) (October 2014): 39.7%  
 Import cover (weeks) (Q2, 2014): 20.09  
 Population (mid-year estimate, 2014): 54 million  
 Unemployment (Q2, 2014): 25.5%

<sup>b29</sup> Source: Reserve Bank, Statistics South Africa, Trading Economics, Oanda, JSE, IMF.

### 3.12. Overview of the Department of Trade and Industry (the dti)

The Department of Trade and Industry's (**the dti**) vision is of a South Africa that has a vibrant economy, characterised by growth, employment and equity, built on the full potential of all citizens. To achieve this, **the dti** has become an outwardly focused, customer-centric organisation.

#### Purpose

**the dti's** Mission is to:

- Promote structural transformation, towards a dynamic industrial and globally competitive economy;
- Provide a predictable, competitive, equitable and socially responsible environment, conducive to investment, trade and enterprise development;
- Broaden participation in the economy to strengthen economic development; and
- Continually improve the skills and capabilities of **the dti** to effectively deliver on its mandate and respond to the needs of South Africa's economic citizens.

#### Key strategic objectives

The key strategic objectives of **the dti** are:

- To facilitate transformation of the economy to promote industrial development, investment, competitiveness and employment creation;
- Build mutually beneficial regional and global relations to advance South Africa's trade, industrial policy and economic development objectives;
- Facilitate broad-based economic participation through targeted interventions to achieve more inclusive growth;
- Create a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner; and
- Promote a professional, ethical, dynamic, competitive and customer-focused working environment that ensures effective and efficient service delivery.

These five strategic objectives will be achieved through the collective effort of **the dti's** divisions and agencies, which are linked through a value chain to generate public value for economic citizens and to deliver products and services for their clients and stakeholders. These products and services include policy, legislation and regulation, finance and incentives, information and advice, and partnerships.

**the dti** will also achieve its objectives through the pursuit of a more targeted investment strategy, improved competitiveness of the economy, broadened economic participation of previously disadvantaged individuals to the mainstream economy and policy coherence.

#### National Industrial Policy Framework (NIPF)

In January 2007, Cabinet adopted the National Industrial Policy Framework (NIPF), which sets out Government's broad approach to industrialisation with the following core objectives:

- To facilitate diversification beyond our current reliance on traditional commodities and non-tradable services. This requires the promotion of increased value-addition characterised particularly by movement into non-traditional tradable goods and services that compete in export markets, as well as against imports;
- The long-term intensification of South Africa's industrialisation process and movement towards a knowledge economy;
- The promotion of a more labour-absorbing industrialisation path with a particular emphasis on tradable labour-absorbing goods and services and economic linkages that catalyse employment creation;
- The promotion of a broader-based industrialisation path characterised by the increased participation of historically disadvantaged people and marginalised regions in the mainstream of the industrial economy; and
- Contributing to industrial development on the African continent, with a strong emphasis on building its productive capacity.

Guided by the NIPF, the implementation of industrial policy is to be set out in an Industrial Policy Action Plan (IPAP).

In August 2007, Cabinet approved the first 2007/8 IPAP, which reflected chiefly "easy-to-do" actions.

Each year, **the dti** launches a revised three-year rolling IPAP with a 10-year outlook in a context of rapid economic change and significant global uncertainty.

The latest IPAP 2014/15 - 2016/17 is one of the key pillars of this broader approach. It builds on the NIPF and represents the sixth annual iteration of the first IPAP launched in the 2007/8 financial year.

Some of the latest trends in the industrial policy space highlighted in the current version of IPAP relate to: the "second machine age", shale gas, a nuanced export strategy, industrial financing, and public procurement and supplier development.



## 4. South Africa: An economic overview

### 4.1. Key drivers of the South African economy

South Africa's economy has traditionally been rooted in the primary sectors - the result of a wealth of mineral resources and favourable agricultural conditions. However, the economy has been characterised by a structural shift in output over the past four decades. Since the early 1990s, economic growth has been driven mainly by the tertiary sector, which includes wholesale and retail trade, tourism and communications. South Africa is currently moving towards a knowledge-based economy, with a greater focus on technology, e-commerce and financial and other services.

The sectors that contributed to South Africa's GDP in 2013, and have kept the economic engine running are:<sup>1</sup>

- Agriculture: 2.4%
- Mining: 9.2%
- Manufacturing: 11.7%
- Electricity and water: 3.0%
- Construction: 3.7%
- Wholesale, retail and motor trade: 16.6%
- Transport, storage and communication: 8.0%
- Finance, real estate and business services: 21.52 %
- Government services: 17.0%
- Personal services: 6.0%

Increasingly, the "Green Economy" is taking prominence as the country is moving away from traditional coal-fired power stations to cleaner energy production. South Africa's strategy is to make cleaner, more efficient use of the country's abundant, low-cost coal reserves in the near term while at the same time expanding the use of low-emission energy technologies and renewables.<sup>2</sup>

#### Mining and minerals

South Africa is world-renowned for its mining sector. The country has an abundance of mineral resources, accounting for a significant proportion of world production and reserves with an estimated worth of R20.3 trillion (US\$2.5 trillion).<sup>3</sup> Overall, the country is estimated to have the world's fifth largest mining sector in terms of GDP value.

The country's abundant mineral reserves include precious metals and minerals, energy minerals, non-ferrous metals and minerals, ferrous minerals and industrial minerals. Only two strategic resources (crude oil and bauxite) are not available in the country.

Apart from its diverse mineral reserves, South Africa's strengths include an extremely high level of technical and production expertise, and comprehensive research and development activities. The country also boasts world-class primary processing facilities for gold, platinum, carbon steel, stainless steel and aluminium. South Africa is also a world leader of new technologies, such as a ground-breaking process that converts low-grade superfine iron ore into high-quality iron units.

<sup>1</sup> Source: Statistics South Africa. [www.statssa.gov.za](http://www.statssa.gov.za)

<sup>2</sup> [www.southafrica.info](http://www.southafrica.info)

<sup>3</sup> Department of Mineral Resources. [www.dmr.gov.za](http://www.dmr.gov.za)

Mining remains an important foreign-exchange earner, with gold accounting for more than one-third of exports. South Africa is also a major producer of coal, manganese, chrome, platinum, and diamonds, accounting for a significant proportion of both world production and reserves. South Africa is the world's largest producer of platinum. In 2011, the country's diamond industry was ranked the fourth largest in the world, with only Botswana, Canada and Russia producing more diamonds each year.

The mining industry, and its related industries, are critical to South Africa's socio-economic development as it contributes significantly to economic activity, job creation and foreign exchange earnings.

In 2012, primary mining contributed R262.7 billion (US\$32.0 billion), or 9.3%, to South Africa's GDP, and accounted for 35.1% of the country's total exports of goods to the rest of the world.

The export categories included precious stones and metals, ores, slag and ash (largely iron ore and to a much lesser extent chrome and manganese), mineral fuels (mostly coal and refined petroleum). Mining also continued to make a significant contribution to public finances in terms of the large labour force it employs.

In 2012, the industry (excluding exploration, research and development organisations and head offices) employed 2.9% of South Africa's economically active population. The average number of workers employed in the mining industry increased by 2.3% or 11 754 workers, from 512 878 in 2011, to 524 632 in 2012. Over the last decade, 2003 to 2012, a total of 89 004 jobs were created.

In 2005, coal and platinum group metals overtook gold as the biggest revenue-generating commodities. In 2012, coal was the biggest revenue earner at R96.1 billion, followed by gold at R76.8 billion. The combined revenues of ferrous minerals accounted for R71.7 billion for the period under review, while the industrial minerals contributed 3.9% to the total revenue generated from South Africa's primary mineral sales, of which R11.1 billion was from local sales and R3 billion from exports.

While holding the world's largest reserves of platinum-group metals and manganese ore, the country has considerable potential for the discovery of other world-class deposits in areas yet to be exhaustively explored.

South Africa has recently shown interest to enter the rare earth mining in the Namaqualand region. Rare earth mining is currently dominated by China, which controls approximately 90% of the world's available supply of rare earth minerals. Rare earth minerals are of strategic importance as they are the minute particles used in smartphones, high-tech weaponry, electric cars and a host of other electronics.

Lucrative opportunities exist for downstream processing and adding value locally to iron, carbon steel, stainless steel, aluminium, platinum-group metals and gold. A wide range of materials are available for jewellery, including gold, platinum, diamonds, tiger's eye and a variety of other semi-precious stones.

The Government has developed a minerals beneficiation strategy that seeks to fundamentally transform the industry from being largely resource-based to knowledge-based. It also complements programmes of Government, such as the National Development Plan 2030, IPAP 2014/15-2016/17, energy security, skills development and others.<sup>64</sup>

### Financial sector

South Africa's financial services sector boasts dozens of domestic and foreign institutions providing a full range of services including commercial, retail and merchant banking, mortgage lending, insurance and investment.

The South African banking system is well developed and effectively regulated, comprising a Central Bank, a few large, financially strong banks and investment institutions, and a number of smaller banks. Investment and merchant banking is competitive. The country's "big four banks" (Absa, First National Bank, Standard Bank and Nedbank) dominate the retail market.

The country's banking sector compares favourably with those of industrialised countries. Many foreign banks and investment institutions have set up operations in South Africa over the past decade. Electronic banking facilities are extensive, with a nationwide network of ATMs and internet banking facilities available.

### The manufacturing sector

South Africa has developed a diversified manufacturing base that has shown its resilience and potential to compete in the global economy. The manufacturing sector provides an opportunity to significantly accelerate the country's growth and development.

The overall manufacturing output accounts for 15% of South Africa's GDP. For every R1 invested in manufacturing, there is R1.13 of value addition to the South African economy. The sector is also among the top three multiplier sectors in terms of value addition, job creation, export earnings and revenue generation for every R1 invested.<sup>65</sup>

Manufacturing is dominated by the following industries:

#### **Automotive industry**

South Africa's automotive industry is the country's largest manufacturing sector and according to the National Association of Automobile Manufacturers (NAAMSA), the new vehicle market generated approximately R205 billion for 2013.<sup>66</sup>

Total automotive industry exports increased by R7.8 billion, or 8.2%, to R102.7 billion in 2013, from R94.9 billion in 2012.

The automotive and components industry is perfectly placed for investment opportunities. Vehicle manufacturers (such as BMW, Ford, Volkswagen, Nissan, Daimler-Chrysler, Toyota and FAW) have production plants in the country, while component manufacturers (Arvin Exhaust, Bloxwitch, Corning, Senior Flexonics) also have established production bases.

<sup>64</sup> [www.thedti.gov.za](http://www.thedti.gov.za)

<sup>65</sup> *South Africa's Greatest Opportunity for Job rich Economic Growth. Manufacturing Circle. [www.manufacturingcircle.co.za](http://www.manufacturingcircle.co.za)*

<sup>66</sup> *Who Owns Whom: Motor vehicle industry. [www.whoownswhom.co.za](http://www.whoownswhom.co.za)*



### Chemicals industries

South Africa's chemical industry, the largest of its kind in Africa, is highly complex and widely diverse, spanning fuel and plastics fabrication to pharmaceuticals.

It is of substantial significance to the South African economy, and a key component of the country's industrial base. Petroleum, chemical products, rubber and plastic products, contributed R318 million to the GDP in 2011; approximately, 23% of total manufacturing sales.<sup>c7</sup> It employs about 200 000 people.

The synthetic coal, and natural gas-based liquid fuels and petrochemicals industry, is prominent, with South Africa being a world leader in coal-based synthesis and gas-to-liquids (GTL) technologies.

### ICT and electronics industries

The South African information technology (IT) industry growth outstrips the world average.

The country's established and sophisticated indigenous information and communications technology (ICT) and electronics sector comprises more than 3 000 companies and is the largest and most advanced in Africa. The local IT industry is characterised by technology leadership, particularly in the field of mobile software and electronic banking services.

The telecommunications industry is thriving, contributing more than 7% to South Africa's GDP. With approximately 5.5 million installed fixed-line telephones, South Africa is ranked 23rd in telecommunications development in the world, growing at a rate of 50% per year, with the fourth-fastest growing cellphone market in the world.



<sup>c7</sup> Statistics South Africa (2012)

Investment opportunities lie in the development of access control systems and security equipment, automotive electronic subsystems, systems and software development in the banking and financial services sector, silicon processing for fiber optics, integrated circuits and solar cells. There are also significant opportunities for the export of hardware and associated services, as well as software and peripherals.

### Metals industry

South Africa's large, well-developed metals industry, with vast natural resources and a supportive infrastructure, represents roughly one-third of all South Africa's manufacturing.

The South African steel industry was worth approximately R96 billion in 2012. South Africa was ranked the 21st largest crude steel-producing country in the world by the World Steel Association in 2012. South Africa is also the largest steel producer in Africa, producing about 44% of the total crude steel production of the continent during 2012.<sup>c8</sup>

South Africa's non-ferrous metal industries comprise aluminium and other metals (including copper, brass, lead, zinc and tin). South Africa is ranked eighth in world production of aluminium.<sup>c9</sup>

Other non-ferrous metals are small in relation, but are still important for exports and foreign exchange earnings. Although the country's copper, brass and bronze industries have declined, it is hoped that new mining and reclamation technologies will allow exploitation of previously unviable deposits.

### Clothing and textiles industry<sup>c10</sup>

The domestic industry is concentrated primarily in the Western Cape and KwaZulu-Natal regions, although some outlying activity also takes place in Gauteng. The domestic textile industry is characterised by plants of varying technical ability. There are major product gaps in local textile production, which forces local garment assemblers to rely increasingly on imports. The apparel industry, on the other hand, has significant regional differences.

The industry in the Cape metropolitan area is renowned for its high fashion orientation, and as such, has a concentration of higher value-added manufacturers, predominantly medium to large sized firms. These firms outsource to a number of small, flexible Cut, Make, and Trim (CMT) businesses who, as a result, make a substantial contribution to overall output.<sup>c11</sup> The KwaZulu-Natal profile is slightly different with firms concentrating on mass-market production of basic garments. These are broad generalisations, however, as firms of various sizes exist in both production hubs, and their joint response to increased competitive pressures has been to move away from formal factory models of production towards sub-contracting models, and informalisation.

It is estimated that 60 000 to 80 000 jobs are located within the Clothing, Textiles, Footwear and Leather (CTFL) industries (down from 120 000 in recent years), with GDP contribution at 8%. The social effect of unemployment and employment losses are hard to calculate, but it has been estimated that the dependency ratio of those employed is 1:5. The clothing and textiles industry predominantly employs black and coloured women. This population is most

<sup>c8</sup> Who Owns Whom: Manufacture of Basic iron and steel [www.whoownswhom.co.za](http://www.whoownswhom.co.za)

<sup>c9</sup> [www.mediaclubsouthafrica.com](http://www.mediaclubsouthafrica.com)

<sup>c10</sup> KZN Clothing and Textile Cluster (December 2014). [www.kznctc.org.za/](http://www.kznctc.org.za/)

<sup>c11</sup> Barnes et al, 2007:14.

affected by poverty and unemployment, and so the success of the industry is critically important to their well-being.

In order to survive, the industry has squeezed its factors of production rather than upgrading processes and machinery, depleting its competencies in the process. Numerous firms have adopted a CMT mode of production, which is less capital intensive due to lower overheads. Combined with multiple factory closures and the subsequent proliferation of micro-enterprises, home industries and unregistered firms, this has lowered capabilities and led to a declining capacity to compete on a global level.

In response to this decline in value chain capacity, the South African Government, through **the dti** and its deployment arm, the Industrial Development Corporation (IDC), has embarked on an extensive incentive programme. The primary incentives offered are the Clothing and Textile Competitiveness Improvement Programme (CTCIP) and the Production Incentive (PI), which help firms become more competitive and work on capital upgrading.

### Agriculture and the economy<sup>c12</sup>

Agriculture, as a percentage of GDP, has decreased over the past four decades; currently contributing about 2%. This implies that the economy is maturing, moving towards the secondary and tertiary sectors. However, farming remains vitally important to the economy with 638 000 people formally employed although it's estimated that about

8.5 million people are directly or indirectly dependent on agriculture for their employment and income.<sup>c13</sup>

The sector's significance is largely because of its potential to create jobs, and is a key focus of the New Growth Path, a plan by the Government to create five million new jobs by 2020. Plans include programmes to promote commercially oriented small-scale farming. Support is also available to smallholders on land acquired through land reform.

Agro-processing is one of the key industries within this sector.

#### Agro-processing industry

The agro-processing industry spans the processing of freshwater aquaculture and mariculture, exotic and indigenous meats, nuts, herbs and fruit. It also involves the production and export of deciduous fruit and wine; confectionary manufacturing and export; and the processing of natural fibres from cotton, hemp, sisal, kenaf and pineapple.

The agro-processing industry accounted for 30% and 28.4% of the total real output and real value added (GDP), respectively, of the manufacturing sector during 2012. Furthermore, it contributed 40.3% to the total employment in the manufacturing sector during the same period.<sup>c14</sup>

According to the IPAP, the food-processing sector is the largest manufacturing sector in employment terms, with about 171 000 employees. This increases to more than a million jobs if agriculture is included.<sup>c15</sup>

The South African agri-food complex has a number of competitive advantages, making it both an important trading partner and a viable investment destination. A world-class infrastructure, counter-seasonality to Europe, vast biodiversity and marine resources, and competitive input costs, make the country a major player in the world's markets.

### Oil and gas<sup>c16</sup>

South Africa is ranked between fourth and eighth for shale gas exploration potential with 390 Trillion Cubic feet (Tcf) of recoverable resource, and Petroleum Agency of South Africa estimating the recoverable resource to be 30 Tcf.

Significant exploration activity has resulted in oil and gas reserves increasing dramatically in the last few years, with some of the biggest new discoveries made in Sub-Saharan Africa. Africa remains an attractive destination for large-scale oil and gas exploration due to African countries allowing private sector exploration as countries with established industries bring their oil and gas resources under state control.

The recent activity on the East Coast of Africa shows that the Port of Saldanha Bay is situated in a competitive location in comparison to the existing facilities on the African continent. South Africa also provides an attractive location due to its relative political and economic stability, as well as a well-established logistics support infrastructure.

### Blue economy<sup>c17</sup>

The vast ocean space and our coastline (approximately, 3 924km) is relatively unexplored in terms of its economic potential. In 2010, the oceans contributed approximately R54 billion to the economy and accounted for about 316 000 jobs.

To tap into the ocean, Government has identified four priority sectors in which to focus on. These are marine transport and manufacturing activities, such as coastal shipping, trans-shipment, boatbuilding, repair and refurbishment, offshore oil and gas exploration, aquaculture and marine protection services and ocean governance.

### Boatbuilding<sup>c18</sup>

The boatbuilding sector is a producer of a range of high quality boats, and is a well-established and important contributor to the regional economy of the Western Cape. The industry is characterised by a number of small entrepreneurs and dominated by a few large companies. South Africa is a recognised producer of high-value luxury yachts, with the Western Cape as the recognised hub of the industry in the country. The Cape Town boatbuilding sector is also highly competitive in four other niches: power and sail catamarans, large custom boats, inflatable boats and commercial craft.

<sup>c12</sup> [www.southafrica.info](http://www.southafrica.info) (December 2014).

<sup>c13</sup> Statistics SA, 2012 Q2.

<sup>c14</sup> Department of Agriculture, Forestry and Fisheries. [www.daff.gov.za](http://www.daff.gov.za)

<sup>c15</sup> [www.southafrica.info](http://www.southafrica.info)

<sup>c16</sup> **the dti** (December 2014).

<sup>c17</sup> **the dti** (December 2014).

<sup>c18</sup> **Wesgro** (December 2014). <http://wesgro.co.za/investor/sectors/boatbuilding>

The export market is a key demand driver of the industry, originating from Europe and the US/Caribbean, with growing markets in Asia and Australia. In terms of competitive location, Cape Town is recognised for its affordability for companies looking to invest in or establish operations in the boatbuilding industry. The Western Cape also has a wide range of suppliers for materials for boat construction, supply industries of sail making, mast builders, naval architecture, outsourced manufacturing of component parts, as well as post-production parts.

The incentives offered include the Manufacturing Investment Programme (MIP), as well as some research and development (R&D) incentives for technology design and research. There are also industrial financing and job creation skills funds that can be accessed through the IDC and Development Bank of Southern Africa (DBSA).

### Energy and renewables<sup>c19</sup>

South Africa's steady economic growth, as it increasingly focuses on industrialisation, together with its mass electrification programme to take power into deep rural areas, has seen a steep increase in the demand for electricity. In fact, South Africa's energy demand is expected to be twice the current levels by 2030.

Years of underinvestment in the country's power infrastructure has meant that energy demands are rising faster than Eskom, the state-owned company in charge of the majority of energy generation and distribution, can meet them.

Together with Eskom, the Government's Department of Energy has embarked on a massive programme to bring the electricity supply and distribution system into balance. Eskom is building new power stations, Medupi and Kusile.

The Government is also looking to support sustainable "Green Energy" initiatives on a national scale through a diverse range of clean-energy options as envisaged in the Integrated Resource Plan 2010. In terms of this Plan, which is a 20-year projection on electricity demand and production, about 42% of electricity generated must come from renewable resources.

Large parts of South Africa's western and southern coasts, and inland areas, have some of the world's best wind and solar energy prospects.

The scale and maturity of the global wind industry has made this a cost-competitive energy option compared not only to other renewable technologies, but also to many fuel-based technologies. While unpredictable, wind does not use water and can be installed relatively quickly. Like solar photovoltaic (PV), it is complemented by electric energy storage. Solar power is also particularly attractive for South Africa, given the country's high solar resource. Concentrated Solar Power (CSP) is a promising renewable energy generation option in South Africa as it provides opportunities for energy storage, but is relatively small on a global scale.

Recently, the South African Renewable Energy Independent Power Producer Programme (REIPPP) won the Green Infrastructure Project of the Year Award at the sixth Global Infrastructure Leadership Forum held in New York. Furthermore, South Africa has been ranked under the top 10 investors in renewable energy in the Renewables 2013 Global Status Report.

### Biofuels<sup>c20</sup>

The South African Government has set a target to achieve a 2% penetration level of biofuels in the national liquid fuel supply, or 400 million litres per annum. This is set out in the Government's 2007 Biofuels Strategy.

The following crops are proposed for the production of biofuels in the country: for bioethanol, sugar cane and sugar beet, and for biodiesel sunflower, canola and soya beans. The exclusion of other crops and plants (such as maize and *Jatropha*) is based on food security and invasive species concerns. The current strategy requires approximately 1.4% of arable land in South Africa (currently 14% of arable land is underutilised).

The Biofuels Strategy is set to contribute towards the achievement of South Africa's renewable energy goals, energy security and the reduction of greenhouse gas emissions.

The Biofuels Industrial Strategy is based on the development of partnerships along the value chain and across all relevant sectors. The Strategy envisages the creation of a reliable market for fuels from biological sources and the fuels market.

Biofuels can be used as blending components in both petrol and diesel production. In the case of petrol, bioethanol can substitute a number of octane boosters currently used by the oil industry and biodiesel can be used by the synthetic fuels producers and other producers as a blending stock.

The Strategy also relies on the pegging of the sales price of bioethanol and biodiesel as blending components at a price that covers the costs associated with running a biofuels plan, agricultural feedstock, and of transportation.

Only biofuels plants that have been identified to assist in achieving the initial target, will receive Government support and their location will be a condition of the issuing of a manufacturing licence. The plants will be located throughout the country depending on the investor's choices and also as per the condition of licences.

The following incentives are currently in place for biodiesel as a product (separate incentives for producers will be released in the 2013/14 financial year):

- Biodiesels enjoys a 40% fuel levy exemption. This is set to increase to 50% once Government has issued the new guidelines and incentives; and
- A 100% fuel tax exemption is proposed for bioethanol as it can also be used in markets other than the traditional petrol market, e.g. ethanol gel that competes with illuminating paraffin. The latter carries no levies.

The producer support mechanism will be used to balance the difference in fuel tax support to bioethanol and biodiesel by setting a fixed margin price.

<sup>c19</sup> the dti (December 2014).

<sup>c20</sup> the dti (December 2014).



### Waste management and recycling<sup>C21</sup>

It is estimated that only 10% of all waste generated in South Africa was recycled in 2011.

The low recycling rate indicates that there are huge untapped opportunities for innovation, industrial development and employment creation in the recycling sector. This is supported by the emphasis the National Waste Management Act (2008) puts on the reuse, recovery and recycling of waste before disposal. In acknowledging the challenges associated with the waste sector, Government has made further commitments through various programmes, including the National Waste Management Strategy (2011) and the National Cleaner Production Strategy for South Africa (2004) to promote waste minimisation initiatives with emphasis on industrial efficiency and increased recycling.

### Biopharmaceuticals<sup>C22</sup>

The South African pharmaceutical sector, at the ex-factory price level, was US\$4.2 billion in 2013; slightly more than 0.4% of the global pharmaceutical market by value. South Africa's pharmaceutical market and industry are, however, by far the largest in Africa. South Africa also has the world's largest anti-retroviral (ARV) programme, providing treatment to 2.2 million people in the public health sector and 150 000 in the private sectors (as at December 2013).

Imports of vaccines and other biopharmaceuticals increased to close to R2.9 billion in 2013. The medical devices industry (the full value chain) is valued at more than R11 billion per year.

The local health sector has several strengths that include:

- The largest market in the world (by volume) for HIV drugs, meeting fast-growing public sector demand for pharmaceuticals, especially (i) ARVs (demand projected to increase from the current 2.2 million to 3.7 million patients in 2016/17); (ii) anti-tuberculosis (TB) medicines; and (iii) medicines for non-communicable diseases/conditions such as diabetes, cancer, circulatory and cardiovascular conditions etc;
- A well-developed generics industry and improving public and private sector focus on generics supply chain management, which offers opportunities for local manufacturing;
- Flora and unique micro-organisms offer a largely untapped source of new therapeutics and production platforms;
- Modern science, local biodiversity and indigenous knowledge systems could be combined to accelerate product development;
- World-class clinical sciences researchers and a regulatory framework provides opportunities for globally competitive clinical development;
- World-class researchers in basic sciences, drug and diagnostics discovery, and therapeutic delivery systems;
- Significant historical and current investments in vaccine production; and
- Strategic international partnerships with countries and organisations, which could be leveraged to provide a source of innovation and other benefits.

Research, development, innovation and manufacturing interventions will focus on these opportunities. The health sector will work on discovering and developing new drugs, vaccines and biologics, diagnostics and medical devices, as well as exploring opportunities in clinical research and indigenous knowledge systems based on biodiversity. The local manufacture of active pharmaceutical ingredients for drugs and biologics (including vaccines) will be expanded, and new technologies such as stem-cell therapies will also be explored.

### Business process services (BPS)<sup>C23</sup>

The BPS sector is a key sector for attracting investment and creating new jobs, especially in the 18 to 35 age group, where job creation for young people is most needed. During the period of the last incentive, more than 9 000 jobs have been created. A number of the new jobs have been created by the large outsourcers and captives who have set-up in South Africa over the last few years, as well in the key BPS centres of Cape Town, Durban, Johannesburg and Pretoria (Tshwane).

The recognition of South Africa as a credible BPS destination, and associated foreign direct investment, has led to year-on-year growth of 26% during the period 2010 to 2013, and the overall creation of more than 18 000 jobs servicing the offshore sector.

Large-scale English language skills availability, domain skills, cultural affinity and related time zones, are at the centre of South Africa's value proposition. To date, the majority of the investment in this sector, more than 75%, has originated from the UK, with voice accounting for 80% of all work conducted in South Africa.

<sup>C21</sup> the dti (December 2014).

<sup>C22</sup> the dti (December 2014).

<sup>C23</sup> the dti (December 2014).

South Africa has been described as providing an almost “onshore experience”. Companies (such as Merchants, Aegis, and Mindpearl) were among the first companies to set-up offshore operations servicing clients, initially in Cape Town and Johannesburg, followed by Durban. Other outsourcers followed, as did the captives, and the landscape today, in terms of captives and outsourcers, includes seven of the 10 large outsourcing companies such as Capita, Genpact, Serco and WNS, and global brands such as Amazon.

These global brands and contracts have helped South Africa in winning the National Outsourcing Association (NOA) Offshore Destination of the Year Award in 2012, followed up by the European Outsourcing Association (EOA) Destination of the Year Award in 2013.

South Africa offers value beyond arbitrage, in addition to sustainable cost competitiveness, and coupled with incentives, the location is able to offer significant direct cost savings of 45% to 50% on a steady-state operating basis (including overheads) compared to UK Tier-2 locations.

Other unique forms of value-add, reported by investors, are operational effectiveness and revenue impact.

#### Aerospace and defence industry<sup>C24</sup>

The South African Aerospace and Defence Industry (SADI) comprises companies in the public and private sectors, which provide products and services to security forces, thus forming one of the key strategic industrial sectors of the South African economy.

Over the last few years, the profile of the industry has evolved and today the SADI is a non-aligned world-class industry that supplies equipment and services to global Original Equipment Manufacturers (OEMs) in the aerospace, maritime and landward environments.

Characterised by engineering ingenuity, technological innovativeness, affordability, reliability and cost-effectiveness, the SADI is a partner of choice for many who seek state of the art defence equipment, including multilateral organisations that are involved in peacekeeping operations, as well as countries seeking to equip their defence establishments.

Though smaller in size than the defence industries of competing countries, the SADI's capabilities range from systems engineering and integration, to the design, development, manufacture and maintenance of complex systems and their related electronics.

While it is necessary for the SADI to retain core competencies, capacities, capabilities and technologies domestically, exports are equally important for the long-term survival of the industry; hence, the increased international market penetration to become a global player. Accordingly, international joint ventures, equity partnerships and strategic alliances have been established with defence related companies in more than 20 countries, with the SADI exporting approximately more than 60% of its products to clients in all continents.

South Africa's defence, aerospace and maritime industries contribute to the country's economy through the development and maintenance of high-level scientific, engineering, technological and technical skills and jobs, as well as advanced design, development and manufacturing processes. South Africa's aerospace and defence products range from complete systems to subsystems, to major components to parts across various continents.

According to AMD, the broad South African defence industry (including aerospace and defence) has a total turnover of R13.3 billion (of which 67% was from exports) and directly employed 15 000 people. It spent R1.2 billion on R&D, and achieved value-add to the tune of R5.8 billion.

In the domestic arena, a key development has been the release of the Defence Review, that calls for an increase in defence spending over the coming years in order to initially halt the current decline in the capabilities of the South African National Defence Force (SANDF) and subsequently rebuild over a period of 25 years.

Armcor (defence acquisition agency) and Denel (state-owned arms manufacturer) support collaboration and partnerships between local companies and foreign enterprises with a specific call for partnerships to share research and R&D costs, manufacturing costs and even markets. Local industry has already integrated into the global aerospace industry OEM supply chains.



<sup>C24</sup> the dti (December 2014).

In addition to supporting overseas OEMs, the local industry plans to have its own aircraft project to maintain local OEM design, development and manufacturing skills to strengthen the local sector and attract international partnership. The South African Regional Aircraft (SARA) Project is such a programme. **the dti** is investigating the possible designation of radars that will present further opportunities for investment within the sector.

### Travel and tourism

Tourism is regarded as a modern-day engine of growth and is one of the largest industries globally. In addition to being a labour-intensive industry, tourism holds the potential to drive increases in export earnings in a trading environment that is generally less volatile than that of commodity exports.

The World Travel and Tourism Council (WTTTC) indicated that travel and tourism in South Africa, directly employs more people than the mining, communication services, automotive manufacturing and chemicals manufacturing sectors. In 2013/14, international tourist arrivals in South Africa grew by 10.2% year-on-year to almost R9.2 million. Foreign tourists spent a total of R76.4 billion in South Africa in 2013.<sup>c25</sup>

South Africa continues to focus on business tourism as an area with significant growth potential and the country has announced the formation of the first South African National Convention Bureau (SANCB). South Africa remains among the top 15 “long-haul” business events destinations globally, and is the premier business events destination in Africa.

South Africa’s advanced infrastructure combined with magnificent scenic beauty, rich biodiversity, sunny climate, cultural diversity and a reputation for delivering value for money experiences, have made it one of the world’s fastest growing tourism destinations.<sup>c26</sup>

Tourism continues to be earmarked as a priority growth area in South Africa’s economic growth policies.<sup>c27</sup>



<sup>c25</sup> South Africa Yearbook 2013/14. [www.gcis.gov.za/content/resourcecentre/sa-info/yearbook](http://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook)

<sup>c26</sup> SAinfo reporter

<sup>c27</sup> International Congress and Convention Association, Stats SA, World Travel and Tourism Council and **the dti**.

## 5. Foreign trade

### 5.1. South Africa's trade agreements<sup>d1</sup>

#### Overview

##### **Preferential market access agreements**

- Southern African Customs Union (SACU).
- Southern African Development Community (SADC) FTA.
- European Union /South Africa Trade, Development and Cooperation Agreement (EU /SA TDCA), now aligned to the SADC /EU Economic Partnership Agreement (EPA).
- SACU-European Free Trade Association (EFTA) FTA.
- SACU-Southern Common Market (Mercosur) PTA.
- Bilateral agreements with Mozambique and Zimbabwe.

##### **Current trade negotiations**

- World Trade Organisation's Doha Development Agenda.
- SACU-India PTA.
- SADC-EAC-COMESA Tripartite FTA.

##### **Non-reciprocal agreements**

- Africa Growth and Opportunity Act (AGOA).
- South African products qualify for preferential market access (i.e. no or substantially reduced customs duty) under the Generalised System of Preferences (GSP).

#### South African trade agreements

The South African Government's economic development strategy aims to accelerate growth and industrial development along a path that generates decent jobs. The Government, through **the dti**, seeks to support the objectives of industrial development and upgrading, employment growth and increased value-added exports by negotiating trade agreements with other countries. The International Trade and Economic Development Division (ITED) within **the dti** is the section responsible for such trade negotiations.

These agreements take different forms. In the section below, we identify and briefly introduce the various trade agreements that South Africa is party to:

##### **The Southern African Customs Union (SACU)**

SACU was established in 1910 and is the oldest functioning customs union in the world. It has been renegotiated twice: in the late 1960s when Botswana, Lesotho and Swaziland became independent and after the inauguration of the democratic government in South Africa in 1994. The current members are Botswana, Lesotho, Namibia, South Africa and Swaziland. SACU seeks to maintain the free interchange of goods between member countries. It provides for a common external tariff for the common customs area. All customs duties collected in the common customs area are paid into South Africa's national Revenue Fund. The Revenue is shared among members according to an agreed revenue-sharing formula.

The latest SACU Agreement came into force in July 2004. In terms of Article 31 of the new agreement, South Africa and other members of SACU jointly negotiate preferential trade agreements with third parties. SACU members

have also agreed to a targeted work programme in five areas, namely: regional industrialisation; review of the revenue-sharing formula to ensure a sustainable revenue-sharing mechanism that promotes development; development of a trade facilitation programme to improve border efficiency; unified engagement in trade negotiations; and establishing common institutions such as a Tariff Board and the Tribunal within an agreed policy framework.

##### **The Southern African Development Community (SADC)**

The Trade Protocol of the Southern African Development Community (SADC), which established a free trade area (FTA) among 12 SADC member states, was implemented on 1 September 2000. The aim of SADC is to create a "community" providing for regional peace and security, and an integrated regional economy. As a regional institution it has laid the basis on which regional planning and development in Southern Africa could be pursued. It also provides the desired instrument by means of which member states should move along the path towards eventual economic integration. Furthermore, SADC forms one of the building blocks of the African Economic Community (AEC).

Implementation of the SADC Protocol on Trade began in 2000, following its signing in 1996. The liberalisation of tariffs has taken place at different rates. In general, more developed SADC countries have reduced tariffs faster than other member states. The Southern African Customs Union (SACU) removed most tariffs in 2000, while middle-income countries have gradually reduced their tariffs each year between 2000 and 2008. In relation to the least developed countries, tariff reductions have generally been introduced during the latter part of the phase-down period.

<sup>d1</sup> [www.thedti.gov.za](http://www.thedti.gov.za)

The SADC FTA has been fully implemented since 2012, with 92% of product lines traded at zero per cent against the baseline of 85% in 2008. The next priority is to consolidate the SADC FTA before considering deeper forms of integration.

Market integration in SADC is accompanied by cross-border infrastructural development (such as the spatial development initiatives) and sectoral cooperation that aims to build and diversify the region's production structures.

SADC, together with COMESA and the EAC, has established an on-line "Non-Tariff Barrier" reporting and monitoring mechanism (<http://www.tradebarriers.org>) to facilitate eliminating non-tariff barriers. This mechanism has the potential to facilitate movement of goods and will lead to increased trade. Its effectiveness is, however, dependent on the full and active participation of the business community.

To determine whether a product originates in the region, and therefore qualifies for duty-free access to the SADC market, "Rules of Origin" have been agreed to by member states.

To benefit from SADC trade preferences, exporters must obtain confirmation of origin through a "Certification of Origin", obtainable from competent authorities in member states' customs offices.

#### **The Common Monetary Area (CMA)**

The Common Monetary Area (CMA) links South Africa, Lesotho and Swaziland into a currency union, in which the South African Rand is the common currency. It is allied to the SACU - see above. Namibia automatically became a member upon independence, but withdrew with the introduction of the Namibian dollar in 1993. However, Namibia has chosen not to pursue

its own flexible exchange rate policy, and the Namibian dollar is at par with the South African Rand and there is no immediate prospect of change. The same is true with the lilangeni of Swaziland and the loti of Lesotho. The Rand continues to circulate freely in these countries, although it is strictly speaking not legal tender. Foreign exchange regulations and monetary policy throughout the CMA continue to reflect the influence of the South African Reserve Bank.

#### **SADC-EAC-COMESA Tripartite FTA (T-FTA)**

In 2009, the members states of SADC, the EAC and COMESA initiated a wide-ranging initiative for integration that will be built on market integration, industrial development and infrastructure (with the flagship project being the North-South Corridor). In 2011, members of the three groupings launched negotiations towards the Tripartite FTA (T-FTA). The FTA will, as a first phase, cover only trade in goods and core areas necessary to support that (such as Rules of Origin). Services and other trade-related areas will be covered in a second phase. Once concluded, the T-FTA will combine the markets of 26 countries with a population of nearly 600 million people and a combined GDP of US\$1 trillion, providing the market scale that could launch a sizeable part of the continent onto a new developmental trajectory.

The T-FTA will form the basis for an Africa-wide Continental FTA (C-FTA), which is expected to create a market of US\$2.6 trillion. This will address the challenge of small and fragmented economies in Africa. A larger, more integrated and growing market would enhance the interest of foreign investors in Africa and provide a basis for enhanced intra-African trade through market integration, infrastructure development

and industrial development. This envisaged C-FTA will therefore widen and build on the integration initiatives already under way.

#### **EU-South Africa Trade, Development and Cooperation Agreement (TDCA) and Economic Partnership Agreement (EPA)**

The Trade, Development and Cooperation Agreement (TDCA) between South Africa and the EU was signed on 11 October 1999 and provisionally came into force on 1 January 2000, subject to ratification by the EU member states. The Agreement came into force on 1 May 2004 after it was ratified by all EU member states. In terms of the Agreement, by 2010, the EU is expected to liberalise 95% of its duties on South African originating products. In turn, by 2012 South Africa undertook to liberalise 86% of its duties on EU originating products. It means that only a limited number of product lines are not as yet subject to any of the regimes of tariff phase-down under the Agreement.

After 10 years of preparations and negotiations, the Economic Partnership Agreement (EPA) between the SADC EPA Group and the EU was "initialed" on 15 July 2014. The EPA improves South Africa's market access into the EU over and above what currently obtains under the TDCA, especially for agricultural products. The EPA also provides protection in the EU market for South African geographical indicators, or names of origin, such as "Rooibos", "Honeybush" and "Karoo Lamb", as well as a range of South African wines.

#### **SACU-EFTA FTA**

The FTA between SACU and the EFTA came into effect on 1 May 2008. It applies to trade relations between SACU and individual EFTA states covering trade in industrial goods (including fish and other marine products) and processed agricultural products. The Agreement also provides for future non-binding engagements on issues such as intellectual property, investment, trade in services and government procurement.

EFTA countries do not have a common agricultural policy and basic agricultural products were negotiated separately. Three Bilateral Agricultural Agreements were concluded between SACU and individual EFTA states, which form part of the main Agreement and came into force at the same time as the FTA.

On the EFTA side, tariffs on industrial goods were eliminated upon entry into force of the Agreement, i.e. all customs duties on imports of originating products from SACU have been abolished. SACU shall progressively reduce customs on imports of originating products from the EFTA states.

The tariff reduction schedules are set out on the assumption that the Agreement came into force on 1 January 2006 and are not affected by any delays in the actual date on which the FTA came into force.



### **The United States**

#### *Trade, Investment, Development and Cooperation Agreement (TIDCA)*

The TIDCA between SACU and the US is a **cooperative** framework agreement that makes provision for the two parties to negotiate and sign agreements relating to Sanitary and Phyto-Sanitary Measures (SPS), customs cooperation, and Technical Barriers to Trade Measures (TBT). It also establishes a forum of engagement between the two parties on any matters of mutual interest, including capacity-building and trade and investment promotion.

#### **Trade and Investment Framework Agreement (TIFA)**

TIFA is a bilateral agreement between South Africa and the US that was signed in 1999, but was dormant until a decision to revive it was taken in 2010. The Agreement provides a bilateral forum for the two countries to address issues of interest including AGOA, TIDCA, trade and investment promotion, non-tariff barriers, SPS, infrastructure and others. It is the main forum for bilateral engagement with the US on all trade-and-investment related issues.

#### **African Growth and Opportunity Act (AGOA)**

AGOA is a unilateral assistance measure of the US government to increase trade and investment between the US and eligible sub-Saharan African countries, including South Africa. AGOA was signed into law on 18 May 2000 as Title 1 of The Trade and Development Act of 2000 in the US. AGOA extended the duty-free treatment under the US's Generalised System of Preference (GSP) programme. Importantly, AGOA eliminated most of the limitations of the GSP programme for sub-Saharan African countries, and expanded the product coverage of the GSP programme

exclusively for products in sub-Saharan Africa. It has also made way for duty-free and quota-free access to the US market for apparel manufactured in sub-Saharan countries, of which the fabric, yarn and thread, were of US origin. AGOA is set to expire in 2015. However, South Africa continues to advocate for AGOA's extension and South Africa's inclusion after 2015 to promote regional integration.

#### **SACU-Southern Common Market (Mercosur) PTA**

A preferential trade (or limited scope) agreement, covering about 1 100 product lines on each side of the border, was concluded in 2008 and signed in 2009. It is currently going through ratification procedures.

#### **SACU-India PTA**

Negotiations are under way for a preferential trade (or limited scope) agreement with India. The parties are currently defining an appropriate level of ambition for the Agreement.

#### **Generalised System of Preferences (GSPs)**

##### **What are GSPs?**

The Generalised System of Preferences (GSP) is a formal, non-reciprocal system of exemption from the more general rules of the World Trade Organisation (WTO). Specifically, it is a system of exemption from the "Most Favoured Nation" (MFN) principle that obligates WTO member countries to treat the imports of all other WTO member countries no worse than they treat the imports of their "most favoured" trading partner. In essence, MFN requires WTO member countries to treat imports coming from all other WTO member countries equally, that is, by imposing equal tariffs on them, etc.

GSP, however, exempts WTO member countries from MFN for the purpose of lowering tariffs for developing countries (without also doing so for rich countries). The idea of tariff preferences for developing countries was the subject of considerable discussion within UNCTAD in the 1960s. Among other concerns, developing countries claimed that MFN was creating a disincentive for richer countries to reduce and eliminate tariffs and other trade restrictions with enough speed to benefit developing countries.

#### **GSP applied to SA exports**

South African products qualify for preferential market access (i.e. no or substantially reduced customs duty) to several countries under the GSP, including EU member states, Japan, Canada and Russia.

#### **Bilateral agreements**

##### **Mozambique Preferential Access Agreement**

This Agreement is a wide-ranging preferential arrangement regulating mine labour, railway and port matters and trade. A limited number of Mozambican goods receive tariff preference from South Africa, subject to quotas.

##### **Zimbabwe/South Africa Bilateral Trade Agreement**

An initial agreement between South Africa and Zimbabwe in 1964 provided for preferential rates of duty, rebates and quotas on certain goods traded between the two countries. Consensus on a new trade agreement was reached in August 1996. In terms of the new Agreement, tariff and quota levels on textile imports into South Africa will be lowered. The Agreement also extends to a large number of other products, certain quotas for agricultural products.

### **World Trade Organization's Doha Development Agenda**

South Africa is a strong proponent of the principles of multilateralism, transparency and inclusiveness. We regard multilateralism as a necessary intergovernmental response to manage the challenges of globalisation and deepening interdependence among economies and societies around the world. The current playing field in world trade is still highly uneven and biased against developing countries' interests. In the WTO, South Africa therefore remains committed to concluding the Development Round on the basis of the Development Mandate and Single Undertaking. South Africa has built alliances with other like-minded developing countries to resist an outcome that is unfair, unmandated and anti-development.

#### **NEPAD**

South Africa, in collaboration with key African countries, and as one of the NEPAD five initiating countries, has been at the forefront in developing NEPAD as Africa's premier development programme, in mobilising African and international support for NEPAD and in supporting NEPAD structures and processes.

NEPAD, which was adopted in 2001, is aimed to promote and sustain socio-economic development and foster the adoption of policies that are in line with global practices.

The primary objective of NEPAD is to eradicate poverty, halt the marginalisation of Africa in the globalisation process, to promote the empowerment and economic integration of women and to achieve the Millennium Development Goals (MDGs).

The implementation of NEPAD, in conjunction with the SADC Regional Indicative Strategic Development Plan (RISDP), as the regional expression of NEPAD, forms a critical pillar that contributes to the overall objective of the consolidation of the African Agenda. At a practical level NEPAD seeks to unlock the blockages relating to hard and soft infrastructure, stimulating economic activity through the various economic corridors, trade facilitation, aid-for-trade and capacity-building through innovative partnerships.

NEPAD provides unique opportunities for African countries to take full control of their development agenda, to work more closely together, and to cooperate more effectively with international partners. In this regard, NEPAD manages a number of programmes and projects in six theme areas, including:

- Agriculture and Food Security
- Climate Change and National Resource Management
- Regional Integration and Infrastructure
- Human Development
- Economic and Corporate Governance



## 5.2. Exchange controls

### Overview

Exchange control is administered by the South African Reserve Bank (SARB), which has delegated powers to Authorised Dealers (banks licensed to deal in foreign exchange).

South Africa does not impose exchange controls on non-residents, but exercises exchange controls over residents and transactions entered into between residents and non-residents.

For exchange control purposes, a “resident” is a person (a natural person or legal entity) whether of South African or any other nationality, who has taken up residence, is domiciled or registered in South Africa.

There are, in principle, no restrictions on foreign investors acquiring companies or businesses in South Africa. The introduction of capital or the acquisition of shares does not require SARB approval, but the acceptance of foreign loans by South African residents (including a South African subsidiary or branch of a foreign company) is subject to prior approval being obtained. Approval is required for the repayment of foreign loans by South African residents.

There are no thin capitalisation rules imposed in terms of exchange controls, but the rate of interest payable on foreign loans will be limited in terms of SARB policies, although after approval has been granted, interest is freely transferable from South Africa.

The extent to which non-residents and entities, in which non-residents have an interest of 75% or more, may avail of local financial assistance in South Africa for local working capital purposes, is unrestricted, however, local financial assistance for financial transactions and the acquisition of residential property is restricted in terms of exchange controls.

The sale, or redemption proceeds, of assets owned by non-residents may be freely transferred from South Africa.

Dividends declared by South African subsidiaries of foreign companies, and profits distributed by a branch of a foreign company operating in South Africa, may be remitted abroad.

Residents (including resident entities) may remit payment for services actually rendered by non-residents, provided that the fees payable are not calculated on the basis of a percentage of turnover, income, sales or purchases (i.e. based on a direct charge method).

Payments to be made in respect of transfer pricing or cost sharing or cost allocation arrangements (i.e. based on an indirect charge method) require SARB approval.

The remittance of licence fees/royalties is subject to approval being granted by the SARB and/or **the dti**.

Payment for imports may be made through an Authorised Dealer, against the submission of documentation evidencing the receipt of the merchandise in South Africa.

The receipt of export proceeds by residents is controlled. Foreign currency export proceeds must be repatriated and offered for sale to an Authorised Dealer within 30 days of receipt.

Exporters may grant credit of up to 180 days where it is the norm and on application to the Authorised Dealer credit terms may be extended.

Residents (natural persons) over the age of 18 years may avail of a single discretionary allowance of up to R1 million per calendar year, which may be utilised for any one or all of the following categories of allowances: travel (both holiday and business travel), maintenance payments, gifts or loans to non-residents, study allowance, alimony and child support payments, wedding expenses and foreign capital allowance. Residents (natural persons) under the age of 18 years may avail of travel facilities within a limit of R200 000 per calendar year.

Individuals resident in South Africa, who are taxpayers of good standing and over the age of 18 years, are permitted to remit capital abroad to invest within a limit of R4 million per calendar year, or alternatively, hold foreign currency deposits with an Authorised Dealer.

Foreign nationals temporarily resident in South Africa may, subject to completing formalities through an Authorised Dealer, conduct their affairs on a resident basis while resident in South Africa and may expatriate accumulated earnings or capital introduced.

Investment	Comments
Listed securities	No restrictions
Real estate	No restrictions
Equity investment	No restrictions
Loans	All foreign loans subject to approval

**Note:**

\* Local borrowing, including normal trade credit or financial assistance availed of for local working capital purposes, of a South African company in which non-residents have at least 75% ownership or controls, is not limited.

\*\* Local financial assistance granted to emigrants and companies in which non-residents have an interest of 75% or more, is restricted in respect of the acquisition of residential properties by non-residents or affected persons, and any other financial transaction, such as portfolio investments by non-residents, securities lending, hedging, repurchase agreements etc. In these cases, a ratio of 100% of invested, or shareholder funds, applies.

### Repatriation of funds

Type	Comments
Dividends	No restrictions
Interest	No restrictions **
Royalties	Withholding tax*
Equity Investments	No restriction**
Loans subject to approval	Readily granted**

\*Assumes no double tax treaty relief exists.

\*\*Provided exchange control approval was obtained on initial investment.

#### Dividends

Dividends are freely remittable (provided the dividend will not cause the business to be “over borrowed”). The remitting bank may call for documentation that may include an auditor’s report as evidence that the amount to be transferred represents a dividend.

#### Interest

Provided exchange control approval has been obtained in advance, in respect of the loan and the interest payable. In other words, approval is required for the receipt of the loan and if prior approval for the loan has been obtained, interest may be paid without separate approval. Repayment of capital is subject to separate approval.

#### Royalties

Provided the royalty agreement has been approved by the SARB and/or **the dti** and provided the application for approval to remit the royalty is supported by the auditor’s certificate.

### Management fees

For exchange control purposes, management fees due to related parties are subject to exchange control approval.

### Notable amendments

Ongoing amendments to exchange controls, as well as financial market legislation, make South Africa an attractive investment prospect and brings it in line with international best practice. Past notable amendments have included, for example, the National Payment System Act of 1998 (which confers greater powers and duties on the South African Reserve Bank to provide clearing and settlement facilities, bringing the South African financial settlement system in line with international practice on settlement systems and systematic risk management procedures) and the introduction of payment clearing house agreements and agreements pertaining to settlement, clearing and netting agreements, and rules to create certainty and reduce systemic and other risks in inter-bank settlement.

More recent developments in South Africa’s exchange control environment included, among others, the withdrawal of the application process to make new outward foreign direct investments where the total cost of such investment does not exceed R500 million per company per year. Under this new dispensation, the responsibility for ensuring that the foreign investment purposes has been placed on the authorised dealer (i.e. a commercial bank) facilitating the transaction. South African companies who want to use this dispensation are still required to show anticipated benefits to South Africa as a result of the foreign direct investment.

Additional reforms included removing controls on emigrant blocked assets. South African emigrants are currently allowed to take R8 million per calendar year per family unit offshore upon emigration. The rest of the assets are blocked, but application may be made for the externalisation of all remaining South African assets.

Furthermore, regarding investments abroad by individuals, R4 million per calendar year limit is applicable, but individuals may apply to have funds in excess of this limit externalised subject to compliance with all tax and financial integrity legislation. Individuals (resident natural persons) over the age of 18 years may avail of a single discretionary allowance of up to R1 million per calendar year.

Further relaxations have resulted in the following concessions:

- A special type of South African holding company (Holdco) that both JSE-listed and unlisted entities will be able to establish for holding African and offshore operations without it being subject to exchange control restrictions. Each entity will be entitled to establish one such subsidiary
  - The aforementioned entity will also be able to operate as a cash management centre for the South African multinational; and cash pooling will be allowed without restrictions;
  - Such holding companies will also be able to raise and deploy capital offshore provided it is without South African guarantees;

- Transfers from the parent company to the holding company will be allowed within a R2 billion per annum limit for listed companies and R1 billion per annum for unlisted entities;
- The Financial Surveillance Department of the SARB will, on application, consider transfers of up to 25% of the listed company's market capitalisation to the Holdco provided there is a demonstrated benefit to South Africa;
- Income generated from cash management will be freely transferable;
- Holding companies may choose their functional currency or currencies and operate both foreign currency and Rand-denominated accounts for operational purposes;
- There will be no restriction on transfers into and out of the Holdco provided such transfers comply with regular reporting requirements and are not undertaken to avoid tax commitments; and
- The Financial Surveillance Department of the SARB will consider, on application and on a case-by-case basis, the listing of the Holdco and joint ventures.
- Further refinements to the International Headquarter Company (IHC) rules have also been announced. Banks will be permitted an additional five percentage points on their macro-prudential limits for further expansion into Africa;

- The requirement that collateral for securities lending transactions are by way of cash cover in Rand or the pledge of unencumbered non-resident owned local assets, have been lifted and Authorised Dealers will now be able to accept non-Rand based collateral;
- Debt and equity instruments issued by entities in the CMA will be classified as domestic assets;
- The JSE will be permitted to offer African agricultural commodity derivative contracts in foreign currency, subject to certain requirements;
- The ability to operate gold and other commodity exchange traded funds will be opened to a wider range of financial institutions and these funds will be classified as domestic assets for prudential purposes; and
- A review will be undertaken of the current stance that intellectual property is deemed to be capital for exchange control purposes.
- Member funds
  - In order to provide domestic investors with a channel to obtain foreign exposure, while at the same time benefitting from enhanced customer protection, foreign member funds will be introduced which will not be subjected to the macro-prudential limit applicable to institutional investors;
  - These member funds will comprise collective investment schemes and alternative investment funds (including private equity, venture capital and hedge funds). They will be permitted

to source funding from non-residents, domestic institutional investors, subject to permitted macro-prudential limits and, in respect of individuals, subject to their foreign capital investment allowance limit; and

- Foreign member funds will be required to be domiciled, anaged and tax compliant in South Africa, and subject to the Financial Services Bord and Financial Surveillance Department of the SARB.
- Accessing capital for growth into Africa
  - Unlisted technology, media, telecommunications, exploration and other research and development companies will be allowed to freely list offshore to allow them to raise capital for their operations provided they remain incorporated in South Africa and a tax resident and are effectively controlled and managed from South Africa. Their intellectual property is to remain registered in South Africa;
  - Following a successful offshore listing, the entity will be required to secondary list in South Africa within two years;
  - JSE-listed companies will be freely permitted to secondary list offshore; and
  - In line with promoting access to offshore capital, intellectual property developed in South Africa may be freely assigned offshore subject to the appropriate tax treatment.

- Changes applicable to Authorised Dealers
  - Authorised Dealers will be required to submit a revised Macro-Prudential Limit Report; and
  - Authorised Dealers will be permitted to participate in foreign syndicated loans irrespective of the status of the borrower (this is for exchange control purposes only) and within the macro-prudential limit applicable to the Authorised Dealer.
- Miscellaneous reforms
  - Customer Foreign Currency (CFC) accounts – Foreign currency purchased in the spot market or the maturity proceeds of hedging contracts may be credited to CFC accounts and paid away within 30 days. Previously, this timeframe was restricted to the following business day;
  - Credit card limits – The current limit of R20 000 per transaction will be increased to R50 000 per transaction to cover miscellaneous payments for imports, services and subscriptions;
  - Payments for imports – In respect of payments in advance for imports within a limit of R50 000, the presentation to an Authorised Dealer of an invoice only will suffice, obviating the requirement to subsequently present further import documentation;
- Income transfers to South African residents temporarily abroad – South African residents temporarily abroad will be able to receive pension fund and annuity payments without the specific approval of the Financial Surveillance Department of the SARB;
- Corporate foreign direct investment – Companies that have utilised a portion of their authorised foreign direct investment allowance in a calendar year will be able to remit the balance in the following calendar year without obtaining the specific approval of the Financial Surveillance Department of the SARB; and
- Emigrant transfers – Previously emigrants were permitted to export listed securities in lieu of a foreign capital allowance. This has been expanded to include unlisted shares under certain conditions still to be announced.

### 5.3. Importing and exporting

#### Overview<sup>d2</sup>

The South African trade balance over the past year shows a negative balance, concluding that South Africa is importing more goods and services than what it is exporting.

South Africa's balance of trade recorded a cumulative deficit of R69.91 billion in 2013, compared to the R34.68 billion deficit recorded over the corresponding period in 2012.

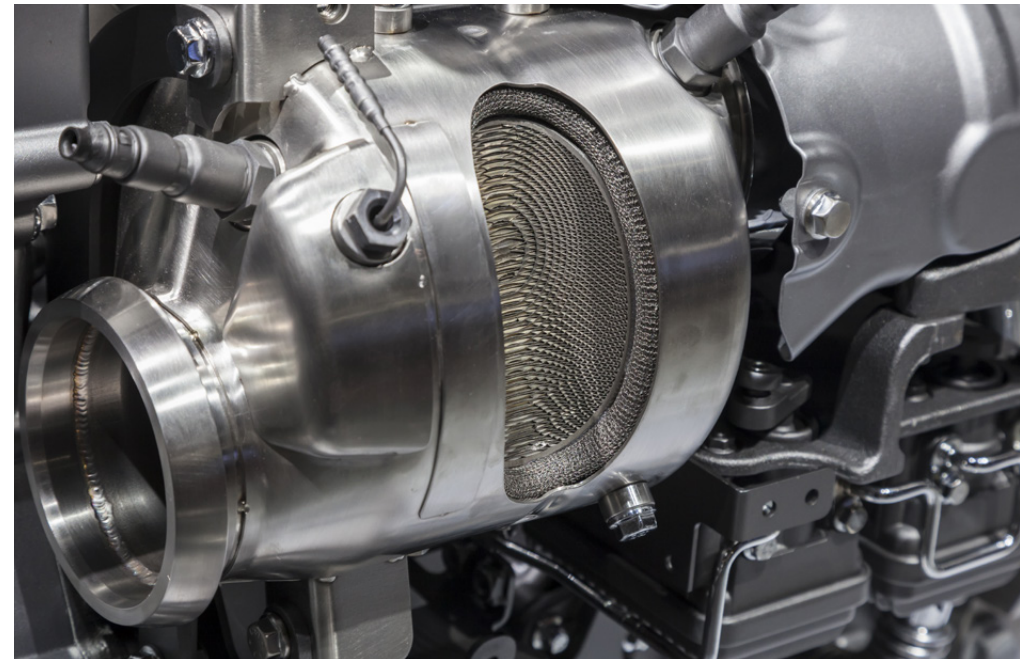
The expansion was mainly propelled by increased export values of coal, machinery and equipment, as well as coke and refined petroleum products.

#### Total imports and exports

Year	Imports	Exports
2009	541 173.40	513 864.10
2010	585 229.50	590 035.50
2011	729 026.90	712 141.30
2012	831 034.50	714 089.10
2013	969 188.90*	811 867.80*

\*Based on preliminary results.

Source: SARS



<sup>d2</sup> <http://www.idc.co.za/media-room/articles/233-statistical-update-on-south-africa-s-economic-sectors>

### Top 10 imported and exported commodities - 2013 (by Rand value)

Major Imports		Major Exports	
1	Petroleum oils and oils obtained from bituminous minerals, crude	1	Gold, non-monetary: other semi-manufactured forms
2	Original equipment components: for motor cars of heading 87.03	2	Bituminous coal
3	Distillate fuel, as defined in additional note 1(g)	3	Iron ores and concentrates, agglomerated
4	Other vehicles of a cylinder capacity exceeding 1 500 cm <sup>3</sup> but not exceeding 3 000 cm	4	Platinum, unwrought or in semi-manufactured forms: other
5	Telephones for cellular networks or for other wireless networks: designed for use when carried in the hand or on the person	5	Platinum, unwrought or in powder form
6	Medicaments: other	6	Ferro-chromium: containing by mass more than 4% of carbon
7	Petrol, as defined in additional note 1(b)	7	Other vehicles of a cylinder capacity exceeding 1 500 cm <sup>3</sup> but not exceeding 3 000 cm
8	Motor cars and other motor vehicles principally designed for the transport of persons, other	8	Iron ores and concentrates, non-agglomerated
9	Original equipment components: for motor vehicles for the transport of goods of heading 87.04, vehicle mass not exceeding 2 000 kg or of a G.V.M. not exceeding 3 500 kg	9	Other, double-cab, of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg
10	Portable automatic data processing machines, of a mass not exceeding 10 kg	10	Catalytic converters of a kind used for motor vehicles

### Import and export procedures<sup>43</sup>

Customs procedures affect new business operations in many areas. Most firms rely on imports for initial capital equipment and for needed production materials and supplies. Exporting firms rely on timely clearances to expedite shipments and for documentation to secure rebates. Import and export control is the function of the International Trade Administration Commission of South Africa (ITAC).

#### Import permits

Most goods may be imported into South Africa without restriction. However, the importation of certain goods specified by government notice is only permitted subject to the issuance of an import permit. All second-hand goods, including waste and scrap of whatever nature, require an import permit. For goods subject to restriction, importers must be in possession of the required permit before the goods are shipped.

ITAC controls the issuing of permits. Additional and prior authorisation may be required from other departments with jurisdiction over the control of the goods in question. The permit can be acquired within three days, depending on the nature of the application.

For a complete list of goods currently subject to import control, an importer should approach the ITAC. Permits are issued free of charge and are valid for a period of 12 months from the date of issue.

Applications should be filed at least two weeks prior to the date of shipment in order to ensure approval in time for shipment.

### Export permits

A number of products are subject to export control and licensing. Exporters should apply directly to the government agency that controls the specific permit in question. Currently, restrictions exist on strategic goods (exhaustible resources), secondhand vehicles, agricultural products and metal waste and scrap.

Metal scrap must first be offered to downstream manufacturers at a discount to the price at which it can be exported (20% discount for all categories of scrap metal as defined by ITAC). If manufacturers turn down the offer, an export permit may be issued. Export permits are valid for a period not exceeding six months from the date of issue or a shorter period as indicated in the permit.

#### Registration as importer/exporter

All importers and exporters in South Africa are required to register with the Commissioner for SARS. Form DA 185 (plus the relevant annexures) for importers and exporters, as well as clearing agents and warehouse licencees, must be completed and submitted to SARS.

Forms are to be submitted to the SARS office closest to the area in which the applicant's head office is situated. Upon registration, applicants are issued with a unique customs code number. The registration process normally takes about two to three weeks depending on the type of registration required.

SARS amended their rules around foreign entities (not registered in South Africa) who wish to register for customs purposes.

Foreign entities (foreign principals) can register with Customs (i.e. register as importer and/or exporter), provided they simultaneously

<sup>43</sup> www.thedti.go.za.

nominate a local representative (registered agent) located in the Republic of South Africa to act on their behalf in relation to any business activity which relates specifically to customs.

### Customs clearance procedures

#### Import process

The clearance of imported goods generally takes a maximum of 24 hours for airfreight and two to three days for sea freight, depending on the port of entry. All required documentation must be submitted to Customs and Excise before goods can be cleared through Customs.

Most transactions are covered by a Bill of Entry (Form SAD500).

Other required documentation includes:

- Commercial invoice
- Prescribed certificate of origin when preferential duty rates are claimed
- Negotiable copy of bill of lading or equivalent document
- Import permit, if required
- Rebate permit 470.03 (if applicable) for raw materials to be processed and re-exported
- Payment, by a bank guaranteed cheque, for all applicable duties and taxes (incl. VAT), if not qualified for a deferment
- Duly completed clearing instructions

Import shipments may be cleared through Customs prior to the goods arriving at a South African port. In order to avoid unnecessary delays, an importer may wish to submit an application for a tariff determination for products where the tariff heading is unknown or under dispute. These can be acquired from the Commissioner in Pretoria (submitted through the relevant branch office).

In the case of sea freight, once Customs has been cleared, the importer must pay dues to Harbour Revenue, and receive a wharfage order. The importer then pays the operator and receives a release. At this point, the importer can go to the terminal and collect his goods.

Freight forwarders commonly apply for all licences and registration numbers. They can apply for tariff determinations and provide assistance in properly classifying goods. Through the use of technology, they can clear goods quicker than an individual investor, and provide inland transport for the goods to reach the investor.

Importers need to be aware that, although the freight forwarder will assist them with the clearance process, the ultimate responsibility for the correct clearance of the goods remains theirs.

#### Export process

All required documentation must be submitted to Customs and Excise before goods can be cleared through Customs. Most transactions are covered by a Bill of Entry (Form SAD500). Customs can process paperwork within 24 hours.

All exports must reflect payment from the receiver of the goods. Other required documentation includes:

- Export invoice
- Transport document
- Export permit (if required)

#### Electronic processing

Most Customs offices accept electronic versions of required documentation to expedite the clearance process. SARS may request that the electronic version be supported by additional documentation. The importer and/or the freight forwarder needs to keep all customs related documentation for a period of at least five years.

SARS introduced a new automated customs management system, which will eliminate lengthy delays and reduce the red tape at the country's border post. The new system centralised the clearing of all imported and exported declarations using a single processing engine. Benefits of the new system included reducing border turn-around time from two hours to six minutes on average and reducing inspection time from eight hours to two hours on average. In addition, there is better security and risk detection, which will help SARS protect South African businesses. The digital network will also promote trade within Africa and improve competitiveness of the South African economy.

#### Deferment of payment scheme

A deferment scheme is available to qualified importers that allows for the deferment of applicable import duties, and VAT. Payment is generally deferred for 30 days with seven days to settle the account. No locally manufactured goods, (duties and levies) may be deferred under this scheme. To apply for deferment, importers may apply to the local Customs Controller.

Required documentation includes:

- Application for deferment
- Statement of income for the past three years
- Audited financial statements and balance sheet

The local Controller will make its recommendation to the Commissioner. Following approval, the applicant will be required to submit additional documentation, including a signed agreement and any required surety bond.

#### Duty drawback scheme

A duty drawback scheme provides refunds for import duties paid on materials used in the production of goods exported. Manufacturers may apply for refunds after the final product is exported. Manufacturers must provide proper documentation to reconcile imported materials with exports.

### **Bonded warehouses**

Secure bonded warehouse facilities are available at all points of entry and may be used to store imported goods without payment of duties until required for use, resale, or re-export.

Goods withdrawn from a bonded warehouse are liable for the duty applicable only if cleared out of bond for home consumption. Goods may be stored for no more than two years. However, the new customs legislation proposed a reduced storage period of 12 months only (i.e. one year).

SARS also administers a programme for manufacturing under rebate, whereby manufacturers may claim a rebate on imported materials used in the production of goods for export. The objective from a SARS perspective will be to ensure that materials imported are used in the manufacturing, packing, finishing or equipping of goods for export and that control measures are in place to ensure that the manufactured products are exported.

Imported materials must be used within 12 months. This facility is exclusively export driven, and to qualify manufacturers must have secure facilities on their premises for the storage of dutiable materials. The designated area is subject to inspection by Customs.

It is recommended that building plans be submitted to Customs prior to construction to ensure that all requirements are met. Upon approval, manufacturers are also required to provide a surety bond. The bond amount is usually determined in consultation with SARS. The entire process can take from two weeks to two months, depending on the length of time required to obtain the bond.

### **Clearing agents**

Clearing agents/customs brokers are available throughout South Africa to attend to all formalities necessary for the clearance of goods through Customs, including any required permits, documentation, payment of duties, port charges, forwarding and transport costs.

### **Customs duty planning**

Customs duty planning can provide significant savings for businesses locating to South Africa whether through immediate reduction in amounts of customs duty payable, improved cash flow or by streamlining procedures and reducing overhead costs.

It is essential that businesses locating to South Africa consider specialist advice at an early stage to ensure that suitable planning opportunities are identified and maximum savings are achieved, especially since certain provisions are dependent on pre-approval from the authorities concerned.

Listed below are brief outlines of the main areas in which businesses locating to South Africa may obtain savings through customs duty planning:

#### **Stage consignment procedures**

These can benefit businesses importing capital equipment in separate consignments. Instead of classifying all the components separately, and completing full customs entries for each consignment, they may be classified as component parts of one functional unit. The customs duty applicable to the functional unit will therefore be applied, that could result in one, low customs duty, instead of many different customs duty rates, several of which might be quite high. Import documentation would also be reduced.



### **Customs valuation**

The South African Customs and Excise Act provides for a range of additions to, and deductions from, the transaction value of goods used to determine the value for customs duty purposes of imported goods.

Careful planning will ensure that the lowest legal value can be used, thus reducing the overall duty liability. Where there is trade between related parties and SARS' Customs find that the transaction value is too low for customs duty purposes, SARS can increase the transaction value. It is therefore important to ensure that the correct customs value is agreed with SARS.

### **Tariff classification**

Tariff classification of imported goods is the responsibility of the importer, even if entrusted to a clearing agent. Classification determines the rate of customs duty payable, permit and licensing requirements and entitlement to preferential customs duty rates or rebates of duty. Customs planning enables businesses to identify lower duty liabilities and avoid import restrictions that should not apply to his product.

### **Inward processing relief**

A full rebate of the customs duty and VAT exemption is provided for goods for processing and re-exportation. Processing includes from simple repacking of goods, to the most complicated manufacturing process. Certain accounting requirements have to be followed but careful planning can reduce these requirements to a minimum.

### **Industrial Development Zones (IDZs)**

Following the publication of the Industrial Development Zone Regulations in December 2000, the Coega (near Port Elizabeth), East London, Richards Bay and Johannesburg International Airport IDZs have been designated.

The intention of IDZs is to provide investors in the zone with direct links to an international port and the facility to import inputs and goods into the zone customs duty-free and exempt from VAT. Each zone will have dedicated customs support for faster processing of customs documentation. IDZs are suitable for export-orientated production. Finished goods sold into South Africa could have import status, i.e. it could be subject to the same customs duties and taxes applicable to any other import.



### Special Economic Zones (SEZs)

South Africa is moving to include SEZs in its industrial and economic development toolbox in the hope that they will help stimulate fixed investment, particularly investment that can contribute to the country's re-industrialisation thrust. The aim is also to use industrial parks to stimulate a regionally diversified industrial economy, particularly in underdeveloped provinces.

In 2014, the Special Economic Zone Act (SEZA) was signed into law and provides for the designation, promotion, development, operation and management of SEZs, as well as for the establishment and functioning of the SEZs Advisory Board and the appointment of members.

#### Note:

- These SEZs could be in the form of Industrial Development Zones, Free Trade Zones, Free Trade Ports and Sector Specific Zones. Further details about SEZ offerings will be available in due course.

### Customs and excise warehouses

These warehouses allow the deferment of the payment of customs duties and import VAT on goods subject to customs duty. Payment is only due at the time the goods are removed from the warehouse for home consumption. Certain manufacturing operations may also be undertaken in these warehouses subject to special prior approval being received from the Customs authorities.

Special dispensations are applicable to exporters if the goods are not subject to customs duty.

### Anti-dumping, countervailing and safeguard measures

ITAC conducts anti-dumping, countervailing and safeguard investigations in terms of the International Trade Administration Act. Anti-dumping, countervailing and safeguard duties can be imposed in addition to the prevailing rate of customs duty applicable to the product being imported. Safeguard quotas can be imposed in the case of safeguard investigations.

A product is considered dumped when it is exported to SACU at a price that is less than its normal value. The normal value is defined as the domestic selling price of a product in the country of export or, in the absence of domestic sales, exports to another country or a constructed normal value.

Countervailing duties are imposed in the case of subsidies by a foreign government in an effort to make their exports more competitive.

Safeguard measures are imposed when there is a surge in imports of a specific product. In all three instances it must be shown that it has caused injury to the relevant South African industry before final measures can be introduced. The anti-dumping and countervailing duties can be country and/or company specific and are imposed for a period of five years.

Safeguard measures will apply to imports from all countries, although least developed countries can be excluded. Proper planning can ensure that the product is not subject to anti-dumping, countervailing or safeguard investigation. When being party to an anti-dumping, countervailing or safeguard investigation, it is essential that exporters, importers and manufacturers (South African and foreign) cooperate with the investigating authority in order to get the best dispensation.

### Interpretation of trade agreements and "rules of origin"

It is important to constantly monitor the changing trading environment and to develop informed marketing strategies. Companies are advised on compliance with the "Rules of Origin" provisions of the various trade agreements and assisted in mitigating risks in this area. South Africa is a beneficiary to various trade agreements such as the free trade agreements with the EU, EFTA, the SADC and AGOA, which makes it an ideal location to target large developed markets.

### Customs accreditation

The SARS "accreditation initiative" was introduced in February 2002, and aimed to eradicate illegitimate trade and simultaneously facilitate legitimate trade within South Africa.

Accreditation allows SARS to grant accredited status to those businesses registered under the Customs Act and which meet defined criteria.

Benefits include:

- Simplified procedures such as electronic clearances support a paperless environment and lead to quicker turnaround times;
- Consulting with business to improve customs processes; and
- Less human intervention in customs transactions.

The local trading industry did not embrace this concept due to the lack of real benefits. SARS in turn has not got around to conducting customs compliance inspections to verify compliance declarations made by applicants and, as a result, the application process became somewhat of a "paper-exercise".

SARS subsequently amended the accreditation programme and published two documents to aid applicants in understanding and assessing their compliance status with the accredited criteria, namely:

- Request for information and self-assessment (Document number SC-CF-06-A1)
- Quick reference guide to accreditation (Document number SC-CF-07)

The application process has, hence, been updated and applicants now need to complete the self-assessment prior to applying for accreditation on the DA186. If the self-assessment reveals that the applicant is not in a position to apply for accreditation, SARS will (together with the applicant) draw up a "Compliance Improvement Plan" to assist the applicant to improve their compliance levels and, hence, meet the qualifying criteria for accreditation.

If the self-assessment reveals that the applicant meets the criteria for accreditation, the completed self-assessment (together with the DA186) needs to be submitted to SARS. SARS will verify the details and confirm whether or not accredited status has been granted. In the event that it is not granted, the applicant can participate in the Compliance Improvement Programme.

If SARS grant accredited status to the applicant, the applicant will be required to sign an accreditation agreement in order to complete the process and receive the benefits available under accreditation. Ongoing compliance reviews by SARS will be conducted. Should the applicant's compliance levels fall, the accredited client status can be cancelled or suspended upon review.

Lastly, industry should be aware that SARS is currently looking at revising the accreditation initiative to bring it in line with the "Authorised Economic Operator" concept which was introduced by the World Customs Organization. This revised accreditation is known as the SARS "Preferred Trader Initiative" (PTI).

Customs modernisation has established a PTI that is currently undertaking a pilot with importers and exporters from key economic sectors identified by Government. The aim is to improve trade facilitation and economic protection of key industries, as well as raise voluntary compliance and increase efficiency for SARS. The intent of the PTI is to create partnerships between Customs and business, linking specific demonstrated and audited compliance levels. "Preferred trader" forms part

of the revised accreditation approach within SARS. This will award clients with a new status that will also introduce an "account manager approach" to approved preferred traders.

SARS believes that about 80% of trade volume is undertaken by clients who should be able to demonstrate their compliance, and therefore be considered "low risk" and potentially suitable for accreditation. The mutual benefit is that customs operations at the entry/exit points of South Africa should then be able to focus on high risk consignments and allow greater facilitation to its accredited clients.

The programme is dependent upon developing a solid customs audit capability supported by its core legal, policy, people, and process and systems infrastructures. To achieve this, the PTI has developed draft audit and account management policies, procedures and standard operating procedures to guide the new programme. These are being tested by the pilot, and will be formalised in legislative rules and policy. A new accreditation policy is also being developed that will specify formal benefits for clients linked to their compliance levels. This is in line with the EU's AEO programme, which SARS is aligning with due to the fact that the EU countries are our largest trading partners.

The assurance audits will perform tests that will score compliance against specific measures and standards. This approach will also facilitate mutual recognition from international customs administrations for their local status.

The new accreditation process requires the companies to complete a detailed self-assessment questionnaire that represents a due diligence report of their own compliance. SARS validates each company's declaration through an audit that performs a combination of internal systems tests and sampling of compliance.

SARS has undertaken initial discussions with neighbouring countries to help them adopt and deploy the SARS Customs Draft Accreditation Policy into an aligned Regional Accreditation and Audit Programme.

#### **Proposed benefits of the accreditation policy**

Proposed benefits of the accreditation policy include, among others:

- Reduced interventions;
- Upgraded service model for participants; and
- Simplified procedures linked to accreditation (dependent on new systems and legislative provisions).

SARS is also busy with an AEO benchmarking programme that will assist in the finalisation of the accreditation programme.

#### **Re-write of the Customs Act**

After much speculation the Customs Control Bill and Customs Duty Bill were finally promulgated into Acts. However, they are yet to be proclaimed into practicing legislation.

The main aim of the re-write is to modernise customs systems in order to facilitate legitimate trade. The new customs Acts are in line with international trends and compliant with South Africa's commitments. The new Acts are largely based on the Revised Kyoto Convention, which provides a "blueprint" for a modern customs organisation.

#### **Latest changes**

While a few new concepts have been introduced, many of the changes see familiar concepts being revised with a lot of new terminology added to ensure that the Acts (and their guidelines) are in line with international protocols.

Some of the major changes to be introduced through the new customs legislation include:

- SARS' ability to assess a duty liability has been lengthened from two to three years, which will make potential exposures much bigger than in the past;
- Provision has been made for a "self-assessment" by importers and exporters;
- Provision has been made for the "fast tracking and simplified procedures" for accredited traders;
- Provision is made for advanced rulings;
- Goods now have to be cleared within three, not seven, days;

- Accredited status holders now have to renew this status every three years;
- The benefits of accreditation have been more clearly defined;
- Companies registered with SARS will need to renew their registration if they are found to be inactive for a period of three years for the activity which they are registered for;
- The administration procedures have been clarified, including which forms are necessary and what the time frames are;
- SARS will have far greater powers in terms of recovering debt owed to the State, including powers to arrest, being able to use a certain level of force, and being able to carry firearms; and
- The provisions for the classification and valuation of goods have been expanded upon.

**Note:**

- It is anticipated that the draft Excise Bill will be released for public comment during 2015, while the draft rules to the new Customs Acts are expected to be released in batches for public comment, during 2014 and early 2015.



## 6. Regulatory requirements in South Africa

### 6.1. Corporate regulations

#### Introduction

The Companies Act, 2008 (the Act) became effective on 1 May 2011. The Act is characterised by flexibility, simplicity, transparency, corporate efficiency and regulatory certainty. It is drafted in plain language, and is not as detailed and prescriptive as the previous Act. Companies are allowed flexibility to change certain requirements to suit their specific circumstances.

#### Different forms of enterprises

According to the Companies Act of 2008, as of May 2011, no new Close Corporations (CCs) would be registered, no conversions to CCs would be registered and provision has been made for CCs to convert to companies without any payment. Two types of companies may be incorporated under the new Act; namely, Non-profit Companies and Profit Companies:

#### Non-profit companies

A Non-profit Company (NPC) is a company incorporated for public benefit or other objective relating to one or more cultural or social activities, or communal or group interests; and the income and property of the company are not distributable to its incorporators, members, directors, officers or persons related to any of them.

#### Profit companies

**Profit companies** may be incorporated under the following types:

##### *Private Companies (Pty) Ltd*

A company that is not a state-owned company and its Memorandum of Incorporation (MOI) prohibits it from offering any of its securities to the public, and restricts the transferability of its securities.

##### *Personal Liability Companies (Inc.)*

A private company of which the company's MOI determines that the company and the directors are jointly and severally liable for any debts and liabilities of the company.

##### *State-Owned Companies (SOC Ltd)*

An enterprise, registered as a company, which is listed as a public entity in Schedule 2 or 3 of the Public Finance Management Act (the PFMA) or is owned by a municipality.

##### *Public Companies (Ltd)*

A company that is not a state-owned company, private company or personal liability company.

#### Foreign and External Companies

A foreign company is a company incorporated outside of South Africa, irrespective of whether it is a profit or non-profit company or carrying on business in South Africa or not.

A foreign company is prohibited from offering securities to the South African public unless it follows the specific provisions of the companies Act, relating to offers to the public.

A foreign company is required to register as an "external company" with the Companies and Intellectual Property Commission (CIPC) if it conducts or intends to conduct business in South Africa. The Companies Act in terms of section 23 lists a series of activities that will be regarded as conducting business. This list is much broader than the provision in the 1973 Companies Act relating to a "place of business" in South Africa.

#### Sole Proprietors and Partnerships

Sole Proprietors and Partnerships are not required to be registered at the CIPC, however, they are expected to comply with the statutory obligations in the country such as paying taxes.

The net profit of the Sole Proprietor and Partner is viewed as personal income of the business owner and taxed in his personal name according to the income tax tables of South African income tax law. Partnerships can be created through a contractual legal partnership agreement between two or more persons and not more than 20.

#### Annual returns

An annual return is a summary of the most relevant information pertaining to a company and CC. By lodging annual returns, companies and CCs ensure that the CIPC is in possession of the latest information. It also confirms that the company and CC is still in business or will be doing business in the near future.

All companies (including external companies) and CCs are required by law to lodge their annual returns with CIPC within a certain period of time every year. An annual return is a statutory return in terms of the Companies and Close Corporations Acts and therefore must be complied with. Failure to do so will result in the Commission assuming that the company and/or CC is not doing business or is not intending on doing business in the near future. Non-compliance with annual returns may lead to deregistration, which has the effect that the juristic personality is withdrawn and the company or CC ceases to exist.

### Filing of annual returns

The Act makes a distinction between the annual returns of local companies and external companies and the content of each differs. There will therefore be three annual return lodgment avenues; namely, for local companies, external companies and CCs.

**Note:**

- The annual return of an external company will exclude the annual financial statements.

Annual returns for local and external companies must be filed within 30 business days, from the anniversary date of incorporation. If filing later than the 30 business days, an increased fee is payable up until the company is deregistered due to non-compliance.

There is no distinction under the new Act between company types and NPCs are therefore also required to lodge annual returns.

Annual turnover	Filing within 30 business days after anniversary	Filing more than 30 business days after anniversary
Less than R1 million	R100	R150
R1 million but less than R10 million	R450	R600
R10 million but less than R25 million	R2 000	R2 500
R25 million or more	R3 000	R4 000

### Transparency and accountability

The Act requires companies to adhere to a number of measures to ensure transparency and accountability.

Among others, all companies are required to:
Have at least one office in the Republic, and to register the address of such office (or its principal office) with the Commission.
Keep certain records in written or electronic form for a period of seven years.
Keep accurate and complete accounting record.
Prepare annual financial statements.
Submit an annual return, including a copy of its annual financial statements and any other prescribed information. The content of this report is prescribed in Regulations to the Act.

The Act requires public companies and state-owned companies to have audited financial statements. Certain categories of other companies may be required by the Minister in Regulations to have their annual financial statement audited. All companies that are not required (either in terms of the Act, or by Regulations) to have their financial statements audited may opt to either have their annual financial statements audited voluntarily or to have it independently reviewed. Regulations set out exactly what is meant by independent review, what standards should be used, what professional qualifications are required for reviewers, etc.

### Enhanced transparency and accountability

Although all companies are subject to transparency and accountability requirements (as set out above), public companies, state-owned companies are obliged to appoint a company secretary and an audit committee (comprising at least three directors).

All companies that are obliged to have audited financial statements audited must appoint an independent auditor.

#### Company finance

The authorisation and classification of shares, the numbers of authorised shares of each class, and the preferences, rights, limitations and other terms associated with each class of shares, must be set out in the company's Memorandum of Incorporation, and may only be changed by special resolution of the shareholders.

However, directors are given special powers in that the board of the company may (except if the MOI provides otherwise) change the number of authorised shares of any class of shares or to classify or reclassify any shares.

The interests of minority shareholders are protected by requiring shareholder approval for shares and options issued to directors and other specified persons, or financial assistance for share purchases.

A new framework for debentures provides companies with significant freedom to create financial instruments.

## Capital adequacy

The Act requires the application of a solvency and liquidity test in specific instances, e.g. distributions, financial assistance to directors or related companies, and mergers or amalgamations. In terms of this test, when one considers all reasonably foreseeable financial circumstances of the company at a particular point in time, the company's total assets fairly valued should equal or exceed its total liabilities (including contingent liabilities) fairly valued and it should be clear that the company will be able to pay its debts as they become due in the course of business for a period of 12 months thereafter.

## Governance

The Act provides for a range of governance requirements, including a shareholder's right to be represented by proxy, notice for and conduct at meetings, election of directors, disqualification of persons to be directors, removal of directors, board committees and board meetings, director's conflict of interests, standards of director's conduct, liability of directors and prescribed officers, and the indemnification of directors.

## Standards of directors conduct

Directors of all types of companies are required to meet the same standards of conduct and behaviour as defined in the Act.

<b>A person, acting in the capacity of director, must exercise his powers and perform his/her functions:</b>
In good faith and for a proper purpose.
In the best interest of the company.
With the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions and having the general knowledge, skill and experience of that director.

## Director liability

Directors of a company may be held jointly and severally liable for any loss, damage or costs sustained by the company as a result of a breach of the director's fiduciary duty or the duty to act with care, skill and diligence. In addition, a director may also be held liable where he/she:

- Acts in the name of the company without the necessary authority;
- Is part of an act or omission while knowing that the intention was to defraud shareholders, employees or creditors;
- Signs financial statements that are false or misleading in a material respect; and
- Issues a prospectus that contains an untrue statement.

The strict standards of directors conduct and liability are somewhat tempered by the fact that companies are allowed to advance funds to cover the expense of litigation against directors, to indemnify directors in certain circumstances or to purchase insurance to protect either the director or the company. Directors may never be indemnified for liability resulting from willful misconduct or willful breach of trust.

The standard of conduct, and the provisions relating to personal liability, also apply to "prescribed officers". A "prescribed officer" is any person that exercises general executive control over and management of the whole, or a significant portion, of the business and activities of the company.

## Takeovers and fundamental transactions

Fundamental transactions are transactions that would fundamentally alter a company, including the disposal of substantially all of its assets or undertaking, a scheme of arrangement, or a merger or amalgamation.

The Takeover Regulation Panel is tasked with regulating affected transactions. The Minister published takeover regulations to regulate the detail requirements for fundamental transactions.

The process for approval of transactions that would fundamentally alter a company is set out in the Act. Fundamental transactions require approval by special resolution adopted by shareholders. In any fundamental transaction, dissenting minority shareholders are given a remedy in that they may demand that they be paid fair value for their shares (appraisal rights).

## Business rescue

The Act provides for a process to rescue companies that are financially distressed. A company is in financial distress when it is likely to be insolvent, or unable to pay its debt in the next six months.

Business rescue proceedings may be initiated either by ordinary company resolution, or failing that, a court order. Business rescue proceedings may only be initiated where there is a reasonable likelihood that the company can be rescued.

Business rescue proceedings entail the appointment of a business rescue practitioner to supervise the company and its management on a temporary basis. During this time a moratorium is placed on the rights of claimants against the company. The business rescue practitioner is tasked with the development and implementation of a plan to rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing to exist on a solvent basis.

The Act recognises the interests of all affected persons (which might be either a shareholder, a creditor, trade union or the employees of the company), and provides for their respective participation in the development and eventual approval of a business rescue plan.

## Enforcement

A number of statutory bodies are established to enforce the provisions of the Act:

### Companies and Intellectual Property Commission (CIPC) is responsible for:

- Monitoring proper compliance with the Act by companies and directors.
- Receiving and investigating complaints concerning alleged contraventions of the Act.
- Promoting the reliability of financial reports by investigating non-compliance with financial reporting standards.
- Registering and de-registering companies, directors, business names and intellectual property rights.

### Companies Tribunal is responsible for:

- Assisting in the resolution of disputes where any person applies to the Companies Tribunal for relief as an alternative to applying to a court. An arbitration decision by the Companies Tribunal is binding on the Commission or the Takeover Regulation Panel.

### Takeover Regulation Panel is responsible for:

- Regulating fundamental transactions.

### Financial Reporting Standards Council is responsible for:

- Consulting with the Minister of Trade and Industry on the making of regulations establishing financial reporting standards.

## King III

### Introduction

The King Report on Governance for South Africa 2009 (King III) provides a list of best practice corporate governance principles. Although King III refers to “companies” and “directors”, the principles apply to all institutions, including public sector institutions.

King III provides guidance on various governance related aspects, including:

- Ethical leadership and corporate citizenship
- Boards and directors
- Audit committees
- The governance of risk
- The governance of information technology (IT)
- Compliance with laws, rules, codes and standards
- Internal audit
- Governing stakeholder relationships
- Integrated reporting and disclosure

There is no statutory obligation on companies to comply with King III. The underlying intention of King III is not to force companies to comply with recommended practice, but rather for companies to “apply or explain”. Directors are accountable for the governance and well-being of the company, and to the body of shareholders. Where directors opt not to implement the recommended practices as set out in King III, they should be able to explain their reasoning and motivation to the shareholders.

### Key features

Some of the key features in King III include:

- Integration of strategy, sustainability and governance;
- A number of matters concerning the board and directors, such as the composition of the board, duties for the chairperson and the Chief Executive Officer (CEO), the board appointment process, director development, remuneration, and performance assessment of directors;
- Clearly defined role and functions of the audit committee;
- While not a new concept, emphasis on the risk-based approach to internal audit and the strategic positioning of the internal audit function within the company;
- Inter-relation between risk management and the company’s strategic and business processes;
- The concept of combined assurance;
- Alternative dispute resolution and stakeholder relationships;
- IT governance and IT risk management;
- Compliance with laws and regulations; and
- Integrated reporting and disclosure.



### **Boards and directors**

King III confirms the role of the board as the focal point for corporate governance. The board has collective responsibility to provide and ensure good governance. As such, it is the responsibility of the directors to ensure, among others, that the company:

- Operates ethically and with integrity, and as a responsible corporate citizen;
- Considers the interests of the community within which it operates;
- Integrates governance, strategy, risk, performance and sustainability;
- Complies with laws and regulations;
- Identifies and manages risks; and
- Employs structures and processes to ensure the integrity of its integrated reporting.

Although the directors are ultimately accountable for adherence to appropriate best practice principles, the direct responsibility of the board is focused on the design and adoption of adequate policies, inculcating the required culture to adhere to such policies, and the subsequent oversight of the implementation of such policies. Management bears responsibility for the implementation of policies, strategy, business plans and the like.

In order to ensure the effective functioning of the board, King III proposes a unitary board structure comprising executive, non-executive and independent non-executive members. The majority should be non-executives, of whom the majority should be independent. The board should be chaired by an independent non-executive director. The CEO of the company should not also fulfil the role of the chair of the board.

King III further proposes a formal election and induction process for new board members, ongoing director development, and emphasises the importance of effective board performance. It also provides guidance on remuneration of directors and executives, and the composition and responsibility of board committees.

King III proposes that the boards of all companies establish audit, risk, remuneration and nominations committees, and be assisted by a competent company secretary.

### **Audit committee**

Although the Companies Act prescribes the composition and functions of the audit committee for certain categories of companies, King III proposes that all companies should appoint an audit committee. The audit committee should comprise at least three members and all members should be independent non-executive directors. The committee as a whole should have sufficient qualifications and experience to fulfil its duties, and should be permitted to consult with specialists or consultants after following an agreed process. The terms of reference of the audit committee should be approved by the board.

The functions of the audit committee in relation to the external auditor include:

- The nomination of the external auditor for appointment and to verify the independence of the auditor;
- Determining the audit fee and the scope of the appointment;
- Ensuring that the appointment complies with the requirements of the Companies Act;

- Determining the nature and extent of non-audit services; and
- Pre-approving any contract for non-audit services.

The board may delegate certain aspects of risk management and sustainability to the audit committee.

King III introduced the concept of integrated reporting (that combines financial and sustainability reporting) and allows for the board to delegate the review of integrated reporting to the audit committee. In this regard, the audit committee should recommend to the Board the need to engage external assurance providers to provide assurance on the accuracy and completeness of material elements of integrated reporting.

King III adopts a wide approach to the audit committee's responsibility for financial risk and reporting to include:

- Financial risks and reporting;
- Review of internal financial controls; and
- Fraud risks and IT risks as it relates to financial reporting.

King III further introduces the combined assurance model. In terms of this model, assurance should be done on three levels, i.e. management, internal assurance providers and external assurance providers. The audit committee should ensure that a combined assurance model is applied to provide a coordinated approach to all assurance activities.



### Internal audit

King III advocates a risk-based approach to internal audit. In order for internal audit to contribute to the attainment of strategic goals, the internal audit function should be positioned at a level within the company to understand the strategic direction and goals of the company. It should develop a programme to test the internal controls *vis-a-vis* specific risks. The internal audit function should provide assurance with reference to the adequacy of controls to identify risks that may impair the realisation of specific goals, as well as opportunities that will promote the achievement of the company's strategic goals.

As an internal assurance provider internal audit should form an integral part of the combined assurance model. It should provide a written assessment of internal controls and risk management to the board, and specifically on internal financial controls to the audit committee.

### Governance of risk

King III emphasises the fact that risk management should be seen as an integral part of the company's strategic and business processes. The board's responsibility for governance of risk should be set out in a risk management policy and plan. The board should consider the risk policy and plan, and should monitor the whole risk management process.

While the board remains responsible for the risk management policy and the determination of the company's risk appetite and risk tolerance, management is responsible for the design, implementation and effectiveness of risk management. The board should receive combined assurance regarding the effectiveness of the risk management process.

The board may assign its responsibility for risk management to the risk committee. Membership of this committee should include executive and non-executive directors. Where the company decides to assign this function to the audit committee, careful consideration should be given to the resources available to the audit committee to adequately deal with governance of risk in addition to its audit responsibilities.

### Stakeholder management and alternative dispute resolution

King III proposes that companies institute measures to ensure that they are able to proactively manage the relationships with all their stakeholders, including shareholders. The company should encourage constructive stakeholder engagement. The board should strive to achieve the correct balance between the interests of all its various stakeholder groupings and promote mutual respect between the company and its stakeholders.

Alternative dispute resolution has become a trend worldwide, and not merely an alternative to the judicial system. Rather, alternative dispute resolution can be used as a management tool to manage and preserve stakeholder relationships and to resolve disputes expeditiously and inexpensively. This approach is in line with the directors' duty to act in the best interest of the company and their duty of care. The inclusion of dispute resolution clauses in contracts, as well as the utilisation of formalised alternative dispute resolution channels, is recommended.

### IT governance

As IT systems have become such an integral part of doing business, King III provides specific guidelines to ensure effective IT governance. It is necessary for directors to ensure proper IT governance, the proper alignment of IT with the performance and sustainability objectives of the company, and the proper management of operational IT risk, including security. The risk committee may be assigned responsibility to oversee the management of IT risk. In addition, the audit committee should consider IT as it relates to financial risk and reporting.

### Compliance with laws, rules, codes and standards

The board is responsible for overseeing the management of the company's compliance risk. The board should ensure awareness of and compliance with laws, rules, codes and standards throughout the business. In turn, management is responsible for the implementation of an effective compliance framework and processes, and for the effective management of the company's compliance risk. The board may mandate management to establish a compliance function to implement measures and procedures to ensure that the board's policy on compliance is implemented.

### Integrated reporting and disclosure

King III proposes integrated reporting to ensure that all stakeholders are able to assess the economic value of the company. This entails the integration of the company's financial reporting with sustainability reporting and disclosure.

The board should ensure that the positive and negative impacts of the company's operations, as well as plans to improve the positives and eradicate the negatives, are conveyed in the integrated report. King III suggests that the board may delegate oversight of the integrated report to an appropriate committee (either the audit committee or a sustainability committee). The audit committee should oversee the provision of independent assurance over sustainability issues and should assist the board by reviewing the integrated reporting and disclosure to ensure that it does not contradict financial reporting.

### Timeline for implementation

King III is effective from 1 March 2010.

## 6.2. Banking

### Banking licences

A company wishing to conduct banking operations in South Africa has three alternatives. All of these require the approval of the Registrar of Banks, who heads up the Banking Supervision Department of the Reserve Bank.

The three main banking establishment options are:

- A separate banking company
- A branch of an international bank
- A representative office of an international bank

To establish a separate banking company, the investor must begin by incorporating a public company with the Registrar of Companies. A bank of which the business consists solely of trading in financial instruments shall manage its affairs in such a way that the sum of its primary and secondary capital, its primary and secondary unimpaired reserve funds and its tertiary capital in the Republic does not at any time amount to less than the greater of:

- R250 000 000; or
- An amount that represents a prescribed percentage of the sum of amounts relating to the different categories of assets and other risk exposures and calculated in such a manner as may be prescribed by the Central Bank from time to time.

The investor must then supply the information required by the Regulations to the Banks Act with the application form BA002 for a banking licence. The following information must be included:

- Details of the applicant and the proposed bank, including notice of registered office and postal address of company;
- Memorandum and Articles of Association;
- Certificate of Incorporation;
- Business Plan;
- A number of Banks Act Returns, referred to as "BA Returns", to forecast the position for the ensuing year are required;

- Curriculum Vitae of proposed directors and executive officers and completed BA returns relating to the fit and proper requirements of the directors and executive officers (BA020);
- Application for Approval of Appointment of Auditors (BA006);
- A report from a Public Accountant on funds received from anticipated shareholders and held in trust;
- Planned Internal Audit Activities; and
- Application for Permission to Acquire Share in a Bank (BA007), which must be accompanied by a written statement containing:
  - The full particulars of the applicant's shareholding in any associate;
  - The full particulars of the applicants shareholding in any bank or controlling company other than the bank or controlling company to which the application relates;
  - In the case of the applicant being a company, the names of the company's directors;
  - Particulars of all other corporate undertakings in which the applicant holds a shareholders interest of 25% or more; and
  - The reasons for the applicants desire to acquire the shares in question in the bank or controlling company concerned.

Should a foreign bank seek to establish a subsidiary or a branch in South Africa, the procedures are similar to those for other investors set out above.

However, foreign banks are also required to include the following with their application:

- Foreign Bank Holding Company Resolution approving proposed formation of a subsidiary bank;
- Letter of Comfort and Understanding from foreign bank holding company;
- Letter from the foreign bank's home regulatory authority to the effect that it has no objections to the application and that it will comply with certain minimum standards of supervision;
- Board minutes from the holding company empowering an official to sign all documents relating to the application; and
- All requirements relating to a foreign bank establishing a branch in South Africa can be found in forms BA009 and BA023 of the Regulations Relating to the Bank's Act.

The requirements for establishing a Representative Office are less onerous and it takes considerably less time to obtain approval for a Representative Office. Representative Offices cannot take deposits, but can merely act as information conduits to the parent company. Form BA010 of the Regulations relating to the Bank's Act sets out the requirements in greater detail.

**For more information, please contact:**

The Registrar of Banks
South African Reserve Bank
Telephone: +27 (12) 313 3196
Facsimile: +27 (12) 313 3758
Website: <a href="http://www.reservebank.co.za">www.reservebank.co.za</a>

**Sources of local funding**

The main sources of short, medium and long-term financing for companies are commercial banks. Funding an investment by way of a loan is tax efficient (i.e. if the funds are used for the purposes of a trade and in the production of income, the interest paid on the loan should be tax deductible subject to the transfer pricing and the capitalisation provisions).

**Types of loans**

**Mortgage loans**

Each commercial bank applies its own policy in the granting of a mortgage over a commercial property. The factors that it takes into account include the value of the buildings, based on a professional valuation undertaken by the bank, and where they are situated; the affordability of the applicant; and other credit lending obligations imposed on the bank by the regulators. Normally, South African banks lend about 80% of the value of a commercial property, but this can vary from one bank to another depending on individual circumstance.

### Secured/unsecured loans

The most common way for a business to finance its working capital is through a credit facility. A commercial bank might be prepared to grant this credit facility on an unsecured basis depending on the financial standing of the company, taking into account, for example, whether the business has sufficient assets and cash generation ability to service the credit extension. Alternatively, the bank might require security for the credit provided, in the form of, for example, personal guarantees by the directors, physical security such as a bond over an unbounded property, or a cession of the book debts of the company.

As far as "discounting and factoring" is concerned, South African banks will also, in some cases, be prepared to discount, for example, foreign bills, trade bills, bankers' acceptances or promissory notes.

There are also a number of institutions, many associated with the banks that undertake factoring, where the institution will advance money against the client's debtor's book.

Normally, factoring gives a better rate than a normal bank cession over a debtor's book, but that also depends on the quality of the book. Factoring is also commonly known as securitisation.

### Corporate finance

The commercial divisions of the major banks offer standard lending products to medium-sized companies. There are also corporate finance divisions in the major banks, or specialised corporate finance institutions, which offer tailor-made solutions for larger or more complex needs, such as the financing requirements of multinationals or listed companies.

### Export finance and guarantees

Commercial banks will assist with export credits, guarantees and letters of credit. The Credit Guarantee Insurance Corporation of South Africa administers an export credit insurance scheme on behalf of **the dti**.

### State assistance

The state-owned Industrial Development Corporation (IDC) provides financing to the private sector to facilitate commercially sustainable industrial development and innovation to the benefit of South Africa and Southern Africa. Finance is in the form of equity, quasi equity and medium-term loan finance. Interest rates are competitive, risk-related and are based on the prime bank overdraft rate.

The IDC offers specific financing products:

- Bridging finance: For entrepreneurs who have secured firm contracts except for construction contracts with government and/or the private sector and which have short-term financing needs;
- Financing for empowerment: For emerging industrialists/entrepreneurs who wish to acquire a stake in formal business by way of management buy-ins or buy-outs, leveraged buy-outs or strategic equity partnerships;
- Financing for small and medium-sized mining and beneficiation: Aimed at small and medium-sized mining and beneficiation activities and jewellery manufacturing activities;

- Financing for the development of the technology industry: Aimed at entrepreneurs in the IT, telecommunication, electronic and electrical industries wanting to develop or expand their business;
- Financing for the development of agro-industries: For entrepreneurs in the agricultural, food, beverage and marine sectors wanting to expand and develop their businesses;
- Financing for the development of the tourism industry: Aimed at commercial projects in the medium to large sectors of the tourism industry;
- Financing for the expansion of the manufacturing sector: Aimed at entrepreneurs wishing to develop or expand their manufacturing business and create new or additional capacity;
- Wholesale finance: For intermediaries looking for wholesale funding to lend to individual entrepreneurs;
- Financing for the export of capital goods: To manufacturers and providers of exported capital goods or services. The aim is to provide competitive US dollar and Rand financing to prospective foreign buyers of equipment;
- Import credit facilities: For local importers of capital or services requiring medium- to long-term import credit facilities;
- Short-term trade finance facilities: For exporters looking for short-term working capital facilities to help them facilitate export orders; and

- Project finance: Aimed at large projects in the Metals, Petro- and Chemical Manufacturing, Agriculture, Minerals and Mining, and Energy market sectors.

### Restrictions on local borrowing by South African companies that are foreign-owned or controlled

An "affected person" is one where:

- 75% or more of a South African entity's capital, assets or earnings may be utilised to pay, or to benefit in any way, a non-resident; or
- 75% or more of the voting or non-voting securities are held or controlled, directly or indirectly by non-residents.

There is no restriction on the amount that can be borrowed locally in instances where an affected person wishes to borrow locally to finance domestic working capital requirements.

Regulations formerly restricted the granting of local financial assistance to affected persons, as defined. The revised rules now allow Authorised Dealers (i.e. South African banks) to grant or authorise local financial assistance facilities to affected persons without restriction. The only exception to this rule is where the local funds borrowed are required for financial transactions and/or the acquisition of residential property in South Africa.

The concept of financial transactions includes, *inter alia*, the purchase and sale of any securities (listed or unlisted), repurchase agreements and any derivative transactions on securities. It must be noted that it is not always clear as to what is caught in the term "financial transactions". In the case of the local borrowing of funds, in

order to acquire residential property situated in South Africa or for financial transactions, a ratio of 1:1 applies. This means, for instance, that the wholly-owned South African subsidiary of a foreign company may only borrow locally up to 100% of the total shareholder's investment for these two specific purposes.

### Restrictions on borrowing abroad by South African residents

The acceptance of foreign loans by South African residents from foreign lenders, are subject to prior South African Reserve Bank approval.

### Twin peaks model

South Africa is committed to the highest standards for regulating the financial sector, and in line with his objective, the previous Minister of Finance, Pravin Gordhan, announced in his 2012 Budget speech a move towards a "twin peaks system" for financial regulation. Under this model, the financial services industry will have two regulators, a prudential regulator and a market conduct regulator.

The prudential regulator will operate within the South African Reserve Bank and its main objective will be to maintain and enhance the safety and soundness of regulated financial institutions. The market conduct regulator will be established from a restructured Financial Services Board (FSB) and its main objective will be to protect consumers of financial services and promote confidence in the South African financial system. New legislation (namely, the Financial Sector Regulation Bill) has been drafted in order to give effect to the shift towards the twin peaks model.

## 6.3. Money laundering

Money laundering is a process by which criminals hide or disguise the nature, location or movement of the proceeds of their criminal activity, so that it appears to have originated from a legitimate source.

South African legislation has broadened this definition to include all acts or transactions that involve the proceeds of a crime including tax evasion and terrorist financing activities. This has put South Africa in line with worldwide efforts to fight money laundering.

A number of measures have been adopted by South Africa, at both an international and regional level, to respond to the growing complexity and nature on money laundering and terrorist financing. At a regional level, South Africa has four main pieces of legislation which provides the framework for money laundering and terrorist financing control in the Republic. These are:

- The Financial Intelligence Centre Act 38 of 2011 (FICA)
- The Prevention of Organised Crime Act 121 of 1998 (POCA)
- The Prevention and Combatting of Corrupt Activities Act 12 of 2004 (PRECCA)
- The Protection of Constitutional Democracy Against Terrorist Related Activities Act 33 of 2004 (POCDATARA)

At an international level, South Africa is a signatory of the United Nations 1999 International Convention for the Suppression of the Financing of Terrorism and is a member of both the Financial Action Task Force (FATF) and of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

To date, South Africa has demonstrated a strong commitment to implementing anti-money laundering (AML) systems which are fast evolving due to close cooperation and coordination between a variety of government departments and agencies, as well as with international participation.

International investors are currently forced to comply not only with South African legislation, but in the case of foreign ownership (i.e. US owners above a certain threshold), to comply with both South African legislation, as well as local legislation. This would not limit regulation to purely AML, but will include, *inter alia*, legislation pertaining to sanctions, US Patriot Act, FATCA etc. increasing the burden of regulation to the investor.

South African companies with foreign investors/ownership are therefore subject to not only local legislation, but also to international legislation, depending on the origin of the investor (which could result in either more stringent regulations or less stringent regulation).

For local entities, this will impact competitiveness in the local markets, as other local entities may not be subject to the same regulation than others. Together with this, developments in local legislation (i.e. pending developments in legislation like FICA), will force local entities to tighten their measure to combat AML.

## 6.4. Labour regulations<sup>e1</sup>

### Overview

The South African employment relationship between an employer and an employee, as well as the terms and conditions of employment that apply to such a relationship, is governed by the following sources:

- The common law;
- The employment contract or letter of appointment;
- Employment policies and procedures;
- Collective agreements concluded with trade unions or organised labour;
- Sectoral determinations and bargaining council agreements that regulate basic conditions of employment in a specific industry; and
- Legislation.

The employment relationship is fundamentally governed by the employment contract. Employment policies and procedures generally supplement the employment contract by incorporating their provisions into the contract. The employment contract is, however, always subject to sectoral determinations, bargaining council agreements and employment legislation that provide minimum standards, rights and entitlements to the employment relationship.

<sup>e1</sup> South African Labour Employment Guide. [www.labourguide.co.za](http://www.labourguide.co.za). Retrieved August 2014..

Some of the most important terms and conditions of employment that must be adhered to in South Africa from an employment law perspective, include the following:

- An employee's ordinary hours of work should not exceed 40 hours in any one week or nine hours in a day. Any work over this will constitute "overtime" work;
- Any time worked by employees after the completion of their ordinary hours will constitute overtime, and will have to be paid at 1.5 times the employee's ordinary rate;
- If an employee, however, earns in excess of a certain threshold per annum (which is currently R205 433.30) such an employee will not qualify for overtime pay;
- Every employee will be entitled under the Basic Conditions of Employment Act (BCEA) to three consecutive weeks paid annual leave;
- In terms of the BCEA, an employee will be entitled to 30 days paid sick leave in a three-year cycle;
- In the event that an employee is required to work on a public holiday which falls on a day which otherwise is an ordinary working day for such an employee, the employee will have to be paid at one and one-third times the employee's ordinary rate;
- An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at 1.5 times the employee's wage for each hour worked; and

- An employee will be granted three days paid leave during an annual leave cycle which the employee is entitled to take for family reasons (i.e. family responsibility leave).

The above constitute some of the most important terms and conditions of employment regulated by the BCEA.

### Employment law - General

There are numerous Acts that impact on the employment relationship in South Africa which are discussed briefly below.

### The Labour Relations Act (LRA)

- The LRA seeks to govern how the parties to an employment relationship interact with each other. It sets out how the terms and conditions of employment will be negotiated, formulated and applied.
- The primary objective of the LRA is to realise and regulate the fundamental rights of workers as entrenched in the Constitution, the most important of those rights been the right to fair labour practices.
- In respect of the employment relationship, the LRA promotes fairness as the basis of all interaction between employers and employees, regardless of the status of the employee.
- Any action taken by an employer against an employee is required to be both substantively and procedurally fair.
- Substantive fairness alludes to the reason behind any action. In short there must be a justifiable and acceptable reason for any action instituted against an employee.

- Procedural fairness refers to the manner in which any action is taken or implemented. Procedural fairness can be regarded as the "rights" of the worker in respect of the actual procedure. An example of procedural fairness, in a case of alleged misconduct, would be that the employee should be allowed a reasonable period of time to be allowed to prepare a response to an allegation. In many instances, the LRA sets out the procedure to be followed by an employer in effecting an action, for example, a retrenchment or dismissal. In such circumstances, the employer is obliged to follow a prescribed procedure in order to ensure that it acts within the law. Failing this, the employer could be faced with a claim for unfair conduct and the risk of financial compensation to the employee.
- The underlying principle of the LRA is "fair play" and "equity". The dispute resolution bodies created by the LRA (the CCMA and Labour Court) are given wide powers in determining whether parties have acted fairly in regulating or terminating an employment relationship.
- Some of the major issues addressed by the LRA are for instance:
  - Freedom of association and general protections;
  - Collective bargaining;
  - Strikes and lockouts;
  - Workplace forums;
  - Trade unions and employers organisations;

- Dispute resolution; and
- Unfair dismissals and unfair labour practice

### The Basic Conditions of Employment Act (BCEA)

- The BCEA gives effect to the constitutional right of fair labour practices by establishing and enforcing basic minimum conditions of employment, and regulating the variation of such conditions.
- The BCEA prescribes minimum conditions of employment applicable to:
  - Working time: Ordinary hours, overtime, meal intervals, night work, work done on Sundays and public holidays;
  - Leave: Annual leave, sick leave, family responsibility leave and maternity leave;
  - Particulars of employment and remuneration: Written particulars, informing employees of rights, record keeping, payments, deductions and calculation of remuneration; and
  - Termination of employment: Notice of termination, payments on termination, severance pay and certificates of service.
- It is obligatory for every employer to provide the minimum terms and conditions as prescribed by the BCEA.
- Employers are, however, entitled to provide employees with conditions of service that are more favourable than those set out in the BCEA.

- It is important to note that many employers are required by law to register with industry specific bargaining councils which dictate the terms and conditions applicable to employees in that industry. In certain instances, a main agreement regulating a particular industry will be applicable and may provide for more favourable terms and conditions of employment.

### The Employment Equity Act (EEA)

- The aim of this Act is to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination.
- Affirmative action measures must be implemented to redress disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories of employment.
- The Act is aimed at the elimination and prohibition of unfair discrimination.
- Positive steps must be taken by an employer to eliminate unfair discrimination in any employment policy or practice.
- No one may unfairly discriminate, directly or indirectly, against an employee in any policy or practice on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, birth or HIV status.

- In terms of the EEA, job applicants are given the same protection as employees.
- It is not unfair discrimination to: Take affirmative action measures consistent with the purposes of the EEA and/or distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.
- Employers must implement affirmative action measures for people from designated groups. Designated groups mean: Black people (African, coloureds and Indians), women and people with disabilities.
- In August 2014, there were amendments made to the EEA, in terms of which, section 6 (1) of the Act now provides for the equal pay for equal work principle. As a result of this new development, employees of the same employer, performing the same work or work of equal value, must not be treated differently in terms of benefits and remuneration, unless justifiable reasons exist for the differentiation. If the employee is therefore treated unfairly with regards to benefits and remuneration on any of the listed grounds stipulated in section 6 (1) of the EEA, or on any other arbitrary grounds without any justification, this may amount to unfair discrimination, and consequently, lead to an unfair discrimination claim being lodged against the employer. This may also require the equalisation of the benefits and remuneration of the employee claiming unfair discrimination.



### Occupational Health and Safety Act No. 85 of 1993

- The Occupational Health and Safety Act requires an employer to bring about and maintain, as far as reasonably practicable, a work environment that is safe and without risk to the health and safety of its workers.
- This means that the employer must ensure that the workplace is free of hazardous substances, such as benzene, chlorine and micro-organisms, articles, equipment and processes that may cause occupational injury, damage, disease or ill-health.

- Where this is not possible, the employer must inform workers of the hazards and risks present in the workplace. The employer must also educate employees on how these may be prevented, and how to work safely. Protective measures for a safe workplace must also be provided.
- The Occupational Health and Safety Act does not expect of the employer to take sole responsibility for health and safety.

- The Act is based on the principle that hazards and risks in the workplace must be addressed by communication and cooperation between the employer and the employees. The employer and employees must share the responsibility for health and safety in the workplace, and work together to mitigate all hazards and risks. Both parties must pro-actively participate to identify dangers and develop control measures to make the workplace safe.
- The employer and the workers are required by the Occupational Health and Safety Act to be involved in a system where health and safety representatives may inspect the workplace regularly and then report to a Health and Safety Committee. The Health and Safety Committee must, in turn, make recommendations to the employer about the improvement of health and safety in the workplace.
- To ensure that this system works, every worker must know his/her rights and duties as contained in the Act.

### Skills Development Act (SDA)

- The SDA has the objective of providing a framework to devise and implement national, sectoral and workplace strategies to develop and improve the skills of the South African workforce.
- The aim is to provide for recognised occupational qualifications. A levy for the funding of skills development of 1% is imposed on employers for this purpose

(Skills Development Levies Act 1999). This means that 1% of a company's wage bill is spent on the education and training of their employees, but 80% of this levy may be claimed back if the training is performed by suitably registered trainers.

- Employers who have paid the skills levy can claim skills grants from their industry Sector Education and Training Authority (SETA).

### Employee rights - Dismissals<sup>e2</sup>

Every employee has the right not to be unfairly dismissed. The Labour Relations Act (No. 66 of 1995) recognises three grounds on which a termination might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.

Requirements for fair dismissals include:

- There must always be a fair reason for the dismissal; and
- The dismissal must have been affected in accordance with a fair procedure.

When an employer contemplates dismissing one or more employees for reasons based on operational requirements, the employer must consult with the employee/representative.

During consultation the parties should reach consensus on the following:

- Appropriate measures to avoid the dismissals;
- Minimize the number of dismissals;
- Change the timing of the dismissals;
- To mitigate the adverse effects of the dismissals;
- The method for selecting the employees to be dismissed; and
- The severance pay for dismissed employees.

The employer must disclose in writing to the other consulting party all relevant information, but are not limited to:

- The reasons for the proposed dismissals;
- The alternatives that the employer considered before proposing the dismissals and the reasons for rejecting each of those alternatives;
- The number of employees likely to be affected and the job categories in which they are employed;
- The proposed method for selecting which employees to dismiss;
- The time when, or the period during which, the dismissals are likely to take effect;
- The severance pay proposed; and
- Any assistance that the employer proposes to offer to the employees.

For further information on employee rights – dismissals, refer to: *The Labour Relations Act (No. Schedule 8: Code Of Good Practice: Dismissal*, which can be accessed at: <http://www.labour.gov.za/DOL/documents>.

### Dispute resolution<sup>e3</sup>

The Labour Relations Act (LRA) regulates individual and collective employment relations. It created the institutions and processes for dispute resolution. These institutions include the Commission for Conciliation, Mediation and Arbitration (the CCMA) and the Labour Courts.

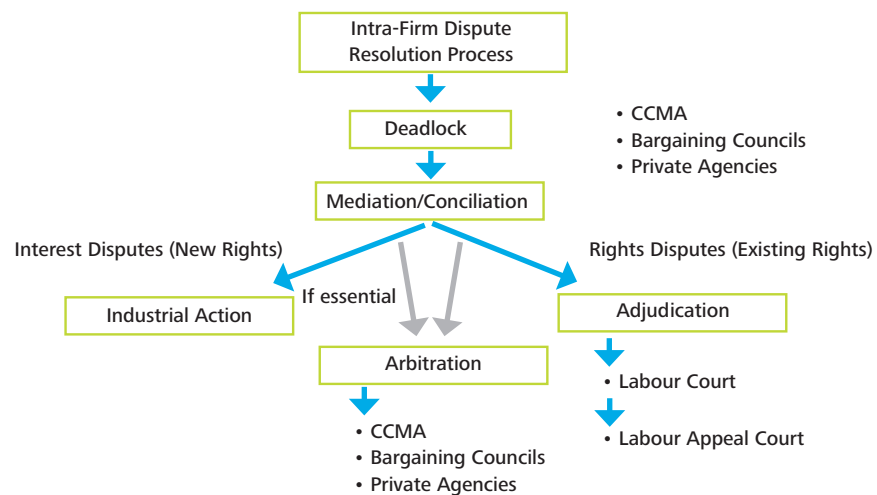
The CCMA has the power to license private agencies and bargaining councils to perform any or all of its functions. This allows parties to dispute the choice of which institutions to assist them although the bargaining council where it exists for parties is always the first institution of engagement and if there is no bargaining council then the CCMA has jurisdiction.

The figure to the right shows the structure of the dispute resolution system in South Africa. If there is a deadlock in a dispute at the firm level, the parties to a dispute must refer their dispute to conciliation. The procedure of processing disputes takes into account the different kinds of labour disputes. The process makes a specific distinction between disputes of interests and disputes of rights. Classification of disputes is important because it determines which resolution technique to use in resolving the dispute. The use of industrial action in relation to interest disputes is considered appropriate as a method of last resort.

<sup>e2</sup> <http://www.labourguide.co.za>

<sup>e3</sup> <https://www.labour.gov.za>

Figure 1: Structure of dispute resolution in South Africa



### Conciliation<sup>64</sup>

Conciliation is a process where a Commissioner meets with the parties in dispute, and explores ways to settle the dispute by agreement. At conciliation a party may appear in person or only be represented by a director or employee of that party or any member, office bearer or official of that party's registered trade union or registered employer's organisation. The meeting is conducted in an informal way.

The Commissioner may begin by meeting jointly with the parties and asking them to share information about the dispute. Separate meetings between the commissioner and each party may also be held. Parties are encouraged to share information and to come forward with ideas on how their differences can be settled.

A Commissioner is given wide functions in conciliation. The Commissioner may determine a process that may include mediation, facilitation or making recommendations in the form of an advisory arbitration award. A Commissioner may cause persons and documents to be subpoenaed, and has the power to enter and inspect premises and seize any book, document or object that is relevant to the dispute. The Commissioner's role is to try to resolve the dispute within 30 days of it being referred to the CCMA.

If the dispute is settled, an agreement will normally be drawn up and that ends the matter. The Commissioner will issue a certificate recording that the dispute has been settled.

#### Note:

- Parties should ensure that internal procedures and processes have been exhausted prior to making a referral to the CCMA. The LRA encourages parties who are in dispute to first attempt to try and reach an amicable solution to the dispute by exploring internal mechanisms.

### Arbitration

When conciliation fails, a party may request the CCMA to resolve the dispute by arbitration. At an arbitration hearing, a Commissioner gives both parties an opportunity to fully state their cases. The Commissioner then makes a decision on the issue in dispute. The decision, called the "arbitration award", is legally binding on both parties. Attempts must generally be made to resolve the dispute through conciliation. If it cannot be resolved by conciliation, the parties can go to arbitration or the Labour Court, the Act specifies which dispute goes to which process.

In an arbitration hearing the party in dispute may appear in person or be represented by a legal practitioner, a director or employee of the party or any member, office-bearer or official of the party's registered trade union or registered employers' organisation.

Lawyers are not normally allowed to represent parties in arbitrations over dismissal disputes. They can be used though if the Commissioner and the parties consent, or if the Commissioner decides that it is unreasonable to expect a party to deal with the dispute without legal representation.

<sup>64</sup> <http://www.ccma.org.za/Display.asp?L1=32&L2=13>



The decision of the Commissioner is legally binding on the parties and it ends the dispute. Arbitration awards are sent to the parties within 14 days of the arbitration.

**Note:**

- By agreement between the parties, or when so directed by the Director or a Senior Commissioner, the parties to the proceedings must hold a pre-arbitration conference to:
  - Determine facts in dispute, common cause facts, issues to be decided, and relief claimed;
  - Exchange documents that will be used in the arbitration; and
  - Draw up and sign a minute of the pre-arbitration conference.

**6.5. Industrial procurement<sup>e5</sup>**

The South African Minister of Trade and Industry is mandated to designate industries, sectors and sub-sectors for local procurement at specified levels of local content. This designation is legislated under the revised Preferential Procurement Policy Framework Act (PPPFA) regulations that came into effect on the 7 December 2011.

The PPPFA regulates the environment by instructing government departments and public entities to only procure service providers that comply with the minimum local content thresholds. Compliance to the designation policy, thus means that an investor who would like to provide goods and/or services for the South African public sector must adhere to minimum local production with minimum local content thresholds.

The PPPFA is one of the instruments used by the South African Government to raise competitiveness of South African manufacturers and to maximise support for domestic manufacturing. Other instruments used to promote the competitiveness of South African manufacturers are the Competitive Supplier Development Programme (CSDP), which governs the procurement programmes of state-owned companies such as Transnet and Eskom. While the National Industrial Participation Programme (NIPP) is an instrument that obliges overseas companies that have won tenders worth more than US\$10 million to provide “offset” obligations through investments in the domestic economy.

The following industries and thresholds have been designated:

Industry/sector/sub-sector	Minimum threshold for local content
Buses (Bus Body)	80%
Textile, Clothing, Leather and Footwear	100%
Steel Power Pylons	100%
Canned/Processed Vegetables	80%
Pharmaceutical Products:	
- OSD Tender	70% (volumes)
- Family Planning Tender	50% value
Rail Rolling Stock	65%
Set Top Boxes (STB)	30%
Furniture Products:	
- Office Furniture	85%
- School Furniture	100%
- Base and Mattress	90%
Solar Water Heater Components	70%
Electrical and telecom cables	90%
Valves products and actuators	70%
Residential Electricity Meter :	
- Prepaid Electricity Meters	70%
- Post Paid Electricity Meters	70%
- SMART Meters	50%
Working Vessels/Boats (All types):	60%
- Components	10% - 100%

**6.6. Broad-Based Black Economic Empowerment (B-BBEE)**

**What is B-BBEE?**

B-BBEE is the South African Government’s policy aimed at accelerating economic transformation. The policy is directed at empowering “black” people and redressing the inequalities caused by Apartheid. The term “black” refers to African, Indians and person of mixed race. The policy also promotes the empowerment of designated groups, which include women, youth, people living with disabilities and rural communities

**Why should your business be B-BBEE compliant?**

At the outset it should be stated that compliance with the Broad Based Black Economic Empowerment Act, No 52 of 2003 (B-BBEE Act) is not compulsory; rather it should be viewed as a business and constitutional imperative. The reasons for this are:

- South African Government entities procurement practices are regulated by legislation and between 10-20 points out of 100 points will be awarded for B-BBEE compliance; and

<sup>e5</sup> www.thedti.gov.za

- BEE points are awarded for spending with compliant entities and your clients will want the value-add of being able to claim spending on your business as B-BBEE spending.

### How does your business achieve a suitable B-BBEE rating?

Fortunately for your business, new companies established in South Africa are deemed to have a level 4 B-BBEE status for their first year of trading.

The criteria below are taken from the generic scorecard and only entities with turnover in excess of R35 million will need to meet all of the elements. Entities with turnover between R5 million and R35 million will only need to meet five of the elements and entities with turnover less than R5 million are exempted micro- enterprises and are deemed to be a Level 4. Revised thresholds have been tabled by **the dti**, however, these will become enforceable on 1 May 2015.

The elements contained in the current generic scorecard are as follows:

#### Ownership

Ownership is a measure of voting rights and economic interest in the hands of black persons. Points can also be earned, based on the degree that share or economic interest remains unencumbered. Bonus points can be achieved for ownership by black women, as well as employee ownership schemes and cooperatives.

#### Management control

Management control measures participation of black persons and black women at Board level and senior management. Bonus points are achieved for black independent non-executive directors.

#### Employment equity

This element aims to address issues around the representation of black employees, black women employees, and disabled employees. This element is closely related to the requirements of the Employment Equity Act, No. 55 of 1998 and Labour Relations Act No. 66 of 1995.

#### Preferential procurement

The aim of this element is to measure spending on B-BBEE compliant entities. Spending on entities with turnover less than R35 million, as well as entities that are more than 50% and more than 30% black-owned, is incentivised.

#### Enterprise development

This element measures contributions made to enterprise development beneficiaries as a percentage of your business' net profit after tax. Enterprise development beneficiaries are entities that are 25% black-owned or 25% black women-owned and that have a recognition level of between one to six.

#### Socio-economic development

This element measures socio-economic development contributions and contributions to sector programmes as a percentage of net profit after tax. Socio-economic development beneficiaries are classified as programmes that support the development of the community and black persons. Your business' points are then totalled and your recognition level is calculated according to the table below.

### Revised B-BBEE recognition levels

B-BBEE status	Current qualification	New qualification	B-BBEE recognition level
Level 1 contributor	100 points on the generic scorecard	100 points on the generic scorecard	135%
Level 2 contributor	85 but less than 100 points	95 but less than 100 points	125%
Level 3 contributor	75 but less than 85 points	90 but less than 95 points	110%
Level 4 contributor	65 but less than 75 points	80 but less than 90 points	100%
Level 5 contributor	55 but less than 65 points	75 but less than 80 points	80%
Level 6 contributor	45 but less than 55 points	70 but less than 75 points	60%
Level 7 contributor	40 but less than 45 points	55 but less than 70 points	50%
Level 8 contributor	30 but less than 40 points	40 but less than 55 points	10%
Non-compliant contributor	Less than 30 points	Less than 40 points	0%

### The amended codes of good practice on B-BBEE 2013 (the Revised B-BBEE Codes)

Since the enactment of the B-BBEE framework in 2003, it has been observed that modest progress, to meet the intended objectives of B-BBEE, have been made. As such the need for the review and re-orientation of B-BBEE was important in order to enact Government's key priority programmes.

The new path for B-BBEE intends to create a culture that is supportive of entrepreneurship by linking the Enterprise to Supplier development scorecard elements. The envisioned outcomes from the empowerment efforts include:

- Open markets in productive sectors where previously disadvantaged individuals can start to effectively participate;
- Core and critical skills in key sectors;

- Closer collaboration between the public and the private sector.; and
- Closer collaboration among large and small enterprises to unlock opportunities.

The B-BBEE framework includes elements of Human Resource Development (Employment Equity, Management and Skills Development) and Indirect Empowerment (Enterprise Development, Procurement and Socio-Economic Development).

The key areas of the Revised B-BBEE Codes include the consolidation of the measurable elements in the generic scorecard into **five elements**, as opposed to the seven elements previously.

The revised five elements of the B-BBEE scorecard are:

Enterprise and Supplier Development (merged Preferential Procurement and Enterprise Development)	40 points
Ownership	25 points
Skills Development	20 points
Management Control	15 points
Socio-Economic Development	5 points
<b>Total</b>	<b>105 POINTS</b>

Of the five elements, **priority elements** have been introduced and these are as follows:

- Ownership/Equity Equivalent Programme
- Skills Development
- Enterprise Supplier Development

Large enterprises are expected to comply with all **three** priority elements.

Exempted Micro-Enterprises(EMEs) and Qualifying Small Enterprise(QSEs), that are at least more than 51% owned by black people, will qualify as a Level- 2 Contributor; and those that are 100% black-owned will qualify as Level-1.

The points for **Ownership** have been broadened to include designated groups in the main points, thresholds for EMEs and QSEs have been adjusted.

The Trade and Industry Minister highlighted that in line with the promotion of local production and industrialisation, the Revised B-BBEE Codes under the **Enterprise and Supplier Development element**, introduces an “Empowering Supplier”, which is a B-BBEE compliant entity that can demonstrate that its production and/or value adding activities take place in the country. Such activities must include job creation and skills transfer.

An 18-month transitional period (from 11 October 2013 to 1 May 2015) has been granted to all entities with operations in South Africa to align and prepare for the implementation of the Revised B-BBEE Codes. Entities, which so elect, may immediately use the Revised B-BBEE Codes to be measured prior to 1 May 2015.

### Equity equivalents

The Codes of Good Practice require that all entities operating in the South African economy make a contribution towards the objectives of B-BBEE. It is, however, acknowledged that there may be multinationals that have global practices preventing them from complying with the ownership element of B-BBEE through the traditional sale of shares to black South Africans. In this instance, and provided that it can be proven that such entities do not enter into any partnership arrangements in other countries globally, the Codes of Good Practice have made provision for the recognition of contributions in lieu of a direct sale of equity. Such contributions are referred to as Equity Equivalent (EE) contributions.

EE contributions count towards the ownership element of B-BBEE made by Multinationals. The value of these EE contributions may be measured against 25% of the value of the multinationals South African operations or may be measured against 4% of the Total Revenue from its South African operations annually over the period of continued measurement.

EE would entail a public programme/scheme and/or private programme/schemes designed to fulfil the requirements of B-BBEE ownership. EE may also entail a programme targeting investment or any other programme that promotes Socio-Economic Advancement/ Development within the South African economy. Such a programme needs to be approved by the Minister of Trade and Industry in order to qualify for ownership points on the scorecard. Where approval for an EE programme has been granted, the programme and points awarded may not form part of any other B-BBEE element in the multinational’s B-BBEE scorecard.

This programme is administered by **the dti**, and multinationals wishing to participate in this programme, must make applications to **the dti**.

### The Broad-Based Black Economic Empowerment Amendment Act No. 46 of 2013 (the B-BBEE Amendment Act)

On 27 January 2014, the South African Government published the B-BBEE Amendment Act which amends the Broad Based Black Economic Empowerment Act No. 53 of 2003 (B-BBEE Act) by addressing the institutional environment for monitoring and evaluating B-BBEE. The B-BBEE Amendment Act introduces a number of sweeping changes to the B-BBEE Act, which are intended to achieve key strategic objectives, with the main thrust of its provisions being to establish a framework for the regulation and monitoring of B-BBEE by aligning the B-BBEE Act with other legislations that impact directly on B-BBEE and the Codes; by establishing a B-BBEE Commission, providing for the regulation of the verification industry by the Independent Regulatory Board of Auditors; and to deal with non-compliance and circumvention by *inter alia* introducing offences and penalties.

### B-BBEE Commission

The B-BBEE Commission (which is established in the B-BBEE Amendment Act) will play a critical role including without limitation, overseeing, supervising and promoting adherence with the B-BBEE Act and Codes of Good Practice in the interest of the public. It is hoped that the Commission will strengthen and foster collaboration between the public and private sector in order to promote and safeguard the objectives of B-BBEE by encouraging advocacy, access to opportunities, and educational programmes and initiatives of B-BBEE; as

well as, promoting good governance and accountability by creating an effective and efficient environment for the elevation and implementation of B-BBEE.

### Fronting

The definition of “fronting practice” is now included in the Amendment Act. The definition is broadly, a transaction arrangement or other act or conducts that directly or indirectly undermines or frustrates the achievement of the objectives and implementation of B-BBEE.

Fronting commonly involves reliance on data or claims of compliance based on misrepresentations of facts, whether made by the party claiming compliance or by any other person in order to secure a fictitious B-BBEE status level. Verification agencies, and/or procurement officers and relevant decision-makers may come across fronting indicators through their interactions with measured entities. Under the B-BBEE Amendment

Act, fronting has now been given a statutory definition, in order to ensure that all forms of circumvention are dealt with under the designated legislative framework.

The B-BBEE Amendment Act condones and criminalises the following acts of fronting; namely: misrepresenting or attempting to misrepresent the B-BBEE status of an enterprise; providing false information or misrepresenting information to the Verification Personnel in order to secure a particular B-BBEE status; providing false information or misrepresenting information relevant to assessing the B-BBEE status of an enterprise to any organ of State or public entity; and failure by a B-BBEE Verification Professional or any procurement officer or

other official of an organ of State or public entity to report offences to an appropriate law enforcement.

Any person convicted of an offence in terms of the B-BBEE Amendment Act is liable to a fine or to imprisonment for a period not exceeding 10 years; or to both a fine and imprisonment; or to imprisonment for a period not exceeding 12 months; or to both a fine and imprisonment; or to a fine not exceeding 10% of that enterprise's annual turnover. In addition any person (including a jurisdictional person), convicted of an offence in terms of the B-BBEE Amendment Act may not for a period of 10 years from the date of conviction, contract or transact any business with an organ of state or public entity.

### Sector specific codes

Specific charters exist for certain industries in South Africa and will apply to your business if you are involved in these industries. Sector codes exist for:

- The financial sector
- The construction sector
- Property sector
- Agricultural sector (AgriBEE)
- Information and communications technology sector
- Mining sector
- Tourism sector
- Petroleum and liquid fuels sector
- Chartered accountancy sector

The Revised B-BBEE Codes now provide that where a measured entity falls within a sector code, then that entity may only be measured for compliance in accordance with that specific sector code where as previously, entities could elect whether to be governed by the generic codes.

B-BBEE targets are achievable and are best attained as a phased approach over a few years. Businesses should seek advice around this complex and often misunderstood piece of legislation before registering their entity in South Africa.

### B-BBEE procurement

Section 217 of the Constitution of the Republic of South Africa, No.108 of 1996, states that when an organ of State in the national, provincial or local sphere of the government or other institution identified in terms of national legislation contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective.

The Preferential Procurement Framework Act, No. 5 of 1999 (PPPFA) was enacted as a result of this provision and the PPPFA states that when a government assess a contract, it must award points for B-BBEE, price (and functionality). The system applies the 90/10 rule for contracts in excess of R1 million and the 80/20 rule for contracts less than R1 million.

When a supplier tenders for a contract, he will be awarded points for price, which is benchmarked against the lowest quote received and will be awarded points calculated out of 10 or 20 for his/her B-BBEE recognition level, which is benchmarked against the supplier with the lowest B-BBEE recognition level.

In conclusion, it is not mandatory that a B-BBEE certificate is submitted and a supplier will not be disqualified for not submitting a certificate. However, the supplier will have to submit significantly lower pricing than its competitors in order to stand a chance of winning the contract.

### National Empowerment Fund (NEF)

#### Overview

The National Empowerment Fund (NEF) was established by the National Empowerment Fund Act No 105 of 1998 (NEF Act), to promote and facilitate black economic equality and transformation. Its mandate and mission is to be the catalyst of B-BBEE.

The Fund seeks to take the lead in the expansion of new industrial and manufacturing capacity, warehousing equity for the future benefit of B-BBEE in national strategic projects, increasing South Africa's export earning potential and reducing South Africa's dependency on imports. Investors are urged to invest in the NEF to support job creation and the growth of the economy.

Specific objectives of the NEF are as follows:

- To foster and support business ventures pioneered and run by black enterprises;
- To improve the universal understanding of equity ownership among black people;
- To contribute to the creation of employment opportunities;
- To encourage the development of a competitive and effective equities inclusive of all persons in South Africa;
- To encourage and promote savings, investments, and meaningful participation by black people;
- To provide black people with opportunity of, directly or indirectly, acquiring shares or interest in private business enterprises;
- State Allocated Investments (SAIs) that are being restructured or in private business enterprises; and
- To generally employ schemes, businesses and enterprises as may be necessary to achieve the objectives of the NEF Act.

The NEF's role is to support B-BBEE. As the debate concerning what constitutes meaningful and sustainable B-BBEE evolves, the NEF anticipates future funding and investment requirements to help black individuals, communities and businesses achieve each element of the Codes of Good Practice. These include a focus on preferential procurement, broadening the reach of black equity ownership, transformation in management and staff and preventing the dilution of black shareholding within entities.

The NEF differentiates itself not only with a focused mandate for B-BBEE, but by also assuming a predominantly equity-based risk to maximise the "Empowerment Dividend". Reward should balance the risk with the application of sound commercial decisions to support national priorities and Government policy such as the Accelerated and Shared Growth Initiative for South Africa (AsgiSA) or targeted investments through **the dti's** Industrial Policy Framework. The work of the NEF therefore straddles and complements other Development Finance Institutions (DFIs) by allowing the organisations to work in close collaboration.

#### **Products and services**

##### *The iMbewu fund*

This fund is designed to promote the creation of new businesses and the provision of expansion capital to early stage businesses. The iMbewu Fund aims to cultivate a culture of entrepreneurship by offering debt, quasi-equity and equity finance of up to R10 million comprising:

- Entrepreneurship finance
- Procurement finance
- Franchise finance

##### *Rural and community development*

The rural and community development projects facilitate community involvement in projects promoting social and economic upliftment. In accordance with the B-BBEE Act, it aims to increase the extent to which workers, cooperatives and other collective enterprises own and manage business enterprises. Also it supports the B-BBEE Act objectives of

empowering local and rural communities. It has four products: Project Finance, Business Acquisition, Expansion Capital and Start-up/"Greenfields" with the funding thresholds between R1 million and R50 million.

##### *The uMnotho fund*

The Fund is designed to improve access to B-BBEE capital to black owned or managed businesses who are buying equity shares in black or white owned businesses, starting new ventures, black enterprises looking to expand and B-BBEE businesses looking to be listed on the JSE. In other words, this Fund would provide financing for those entrepreneurs who wished to buy into an already established business and would aid in increasing the number of entrepreneurs in the economy. The size of funds available ranges between R5 million and R50 million.

##### *Strategic projects fund*

It provides "Venture Capital Finance" to develop South Africa's new and strategic industrial capacity within sectors identified by Government as the key drivers to economic growth. The Fund aims to increase the participation of black people in early-stage projects. This Fund acted to stimulate economic activity. Some of the areas where NEF had invested this funding were in renewable energy, mining and minerals beneficiation, agro-processing, tourism, business process outsourcing and infrastructure.

The Funds sector focus is informed by Government's strategies on industrial development through **the dti's** National Industrial Policy Framework and the corresponding Industrial Policy Action Plans (IPAP). The sectors identified in the Framework and IPAP are as follows:

- Agriculture
- Business Process Outsourcing Textiles
- Mining, Mineral Processing and Mineral Beneficiation
- Automobiles
- Renewable Energy and Biofuels
- Plastics
- Pharmaceuticals and Chemicals
- Forestry, Pulp and Paper
- Infrastructure
- Manufacturing
- Tourism

## 6.7. Intellectual property

### Introduction

Intellectual Property (IP) is the term used to refer to creations of the human mind, such as inventions, literary and artistic works, designs, symbols, names and images for commercial use. Countries have laws to protect IP for two main reasons:

One is to give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations. The second is to promote, as a deliberate act of government policy, creativity and the dissemination and application of its results and to encourage fair trading that would contribute to economic and social development.

Generally speaking, IP law aims at safeguarding creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions.<sup>e6</sup>

There are four main categories of IP; namely, patents, trade marks, designs and copyright. All of these are governed by South African legislation, which is covered in more detail below. In addition, IP is also protected by means of legislation such as the Counterfeit Goods Act, the Merchandise Marks Act, the Plant Breeders' Rights Act, the Intellectual Property Laws Amendment Act as well as the Intellectual Property Rights from Publicly financed Research Development Act.

In addition to the above protection, South Africa is also a signatory of the following intellectual property treaties and conventions:

- Paris Convention for the Protection of Industrial Property
- Berne Convention for the Protection of Literary and Artistic Works
- World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)
- The Community Trademark Convention
- Patent Cooperation Treaty
- The Madrid Protocol. (South Africa is not yet a signatory but has the intention of joining the Madrid Union)

The various forms of IP that may be protected are as follows:

### Patents

(Patents Act No. 57 of 1978)

- A patent is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. The patent provides protection for the owner, which gives him/her the right to exclude others from making, using, exercising, disposing of the invention, offering to dispose, or importing the invention. The protection is granted for a limited period of 20 years.
- A patent comprises a written patent specification document that sets out the scope of protection being claimed by a patentee.

- In terms of the South African Patents Act, a patent may be granted for any new invention that involves an inventive step and that is capable of being used or applied in trade, industry or agriculture.<sup>e7</sup>
- There are various forms of IP that may be protected.

### Filing patents

- Individuals may file their own provisional patent applications. It is, however, advisable for applicants to seek the assistance of a patent attorney.
- The patenting process typically commences with the filing of a provisional patent application. The provisional patent specification that is filed as part of the provisional application is a secret document, and is thus not open to public inspection.
- The provisional patent application provides the applicant with 12 months to develop and improve the invention. At the end of the 12-month period, the applicant can abandon the provisional application, file a complete patent application, or file a PCT patent application (with a view to filing a foreign patent application down the line).
- South Africa is one of 142 countries that is a member of the Patent Cooperation Treaty (PCT). This Treaty allows an individual to file an international application, as well as a national application. The international application will designate countries in which the applicant seeks protection. Extra fees are payable for this type of registration.

- In South Africa, there is no substantive examination of filed patent applications. As long as the necessary formalities are in place, an application will be accepted and granted in the form in which it was filed. The onus, therefore, remains on the applicant to ensure that its patent application remains in a valid form.
- The Patent Office cannot accept any responsibility for the loss of rights arising if the invention becomes public and is copied and the provisional applications have not been properly drafted.

### Lifespan of patents

- A patent can last up to 20 years, provided that it is renewed annually before the expiration of the third year. It is important to pay an annual renewal fee to keep it in force. The patent expires after 20 years from the date of application.

### What can be patented?

- In order to be patentable, an invention must be novel, it must involve an inventive step, and it must not be prohibited subject matter. Each of these requirements will be discussed in more detail further below.
  - *"Novelty"*: An invention is new if it does not form part of the "state of the art" before the priority date of the invention. The "state of the art" comprises all matter (whether a product, a process, information about either, or anything else) that has been made available to the public (whether in South Africa or elsewhere) by written or oral description, by use or in any other way. Thus, as

<sup>e6</sup> www.wipo.int

<sup>e7</sup> www.saiipl.org.za

with most other countries around the world, South Africa has an absolute novelty requirement, which means that there should be no disclosure of an invention before a patent application is filed. However, disclosure made on a confidential basis, does not destroy an invention's novelty, but such a disclosure must be done with caution.

- *"Inventiveness"*: An invention is deemed to involve an inventive step if it is not obvious to a person skilled in the art to which the invention relates, having regard (with certain exceptions) to any matter, which forms part of the "state of the art", immediately before the priority date of the invention.

### Renewal of patents

- To maintain a patent in force, a payment of a renewal fee is due every year starting from the expiring of the 3rd year from the date of filing until the patent expires. This date is also known as "due date" for renewal.
- To renew a patent a Form P10 must be completed and submitted to CIPC, together with the payment of the respective renewal fee, on or before the due date.
- The amount due for the respective renewal fee can be seen from Item 7 of the Patents Table of Fees (available on the CIPC website). For example, the renewal fee for the fifth year is R130, for the sixth year is R85 and so on.

### Trade marks

(Trade Marks Act No. 194 of 1993)

- A trade mark is a mark used or proposed to be used by a person in relation to goods or services to distinguish these goods or services from the same kind of goods or services connected in the course of trade with any other person.
- A trade mark may consist of a number of signs; including a device, label, logo, name, signature, word, letter, shape, configuration, pattern, ornamentation, colour or container. However, it is essential for the mark to be represented graphically through writing, drawing, photography or any other visual depiction.
- A trade mark registration confers a negative right on a trade mark proprietor to prevent others from using and/or registering a confusingly similar trade mark.
- The law also protects certification and collective marks. A mark may not be registered if it is not capable of distinguishing goods or services, or if it indicates quality, quantity, value or geographical origin.
- A trade mark registration lasts for a period of 10 years and is renewable every 10 years thereafter.
- Trade marks are territorial and should be registered in the country in which exclusive rights are wished to be claimed, unless the proprietor can prove that it is a well-known mark.
- Protection of well-known marks (whether registered or unregistered) is incorporated in the Act under the Paris Convention.

### Filing of a trade mark

- All applications undergo examination by the Trade Marks Office. After examination, the Trade Marks Office will either accept the application, or preliminarily refuse it, or indicate the conditions subject to which it may be accepted. At present the examination procedure takes between nine and twelve months from the date of filing.
- Once a trade mark application has been accepted, it is advertised in the Patent Journal, for opposition purposes.
- In the absence of objections by third parties within three months of the advertisement date, the application will proceed to grant and a certificate of registration will be issued.
- The current time between advertisement and issuance of the registration certificate, is approximately six months. The entire process, from date of application to issuance of the registration certificate, should take between 18 and 24 months, provided that no difficulties are encountered.

### Counterfeit goods

(Counterfeit Goods Act No. 37 of 1997)

- This Act provides protection to the owners of trade marks, copyright and others, against the trade in counterfeit goods and further against the unlawful application, to goods, of the subject matter of their respective IP rights and against the release of goods of that nature (so-called counterfeit goods) into the channels of commerce.

- Protection measures for these owners include:
  - Prohibiting of certain acts in relation to counterfeit goods, as well as the possession of counterfeit goods in certain circumstances. This includes: making, selling, hiring, exchanging, exhibiting, distributing, importing or exporting anti-counterfeit goods;
  - Penalties in relation to offences in that regard;
  - Authorisation to South African Police Services (SAPS) to enter premises, search for, and seize and remove, suspected counterfeit goods for detention, pending the finalisation of civil or criminal proceedings; and
  - Authorisation to the Commissioner for Customs and Excise to seize and detain counterfeit goods, or suspected counterfeit goods, imported into or entering the Republic, and to provide for incidental matters. Apart from a Court Order declaring the counterfeit goods in question to be forfeited to the State or the goods, packaging and tools used in their manufacture to be destroyed, the Act also introduces strict penalties which may be imposed upon counterfeiters in the event of their conviction. Any person convicted of an offence in terms of the Act will, in the case of a first conviction, be punishable by a fine in respect of each article or item, which fine may not



exceed R5 000 per article or item, or imprisonment for a period that may not exceed three years, or both. In the case of a second or subsequent conviction, the fine in respect of each article or item may not exceed R10 000 per article or item, while the imprisonment term may not exceed five years.

- Cinematograph films e.g. programme-carrying signal that has been transmitted by satellite.
- Sound recordings
- Broadcasts (e.g. broadcasting of films or music)
- Programme-carrying signals (e.g. signals embodying a programme)
- Computer programmes
- Published editions (e.g. first print by whatever process)

**Copyright**  
(Copyright Act No. 98 of 1978)

- A copyright is an exclusive right granted by law for a limited period to an author, designer, etc. for his/her original work. The Copyright Act protects certain classes or categories of works.
- The following works are eligible for copyright in South Africa (in the Republic):
  - Literary works e.g. books and written composition novels
  - Musical works e.g. songs
  - Artistic works e.g. paintings and drawings
- Copyright comes into being automatically and no registration is required. In respect of cinematograph films, registration is possible but it is not necessary for copyright to exist.
- For a work to be eligible for copyright protection, it must be original and be reduced to material form.

**Copyright infringement**

- The following constitutes copyright infringement:
  - Copyright in a work is infringed by any person who, without the authorisation of the owner, does any of the acts reserved for the owner, e.g. makes a reproduction of the work.
- The Act also provides for copyright to be infringed indirectly:
  - By any person who, without the authority of the copyright owner, imports, sells, lets, by way of trade offers or exposes for sale or hire, or distributes for purposes of trade, an article in the Republic if he/she knew that the making of the article constituted an infringement of copyright or would have constituted an infringement if made in the Republic (section 23(2)); or
  - By any person who permits a place of entertainment to be used for a public performance of a literary or musical work, where the performance constitutes an infringement of copyright, unless the person was not aware and had no reasonable grounds to suspect that the performance was an infringement section 23(3)).
- Judicial proceedings can be instituted by the copyright owner in the case of infringement of copyright if infringement is found to have taken place.
- Generally, in respect of written material, the following guidelines apply:
  - Wherever possible, the author's permission should be sought to reproduce his/her work;
  - If in an article, paper or speech, when referring to the work of another, it is required that details of the reference be provided in the form of the name of the author and details of his/her publication i.e. title of book or magazine, publisher, date of publication etc. If only a small portion of the work is used, (eg. a few sentences or a paragraph) and provided that an acknowledgement is made, permission is not needed; and
  - If a "significant" section is reproduced (eg. a chapter) then permission should be obtained.
- It is generally accepted that work that is being used in academic institutions, research or for private use may be reproduced.
- Clearly, if you were to copy a tape or a CD and sell this, it would constitute copyright infringement.
- As a general guide, copyright infringement can be said to occur where the copyrighted material of others is used for commercial gain as opposed to private or personal use.
- Copyright infringement does not occur if you copy a public speech or lecture, made for information purposes, or photocopy government publications for public usage.



### Lifespan of copyright

- The lifespan of copyright depends on the type of work protected:
  - The copyright of literary works lasts for 50 years after death of the author;
  - For cinematograph films, photographs and computer programs, the term is 50 years from the end of the year in which the work is made available to the public or is made (where no publication takes place); and
  - For sound recordings, the copyright lasts for 50 years from the day the work was first broadcast.

### Plant breeders' rights

(Plant Breeders' Rights Act No. 15 of 1976)

- A Plant Breeder's Right (PBR) is a form of intellectual property right granted to breeders of new plant varieties for protection of their varieties against exploitation without their permission.
- In terms of this Act, a PBR may be granted for any variety of plant provided that the variety is new, distinct, uniform and stable. The variety of the plant must also be one that is recognised by the Act.
- PBRs are a form of IP rights that may be applied for by "breeders" only, included in the definition of a breeder is a successor in title. The Act provides for the owner of a variety the opportunity to obtain financial reward for his/her efforts. PBRs are valid for 25 years for vines and trees, and for 20 years for all annual varieties, calculated from the date on which a certificate of registration is issued.

- South Africa is a member of the International Convention for the Protection of New Varieties of Plants.

- PBRs for vines and trees are granted for a period of 25 years; and for all other varieties, 20 years from the date on which a certificate of registration of the PBR is issued.

The effect of the protection by the grant of a PBR is that any person intending to undertake production reproduction conditioning for the purpose of propagation, sale or any other form of marketing, exporting and importing, and stocking of propagating material of the relevant variety or harvested material (including plants, that was obtained through the unauthorised use of propagating material of the relevant variety); shall obtain prior authorisation by way of a licence.

### Trade secrets

- Trade secrets are protected by common law that also contains remedies for passing-off and unlawful competition.
- Any information that is sufficiently valuable and secret, and can afford an actual or potential advantage to other users, and which can be used in the operation of business or enterprise, is a trade secret.
- Where information is public knowledge or is generally known within the specific industry, it does not fall within the ambit of being a trade secret.

### General

- The Companies Act No. 71 of 2008 provides for the registration of any name as a defensive company name and for the renewal of that registration. If the application is granted, the name shall be registered for a period not exceeding two years or to renew the registration of the name in question for a period not exceeding two years, as the case may be.
- It is possible to enforce IP rights by institution of legal proceedings. The type of remedies available include: interdicts (injunctive relief), orders of infringement, delivery-up of infringing goods, and damages, and other.
- It is also possible to license IP rights. In case of payment of royalties to a non-resident licensor, exchange control approval may be required.
- Regulations were issued in 2006 to deal with ".co.za" domain name disputes through cost-effective online arbitration.

## 6.8. Consumer protection law

### Application of the Consumer Protection Act (CPA)

The CPA, the ground-breaking legislation that came into effect on 1 April 2011, imposes varying levels of obligations on suppliers, importers, distributors and manufacturers; all participants in the supply chain. Although the consumer rights under the CPA only came into effect on 1 April 2011, organisations should be aware that certain of the provisions affect all goods supplied from 1 October 2010.

The CPA covers any new transaction for the supply of goods and services in South Africa and the promotion (i.e. advertisement) of such goods and services concluded after 1 April 2011. With respect to pre-existing contracts, where those must be renewed or extended, on renewal or extension, the CPA will apply. The CPA is designed, in part, to address an historical power imbalance between consumers and suppliers by strengthening consumers' rights in their dealings with suppliers.<sup>68</sup>

The CPA defines "goods" to include anything marketed for human consumption; a tangible object including any medium on which anything is or may be written or encoded; any literature; music; photograph; motion picture; game; information; data; software; code or other intangible product written or encoded on any medium; or a licence to use any such intangible product; and a legal interest in land or any other immovable property.

The definition of "services" includes any work or undertaking performed by one person for the direct or indirect benefit of another and subject to certain exceptions; the provision of any education, information, advice or consultation; certain financial services, or the undertaking, underwriting or assumption of any risk by one person on behalf of another; the transportation of an individual or any goods; and the provision of any accommodation or sustenance and other similar services.

Establishing whether or not conduct is excluded is a complicated process since most exclusions are based on whether or not certain other legislation applies to goods or services.

<sup>68</sup> <http://jacobson.co.za/2012/03/does-the-consumer-protection-act-apply-to-residential-leases/>

Broadly, the CPA seeks to protect consumers who are natural persons, small businesses (namely, businesses whose asset value or annual turnover is less than R2 million per year) and franchisees. The wide definitions of the terms “goods” and “transactions” in the CPA are clearly intended to provide significant protection to the “man-in-the-street” and small enterprises.

The CPA does have additional exclusions related to goods or services supplied to the State, the content of credit agreements in terms of the National Credit Act (NCA), services under an employment contract, collective bargaining agreements and most financial services governed by FAIS and insurance services.

**Note:**

- The CPA has introduced some far-reaching changes to lease agreements for immovable property. Specifically for ordinary people, the changes affect the maximum duration (24 months) and grants the parties certain rights of cancellation.
- The lessee (consumer) may terminate the lease at any time after giving 20 business day’s notice (effectively, one month). The lessor must give 20 business day’s notice to cancel for a “material failure to comply with the agreement” and must give 40 to 80 day’s notice that the agreement is coming to an end.
- After expiry, the lease continues on a month-to-month basis unless the lessee agrees to a further fixed.<sup>e9</sup>

**Themes**

The CPA has broad themes running through it, each dealing with specific issues consumers might face. What follows is a brief explanation of these themes:

**Limited exclusions**

Parts and goods that may be supplied under an excluded transaction (such as a credit agreement) are still covered by the CPA, it is merely the provision of the service during the entering into of the agreement (such as the actual content of the credit agreement and its entering into) that is excluded; not the good supplied/sold.

**Strict liability**

Probably the most dramatic aspect of the CPA is the strict liability and warranty provisions that the CPA brings about in respect of goods sold to consumers and which have far-reaching financial and stockholding implications for all organisations involved in supply chain. The liability for damages caused by faulty goods is based on strict liability, meaning a consumer will not have to prove any element of negligence to succeed in its claim. In addition, the CPA now provides that an affected consumer can claim economic loss in respect of damage to them or their property that is caused by faulty, defective or dangerous goods. This can no longer be excluded in any contract with a consumer.

**Automatic warranty**

The CPA introduces an automatic six-month warranty on all goods supplied and an automatic warranty of three months on all services. Practically, this means that all goods supplied have a legally imposed warranty of at least six months and three months respectively (irrespective of what any contact between the parties says that this period is shorter). The nature of the warranty is even more far-reaching, as it allows the consumer the choice of having the goods replaced, repaired or refunded. This warranty will have significant implications for business.

**Extension of obligations**

Certain provisions, such as the warranty and liability provisions of the CPA, are even more onerous on the business world in that these provisions are jointly and severally applicable to each of the retailer, importer, distributor and manufacturer. None of these parties to the supply chain are free of the warranty and liability obligations when it comes to dealing with the consumer.

**Direct marketing**

The CPA provides every person the right to opt out of being marketed to directly. Direct marketing must be strictly managed, with a register being maintained of those consumers who do not want to receive such marketing. This is to facilitate compliance with the right to opt out. The regulations to the CPA prescribe times during and days on which marketing may not be sent to consumers at their home. All marketing must have a method by which the consumer can indicate that they no longer want to receive such direct marketing. Consumers may not be charged in any way for opting out of receiving direct marketing material.

Also, agreements arising out of certain types of direct marketing have an automatic cooling-off period of five days during which the consumer is entitled to cancel the transaction without any penalty.

**Fixed term contracts and contractual content**

Between 80 and 40 days before the expiry of a fixed term agreement, a notice must be sent to the consumer advising them of the expiry and indicating the implications of renewal of the agreement. What is notable is that, despite any provision in any agreement to the contrary, the consumer may cancel a fixed term agreement upon expiry of the agreement without paying any penalty or at any other time, by giving the supplier 20 business day’s notice in writing or in some other recorded manner.

**Customer loyalty programmes**

There are stringent information requirements around what must be communicated to members of such customer loyalty programmes. Benefits claimed using the programme must now be equal to those products or services that can be purchased for cash, except for a total of 90 days during a calendar year on which differentiation is permitted.

**Franchise agreements**

Considerable protection is afforded to those entering into franchise arrangements as franchisees. Significant information must be provided to the franchisee at the time that the agreement is entered into, the franchisee is afforded a cooling-off period during which the cancellation of the transaction is permitted and the franchisee has greater protection when it comes to having to purchase supplies from those suppliers dictated by the franchisor.

<sup>e9</sup> [http://www.eaab.org.za/article/how\\_the\\_consumer\\_protection\\_act\\_will\\_affect\\_lease\\_of\\_property\\_1](http://www.eaab.org.za/article/how_the_consumer_protection_act_will_affect_lease_of_property_1)

### Return of goods

The CPA makes provision for five instances in which goods may be returned:

- During the direct marketing cooling-off period;
- Where goods have not been seen before the purchase;
- Where the goods not do fulfill their stated purpose;
- Where there is an implied warranty of quality of the goods and those goods are materially defective; and
- Where goods that are different to, or in excess of, an agreement, are delivered post the expiry of the agreement.

Provision is also made that the costs related to any return of goods, for a reason other than a fault on the part of the consumer, must be paid for by the supplier of those goods. In addition, if goods are delivered to the incorrect address or an address other than agreed, at a time other than that agreed, ownership in those goods can pass to the person to whom they were delivered. What this means is that the missing of agreed delivery times and dates will have to be strictly managed to avoid goods from becoming "unsolicited goods", to which these significant consequences apply.

### Unsolicited goods

If a consumer does not expressly or implicitly request the performance of a service or the delivery of goods and the goods are delivered, or the service performed, these are considered unsolicited goods. This includes "demo" goods that sales people may leave with a consumer. The management of such goods will have to be

stringent since, if no clear periods for return of the goods are agreed with the consumer, and clear steps are not taken by the supplier of the goods to take reclaim such goods, ownership of these goods could pass to the consumer.

### Enforcement

To enforce the CPA, the National Consumer Commission (NCC) and the National Consumer Tribunal (the NCT) were formed. The NCC and NCT have aggressive investigative powers to ensure the investigation of practices that appear to be contrary to the spirit and/or the provisions of the CPA, despite a consumer not reporting such practices.

The offences listed in the CPA are numerous and the penalties for non-compliance are substantial. The CPA imposes fines of up to 10% of turnover for each offence. The wide reach of the provisions means that the possibility of frequent offences is high and thus, the amount of fines that an organisation could be liable for, could be considerable.

It will be imperative for organisations to take continued steps to determine the extent to which the CPA applies to them so that the new business risks that the CPA creates can be determined and mitigated. The solution will have to be organisation wide, working through each of the organisation's functional areas so as to standardise compliance while optimising business productivity but accounting for operational requirements of the organisation.

## 6.9. Competition law

The Department of Trade and Industry (**the dti**) sought to redress the past economic imbalances that resulted from excessive concentrations of ownership and control, inadequate restraints against anti-competitive trade practices and unjust restrictions on participation by all South Africans in the country's economy. As a result, the Competition Act No. 89 of 1989 (the Act) was enacted and replaced the previous Maintenance and Promotion of Competition Act No. 96 of 1979. A number of the sections of the Act commenced on 30 November 1998, and the remaining sections came into effect on 1 September 1999.

The Act is applicable to all economic activity within or having an effect within the Republic of South Africa and thus has far-reaching consequences for local and foreign businesses operating within South Africa. It seeks to regulate prohibited practices i.e. restrictive horizontal and vertical practices and abuse of a dominant position in the market, and to control mergers.

The purposes of the Act (as stated in section 2 of the Act) are the promotion and maintenance of competition in South Africa in order to:

- Promote the efficiency, adaptability and development of the economy;
- Provide consumers with competitive prices and product choices;
- Promote employment and advance the social and economic welfare of South Africans;

- Expand opportunities for South African participation in world markets and recognise the role of foreign competition in the republic of South Africa;
- Ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- Promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

### Note:

- In many respects, the principles of South Africa's Competition Law are similar to those of other major jurisdictions such as Canada, the EU and the US. However, South African Competition Law differs from foreign models in that the focus is not purely on competition issues, but also on certain public interest and social goals, such as the promotion of small businesses, the interests of employees and B-BBEE.<sup>e10</sup>

The Act establishes the Competition Commission, the Competition Tribunal and the Competition Appeal Court, which bodies aim to fulfill the purposes of the Act.

The functions of the Competition Commission include:

- The investigation and evaluation of alleged contraventions of Chapter 2 of the Act (i.e. restrictive practices or abuse of dominant position);
- The authorisation, prohibition or referral of mergers; and

<sup>e10</sup> [http://www.werksmans.co.za/21/competition-anti-trust/&Category\\_ID=21&competition/](http://www.werksmans.co.za/21/competition-anti-trust/&Category_ID=21&competition/)

- The implementation of measures to increase market transparency and the development of public awareness of the provisions of the Act.

The Competition Tribunal adjudicates on any prohibited conduct, such as restrictive practices or abuse of dominant position. The Competition Tribunal also hears appeals from or reviews any matters that have been investigated, controlled and evaluated by the Competition Commission.

The Competition Appeal Court may review any decision of the Competition Tribunal and adjudicates appeals from the Competition Tribunal.

The Competition Commission's Corporate Leniency Policy, which was introduced in 2004, aims to eradicate and prevent cartel activity. In addition, the Competition Amendment Act No.1 of 1999, which is still to come into effect, seeks to hold any director or manager of a firm personally accountable if they cause the firm to take part in cartel conduct.

The Competition Tribunal may impose an administrative penalty of up to 10% of a firm's annual turnover in South Africa and its exports from South Africa in the event that the firm engages in conduct specified in the Act, including any prohibited practices, failure to give notification of a merger or the implementation of a merger without the requisite approval or in contravention of a condition or decision of either the Competition Commission or the Competition Tribunal. Furthermore, in the event of the prior implementation of a merger, the Competition Tribunal may order the divestiture of any assets acquired as a result of the merger transaction.

### Competition law developments

African countries are increasingly adopting Competition Law (including merger control, which is on the rise). One of the main challenges faced by companies expanding operations throughout the African continent is therefore monitoring different Competition Law legislation and developments taking place to the regulatory regimes of a number of African countries. Continent-wide Competition Law training and compliance is therefore essential. A Common Market for Eastern and Southern Africa (COMESA) Competitor Authority is now in place.

## 6.10. Environmental law

### Overview

The right to an environment that is not harmful to one's health or well-being is entrenched in the Bill of Rights of the Constitution of the Republic of South Africa, 1996 (the Constitution). This provision places the burden on the Government of South Africa to take reasonable legislative and other measures to ensure that this environmental right is attained and protected. Thus, since the Constitution came into effect, the Government has enacted various pieces of legislation in order to comply with this constitutional duty. Existing legislation has been updated and, together with the new legislation, creates the environmental regulatory framework.

The government departments involved in administration and enforcement of environmental laws in South Africa include the following:

- The Department of Water and Environmental Affairs (DWEA)
- The Department of Mineral Resources (DMR)
- The Department of Energy (DoE)
- The Department of Agriculture, Forestry and Fisheries

### The National Environmental Management Act

The National Environmental Management Act, No. 107 of 1998 (NEMA) is the overarching environmental statute that lays the foundation for other environmental legislation in South Africa. The Act aims to place people and their needs (physical, psychological, developmental, cultural and social) at the forefront of its concerns.

Section 2 of NEMA contains general principles that apply to the actions of all organs of State involved in decision making or activities that may have a significant impact on the environment. In terms of NEMA, certain identified activities may not commence unless and until an environmental authorisation has been obtained from the relevant environmental authority. These identified activities are listed in the Environmental Impact Assessment (EIA) Regulations.

#### Note:

- It is an offence for anyone to commence a listed activity without being granted an environmental authorisation for the activity. A person convicted of an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment. If a listed activity has commenced or continues to be conducted without the requisite environmental authorisation, an application can be made for the rectification of such unlawful commencement or continuation. Such a rectification application is subject to the payment of an administrative fine not exceeding R1 million.

NEMA also includes the "duty of care" provision, in terms of which any person who causes, has caused or may cause significant environmental pollution or degradation must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring or, insofar as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment. This "duty of care" has also given rise to the issuing of directives that empower the relevant environmental authority to take any necessary remediation measures and claim reasonable costs.

### The Environment Conservation Act

The Environment Conservation Act No. 73 of 1989 (ECA) preceded and has largely been repealed by NEMA. The provisions that have survived deal with, among other incidental issues; protected natural environments, limited development areas, regulations on noise, vibration and shock, general regulatory powers and various provisions relating to offences and penalties.

### Other environmental legislation

#### ***The National Water Act No. 36 of 1998(NWA)***

The National Water Act introduced a shift away from South Africa's previous water regime, which was mainly regulated by riparian rights and permits issued in certain instances under the Water Act, 1956. It aims to reform the past laws relating to water resources as these laws were discriminatory and not suitable to conditions in South Africa. The new Act enforces the idea that water is a natural resource that belongs to all South Africans. Under this Act, water is to be protected, used, developed, conserved, managed and controlled as a whole.

The National Water Act placed all fresh water in South Africa under the custodianship of the Department of Water Affairs (DWA). As a result, most uses of water in South Africa, where water is taken from a water resource, require a permit issued in terms of section 21 of the National Water Act in order to be legally compliant.

A water resource includes a water course, surface water, an estuary or aquifer.

In addition to regulating the use of water, the National Water Act regulates the pollution of water resources.

#### ***The National Environmental Management: Air Quality Act No. 39 of 2004 (NEMAQA)***

The object of NEMAQA is to protect the environment by providing reasonable measures for:

- The protection and enhancement of air quality throughout South Africa;
- The prevention of air pollution and ecological degradation; and
- Securing ecologically sustainable development.

In addition, NEMAQA introduces more stringent air quality controls in comparison to the previous Atmospheric Pollution Prevention Act No. 60 of 1965.

On 31 March 2001, the Department of Environmental Affairs (DEA) published a list of activities, which result in atmospheric emissions that have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, and minimum emission standards for those listed activities.

No person may conduct any of the listed activities without a provisional atmospheric emission licence or an atmospheric emission licence issued by a metropolitan or district municipality in terms of NEMAQA.

#### ***The National Environmental Management: Biodiversity Act No. 10 of 2004 (NEMBA)***

The aims of NEMBA include the management and conservation of South Africa's biological diversity, ensuring that indigenous biological resources are used in a sustainable manner, and promoting the fair and equitable sharing of benefits arising from bio-prospecting involving indigenous biological resources. NEMBA also gives effect to ratified international agreements affecting biodiversity, such as the Convention on International Trade in Endangered Species (CITES).

#### ***The National Environmental Management: Integrated Coastal Management Act No. 24 of 2008 (Integrated Coastal Management Act)***

The Integrated Coastal Management Act was enacted to determine the coastal sum of South Africa, to provide for the coordinated and integrated management of the coastal zone by all spheres of government, and to preserve, protect, extend and enhance the status of coastal public property as being held in trust by the State for and on behalf of all South Africans.



***The National Environmental Management: Protected Areas Act No. 57 of 2003 (NEMPA)***

NEMPA provides for the declaration and management of protected areas, to promote the sustainable use of protected areas for the benefit of all people. The system of protected areas in South Africa comprises:

- Special nature reserves, nature reserves (including wilderness areas) and protected environments
- World heritage sites
- Specially protected forest areas, forest nature reserves and forest wilderness areas
- Mountain catchment areas

***The National Environmental Management: Waste Act No. 59 of 2008 (NEMWA)***

NEMWA was enacted to reform the laws regulating waste management by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development so as to protect health and the environment.

A person conducting a waste management activity, including (without limitation) the accumulation and storage of waste, the collection and handling of waste, the transportation of waste, and the treatment of waste; requires a waste management licence to be issued in terms of NEMWA. The remediation of contaminated land is also provided for in NEMWA.

***The Hazardous Substances Act No. 15 of 1973***

The Hazardous Substances Act provides for the regulation of substances which, by their nature or chemical composition, may cause injury or ill-health to or death of a person. The Hazardous Substances Act aims to regulate all aspects of such hazardous substances, including the storage, transport, handling, dumping, labelling, manufacture, packaging and sale of such substances. The Hazardous Substances Act groups the various substances into different categories according to their nature. Compliance with the Hazardous Substances Act is therefore mandatory for any person undertaking any activity in connection with such hazardous substances.

The Hazardous Substances Act relies on the South African National Standards (SANS), which provides the necessary detailed description of the various substances according to their groupings. The SANS Codes and the Hazardous Substances Act overlap with the EIA Regulations to determine what falls within the definition of hazardous substances for the purposes of determining whether and when an environmental authorisation is necessary under the EIA Regulations.

***The National Heritage Resources Act No. 25 of 1999***

The National Heritage Resources Act introduces an integrated and interactive system for the management of South Africa's national heritage resources. The Act also establishes the South African Heritage Resource Agency for the coordination and promotion of the management of heritage resources at a national level.

**Note:**

- Where a site is being developed in an urban area, and a building of more than 60 years old needs to be demolished or altered, the provisions of the National Heritage Resources Act may be triggered. If this is the case, then a heritage impact assessment will need to be undertaken and permission may need to be obtained from the responsible heritage authority. In the event that a site is being permitted in a rural area, and where a heritage object is discovered (for example a grave site), the National Heritage Resources Act may similarly be triggered. Heritage resources include heritage places and heritage objects.

***The Conservation of Agricultural Resources Act No. 43 of 1983***

This Act would be considered by authorities when determining the purposes of land use and land planning. The authorities would then need to consider whether it is more appropriate for such land to be developed as industrial land or whether such land should be kept as agricultural land. This consideration often arises when land is being developed in a pre-urban area.

***The Marine Living Resources Act No. 18 of 1998***

The objectives and principles of the Marine Living Resources Act include, the conservation of marine living resources and the preservation of marine biodiversity, the minimisation of marine pollution, the need to restructure the fishing industry to address historical imbalances, and to achieve equity within all branches of the fishing industry.

***The National Radioactive Waste Disposal Institute (established by act in parliament, Act No. 53 of 2008)***

The Act applies to all radioactive waste in South Africa that is to be disposed of in an authorised waste disposal facility. The Act also provides for the establishment of the National Radioactive Waste Disposal Institute, which shall be responsible for the management of radioactive waste on a national basis.

**Note:**

- Legislative developments include the recent changes the NEMA (Act No. 107 of 1998). The National Environmental Management Laws Third Amendment Bill No. 26 of 2013 was passed by Parliament in March 2014 and requires only the President's signature before becoming law. The NEML Bill endeavours to unify the current disjointed system that involves separate environmental applications to different government departments.

## EIA regulations

EIA is process whereby potential environmental impacts both positive and negative associated with certain activities are assessed, investigated and reported. South Africa's EIA legislative framework is of international standards. The new/current EIA regulations came into effect on 2 August 2010, signaling the start of the official implementation process of a regime aimed at improving the efficiency and effectiveness of EIA. The NEMA EIA 2010 Regulations, and the listing notices thereto, replaced the former NEMA EIA regulations of 2006 and its associated listing notices.

## Renewable energy

In line with South Africa's commitment to sustainable development, there has been a strong shift in focus from primary energy resources, such as coal and oil, to the development of the country's substantial alternative energy resources. A recent study ranked South Africa as the ninth-leading destination for clean energy investment, and the fastest growing "green energy market" among the G20 economies.

The Renewable Energy Independent Power Producers (RE-IPP) Procurement Programme was acknowledged internationally when the programme was awarded the Green Infrastructure Project of the Year Award at the sixth Global Infrastructure Leadership Forum in February 2013.

In addition to procurement legislation and regulations, investors in renewable energy need to comply with company, environmental, land and exchange control legislation and regulations. For example, in terms of environmental regulations, renewable energy developments are subject to various regulatory and permit requirements. The most burdensome of these requirements is obtaining environmental authorisation in terms of NEMA, which involves public participation and the submission of detailed reports, as outlined in NEMA's EIA regulations.

In terms of land regulations, renewable energy developments are further regulated in respect of rezoning, departures, consent uses and subdivisions, by land use planning legislation. When considering the correct land use structure for a renewable energy project, developers need to take into account: the Subdivision of Agricultural Land Act, No. 70 of 1970; the requirements that the Department of Agriculture is expected to have in respect of long-term lease agreements for renewable energy projects; and the requirement for ministerial consent for surface rights with respect to mineral rights in terms of the Mineral and Petroleum Resources Development Act, No. 28 of 2002.<sup>e11</sup>

## 6.11. Climate change policy and regulations<sup>e12</sup>

### Overview

South Africa is a party to the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol.

It is categorised as a developing country (non-annex I country) under the Kyoto Protocol and therefore, does not have specified commitments to reduce or cap its carbon emissions.

However, of the three mechanisms available for countries to meet emission reduction targets under the Kyoto Protocol (namely; International Emissions Trade, Joint Implementation, and the Clean Development Mechanism (CDM)), South Africa is involved in several CDM projects.

### Overall climate change policy and commitment

South Africa has not committed to targets or timetables under the Kyoto Protocol and has not yet enacted a national legislation or regulations/policy directly pertaining to climate change. It does, however, have a number of initiatives or mechanisms in place to address challenges of climate change.

For example, in November 2010, it published for comment a National Climate Change Response Green Paper. The Green Paper is generally the first step in law or policy making and statement of intent. The overarching objective of the Green Paper was to align South Africa's climate change policy with international principles and to ensure a coordinated, coherent, efficient and effective response to the global challenge of climate change.

Following the publication of the Green Paper, Government published the National Climate Change Response White Paper, released in October 2011. According to the White Paper, within two years of its publication, all government departments would be required to review the policies, strategies, legislation, regulations and plans falling within their jurisdictions to ensure their "full alignment" with the national climate change response. The South African Government will then determine the adjustments that need to be made and identify any legislative or regulatory measures that are deemed to be necessary.

In addition to the Green Paper and the White Paper, South Africa has regulations regarding the establishment of a Designated National Authority (DNA) for the CDM. These regulations empower the DNA to consider and approve applications for CDM projects that will result in carbon reductions.

South Africa has also published a Renewable Energy Procurement Programme to facilitate the construction of renewable energy by Independent Power Producers (IPPs) and has successfully completed the first and second Rounds of the competitively bid procurement process for the IPPs to supply power in terms of the Renewable Energy Procurement Programme.

Other regulations include, for example, the Air Quality Act, which requires the authorities, when issuing atmospheric emissions licences, to specify the greenhouse gas emission measurements, monitoring and reporting requirements in the licence.

<sup>e11</sup> <http://www.ipprenewables.co.za>; [http://www.energy.gov.za/files/renewables\\_frame.html](http://www.energy.gov.za/files/renewables_frame.html); [www.webberwentzil.co.za](http://www.webberwentzil.co.za)

<sup>e12</sup> <http://www.iclg.co.uk/practice-areas/environment-and-climate-change-law/environment-and-climate-change-law-2013/south-africa>; [www.sars.gov.za](http://www.sars.gov.za); [www.treasury.gov.za](http://www.treasury.gov.za)

The Regulations of the Air Quality Act distinguish between two kinds of emissions monitoring, namely: continuous emission monitoring and periodic emission monitoring.

Depending on the nature of the activity involved, and the impact of that activity on air quality, either one of these emission monitoring requirements will be required.

Holders of atmospheric emission licences are also required to annually submit an emissions monitoring report to the licensing authority.

In addition, South Africa has plans to introduce a carbon tax from 2016. The proposed carbon tax (initially announced in the 2012 and 2013 Budget Speeches and presented in the Carbon Tax Policy Paper (May 2013)), will be one of the key measures to mitigate climate change.

To ensure a relatively smooth transition to a low-carbon economy, the carbon tax design incorporates a number of relief measures and a gradual phased-in approach to protect households and the international competitiveness of local businesses. More specifically, the proposed carbon tax policy comprises the following key elements:

- A basic tax-free threshold of 60% below which the tax will initially not be payable;
- Z-factor formula to adjust basic tax-free threshold to reward companies that have taken voluntary actions to reduce their GHG emissions before the introduction of the carbon tax;
- Additional tax-free allowances for sectors with limited potential for emissions reduction, i.e. industrial process emissions;

- An additional graduated relief for trade exposed and emissions intensive sectors;
- Carbon offsets that firms can use to reduce their carbon tax liability; and
- The overall maximum tax-free threshold is limited to 90%.

**Note:**

- A carbon offset scheme has also been proposed. It is thought the scheme will enable businesses to lower their carbon tax liability and make investments that will reduce greenhouse gas (GHG) emissions.
- The carbon offsets scheme is meant to complement the carbon tax that South Africa plans to introduce from 2016.
- Projects under four different carbon offset standards have been developed in South Africa, including the Clean Development Mechanism (CDM), Verified Carbon Standard (VCS), Gold Standard (GS) and Climate, Community and Biodiversity Standard (CCBS). In order to facilitate the introduction of the carbon offset scheme, it is proposed that carbon offsets developed under these standards will be considered for eligibility if they fulfil specific criteria. It is envisaged that the initial focus will be for projects approved along the lines of the Clean Development Mechanism (CDM).

Interestingly, the JSE opened to trading in credit emission reductions during 2008.

## 6.12. Information, communication and technology law

### Introduction

South Africa is fairly new to the world of Information, Communication and Technology (ICT) law. We are, however, advancing towards alignment with our international counterparts. Highlighted below is a handful of South African ICT legislation.

### The Electronic Communications and Transactions Act 25 of 2002 (ECTA)

ECTA gives effect to the validity of data messages in terms of South African law, in the evidentiary context, as well as in terms of records retention legislation. In addition, ECTA contains provisions on facilitating electronic commerce in South Africa and contains various consumer protection provisions in instances where other legislation (an example of which is the Consumer Protection Act) does not apply.

In terms of the legal requirements that play a role when one deals with data messages, ECTA describes how to ensure admissibility and evidential weight of data messages by prescribing the implementation of security measures in order to ensure that the integrity of the data message remains intact.

Furthermore, ECTA gives effect to the retention of data messages in an electronic format. Thus, in terms of other South African legislation that refers to the retention periods and records to be retained, ECTA allows that these records may be retained in electronic format.

### Regulation of Interception of Communication and Communication Related Information Act (RICA)

The main purpose of RICA is to regulate the interception of certain communications, monitor certain signals and radio frequency spectrums and to provide certain communication-related information. In addition, RICA regulates making applications for, and issuing directions, authorising the interception of communications and the release of communication-related information under certain circumstances.

RICA provides a general prohibition on the interception of communications but does provide various exceptions to its provisions. In addition, RICA regulates the provision of real-time or archived communication and the process by which it should be handled.

### Electronic Communications Act (ECA)

The ECA was enacted to promote convergence in the broadcasting, broadcasting signal distribution and telecommunications sectors and in order to provide a legal framework for the convergence of these sectors.

Any service provider that wishes to engage in the broadcasting or telecommunications industry must comply with the ECA and apply for the relevant licensing in terms of our law. The Independent Communications Authority of South Africa Act (ICASA Act) works in tandem with the ECA, due to the fact that ICASA is the authority that will grant licences in terms of the broadcasting and telecommunications industry.



## Protection of Personal Information Act (PIIA)

The PPIA is the first privacy legislation of its kind in South Africa. The PPIA contains various principles that organisations in South Africa or engaging in the provision of services in South Africa have to comply with. These principles relate to the processing of personal information by an organisation in relation to the general life cycle of information therein. The PPIA is applicable to personal information processed from the time that such personal information is created all the way until the deletion of the personal information.

The PPIA necessitates the creation of a regulator in charge of compliance with the principles outlined in the PPIA. Subsequent to this, organisations need to appoint an information officer to handle their compliance prerequisites in terms of the PPIA.

In addition, the PPIA has an effect on direct marketing practices within South Africa. The PPIA requires an “opt-in” model for electronic direct marketing, whereas the ECTA (mentioned above) merely required “opt-out” model with respect to electronic direct marketing.

In terms of personal information that is processed across borders, the PPIA describes the compliance requirements for the manner in which cross-border information flow should be undertaken by an organisation.

### General

In terms of effecting ICT legal compliance initiatives in the South African context, it is regarded as common practice to implement principles of the King III Report, as well as having due regard to the ISO standards governing information security and business continuity.

## 6.13. Land regulations

### Right to property

The Bill of Rights in the Constitution of the Republic of South Africa Act No. 108 of 1996 (the Constitution) contains a right to property clause. This right was included in the Constitution in order to protect a person’s real rights in property, including ownership, lease, mortgage, lien and servitude. In terms of this property clause, no one may be arbitrarily deprived of property. In addition, should the State expropriate property it is required to pay compensation to the landowner, and any expropriation must either be for a public purpose or in the public interest.

### Ownership and rights in land

A person may not enter into a verbal agreement for the sale of property. Instead, the Alienation of Land Act No. 68 of 1991 stipulates the requirements for the valid sale of property, including that the agreement, must be in writing and signed by the parties to the transaction or their authorised representatives. Furthermore, the Division of Agricultural Land Act No. 95 of 1986 places restrictions on the subdivision of agricultural land.

The Deeds Registries Act No. 47 of 1937, as amended (the Deeds Registries Act), governs the registration of rights in land and any subdivision thereof, bonds, servitudes (right or use of or a right of way over land), leases, and the registration of antenuptial contracts.

A duly qualified and admitted attorney and conveyancer is required to prepare a deed of transfer, mortgage bond, or certificate of title in order for such document to be capable of being attested, executed and registered by a Registrar of Deeds in the Deeds Registry Office.

Ownership in land may be transferred from one person to another only by means of a deed of transfer executed or attested by the Registrar of Deeds. Other real rights in land, such as a long-term lease, may be transferred from one person to another only by way of a deed of cession attested to by a duly qualified and admitted attorney and notary public and registered by the Registrar.

The transfer of ownership in land is subject to certain taxes, duties and fees. These include:

- Conveyancing fees payable to the conveyance
- Transfer duty or VAT
- A Deeds Registry Fee

Transfer duty is a tax levied on the value of any property acquired by any person by way of a transaction or in any other way. Transfer duty is governed by the Transfer Duty Act No.40 of 1949. For the purpose of transfer duty, property means land and fixtures and includes real rights in land, rights to minerals, a share or interest in a “residential property company” or a share in a share-block company. The transfer duty rates applied to properties acquired on or after 23 February 2011, are as follows, and apply to all persons (including companies, CCs and trusts):

Rates of duty	Duty payable
Acquisition of property by all persons:	
First R600 000 of consideration	0%
R600 001 to R1 000 000	3%
R1 000 000 to R1 500 000	R12 500 + 5%
R1 500 001 and over	R37 000 + 8%

**Note:**

- If property is purchased from a developer that is registered for VAT, such a transaction is exempt from transfer duty and the purchaser will instead pay VAT on the purchase price of the property.

In terms of the Sectional Titles Act No. 95 of 1986, as amended (the Sectional Titles Act), buildings may be divided into sections and common property. The Sectional Titles Act makes provision for the individual ownership of a section and for joint ownership of the common property. Bodies corporate may also be established under the Sectional Titles Act to apply rules in order to ensure that the use of the common property is controlled. The transfer of ownership of sections and the registration of sectional mortgage bonds over sections is recorded in the sectional title register at the relevant Deeds Registry Office. South African law also provides for a person to hold a share in a share block scheme operated by a share block company. In terms of a share block scheme, the holder of a share is given certain rights or interest in the use of immovable property, which includes land and any building erected or to be erected on the land. The powers, rights and restrictions on the operation of such companies and schemes are regulated under the Share Blocks Control Act No. 59 of 1980, as amended, and no registration takes place in the Deeds Registry.

In terms of the Mineral and Petroleum Resources Development Act No. 28 of 2002, as amended (MPRDA), South Africa’s mineral and petroleum resources are not capable of individual ownership. Instead, such resources

belong to the nation and the State is the custodian thereof. The objects of the MPRDA include the provision for security of tenure in respect of prospecting, exploration, mining and production operations and to ensure that the holders of mining and production rights contribute to the socio-economic development of the communities in which they conduct their operations. The Mining Titles Registration Act No. 16 of 1967 regulates the registration of mineral and petroleum titles in the Mineral and Petroleum Titles Registration Office.

### Site development<sup>e13</sup>

Although the procedures for developing a site are generally consistent throughout the country, the individual municipality or local authority defines the specific steps an investor must take. In most cases, the approval of plans, the assessment of environmental impact, and the provision of utilities (including water, sewerage, and electricity) is handled exclusively by the municipality concerned.

In general, in areas where land is already serviced and no upgrades are required, utility hook-ups are fairly simple and swift. Where capacity upgrades or servicing is required, the wait for connections may be longer.

For further information and an overview on site development procedures in South Africa, refer to: [www.doingbusiness.org/data/exploreeconomies/south-africa/dealing-with-construction-permits/](http://www.doingbusiness.org/data/exploreeconomies/south-africa/dealing-with-construction-permits/)

### Building permits<sup>e14</sup>

The municipal authority with jurisdiction over the particular site, will issue building permits. Each municipality has its own application

process. Most applications must meet both the national building regulations and standards as set out in the National Building Regulations and Building Standards Act and regulations thereto, and the building codes of the relevant municipality.

Decisions to consult with exterior bodies (such as the Department of Health, local fire department, the Department of Environmental Affairs, and the Department of Water Affairs) are made by the engineer in the local authority.

The following areas are included in the approvals:

- Fire
- Pollution control
- Health impact
- Frontage works
- Elevation control
- Drainage and coastal engineering
- Roads
- Sanitation
- Sewerage reticulation
- Structures

Once plans are approved, the municipality conducts a minimum of five inspections of the building site. Some municipalities conduct more, especially in the case of a multi-storey building. Other inspections may be carried out from time to time, depending on the specifics of the building.

### Land acquisition<sup>e15</sup>

South Africa has a proactive land acquisition policy based on a quantified or non-quantified need or demand. In other words, the State can buy/secure suitable land that is available, on offer or have been targeted for land reform, before or after beneficiaries have been identified and quantified that can be achieved either programmatically or at a project level.

At a project level, the need or demand may or may not be quantified in terms of identified beneficiaries. In some cases this may be quantified in terms of specific programmes and there is an indication of what type of land is needed as the need is very specific e.g. a set number of labour tenant claims are registered. The State in this case may simply purchase the land based on the number of claims registered in the office and then commence proper planning with the selected beneficiaries.

In terms of the programmatic approach, land needs of potential beneficiaries are to be identified in a specific area and matched with suitable and available land in that area. The programmatic approach is therefore based on area development planning; ultimately culminating in an area development plan that will clearly stipulate the land needs.

The primary methods of acquisition employed by Government in terms of its policy include expropriation, auctions and market transactions/ negotiated transfers.

### Environmental assessments

Depending on the nature of the activities, some applications for building permits may require an EIA to be carried out in terms of the EIA Regulations under NEMA.

An environmental consultant must carry out the assessment at the expense of the landowner. Some investors have recently carried out social impact assessments as well. It has been estimated that the environmental impact assessments cost up to 5% of the investment.

<sup>e13</sup> South Africa: Investor's Handbook 2010 [www.thedti.gov.za](http://www.thedti.gov.za).

<sup>e14</sup> South Africa: Investor's Handbook 2010 [www.thedti.gov.za](http://www.thedti.gov.za).

<sup>e15</sup> <http://www.info.gov.za>



## 7. South African taxation

### 7.1. Corporate taxation

#### Income tax

The principal source of direct tax revenue in South Africa is income tax.

South Africa has a residence-based system of taxation:

- South African residents are therefore taxed on their worldwide income, subject to a number of exceptions.
- Non-residents are taxed on income earned from a South African source.
- The question of residency needs to be addressed in the light of any double taxation agreements (DTAs) that may be applicable.
- Any company, which is either incorporated in, or effectively managed from South Africa, is deemed to be a South African resident for tax purposes.
- Domestic companies and branches of foreign companies, which have their effective management outside South Africa, are taxed at a rate of 28%. Trusts (other than special trusts) are taxed at a rate of 40%.

#### Capital gains tax (CGT)

Residents of South Africa are liable for CGT on capital gains made on the disposal of their worldwide capital assets. CGT is not a separate tax but forms part of income tax:

- The inclusion rate for capital gains is 33.3% in respect of individuals and special trusts, and 66.6% in respect of companies and other trusts. The maximum effective tax rate is therefore 13.3% for individuals, 18.6% for companies and 26.7% for trusts.
- Exposure to CGT for non-residents is largely limited to disposals of South African real estate or assets of a branch business.
- Where a person/company becomes a resident, the market value of their assets at the date they become South African residents for tax purposes, must be established. This market value becomes the base cost, which is used to calculate the capital gains upon disposal of capital assets in future. The subsequent cessation of resident status may result in a deemed disposal for CGT.

### Secondary tax on companies (STC)

- Prior to 1 April 2012, in addition to normal corporate income tax, STC at the rate of 10% applied to the net amount of any dividend declared by a South African resident company.
- STC was abolished on 1 April 2012 and was replaced with a shareholder dividends tax of 15% (see further comments below under Withholding taxes).

### Exempt entities and Public Benefit Organisations (PBOs)

- Receipts and accruals of PBOs are exempt from income tax to the extent that the receipts and accruals are not from business or trading activities, or are from integral, occasional or approved business or trading activities (subject to certain conditions).
- Certain trading activities are totally tax-free. Certain trading activities are partially taxable.
- The PBO can deduct the greater of R200 000 and 5% of its total business or trading receipts and accruals for the year.
- PBOs may register as a vendor for VAT purposes in order to claim VAT inputs on supplies made to it.
- Donations to PBOs are exempt from donations tax and bequests to PBOs are exempt from estate duty. Donations or bequests to PBOs are further not viewed as disposals for CGT purposes.

- Similar provisions exist for other exempt entities, such as specially exempt entities, government departments, municipalities, sporting bodies and the like.

### Local dividends

- Dividends, being any amount transferred or applied by a resident company in respect of a share in that company, are generally exempt from income tax in the hands of the recipient.
- There are substantial restrictions and prohibitions that apply to corporate shareholders in respect of shares not actually owned, or certain categories of trading stock, borrowed shares, etc.

### Foreign dividends

- A general blanket exemption of 25/40 for natural persons and trusts, 13/28 for companies, and 15/30 for individual policy holder funds, applies for all otherwise taxable foreign dividends. The result is that the maximum effective tax rate is essentially limited to 15%.
- Subject to certain exceptions (see below), foreign dividends are subject to income tax in the hands of the recipient.
- A foreign dividend means any amount paid by a "foreign company" (a company that is not a resident of South Africa) in respect of a share, where that amount is treated as a dividend or similar payment under the laws of the foreign country.

- In certain cases, foreign dividends (including dividends declared by a headquarter company) are fully exempt from income tax in the hands of the recipient. The exemptions include, *inter alia*:

- (a) Where the recipient (in the case of a company, together with any other company in the same group of companies) holds at least 10% of the total equity share capital and voting rights of the foreign company;
- (b) If the recipient is a foreign company and the foreign dividend is paid or declared by another foreign company that is resident in the same country as that person;
- (c) Where the recipient is a resident, foreign dividends paid out of income that has been included in the income of the resident recipient as a result of the application of the controlled foreign company provisions;
- (d) Foreign dividends received by or accrued to a person that are in respect of shares that are listed and do not consist of a distribution of an asset *in specie*; and
- (e) Foreign dividends received by or accrued to a company that is resident in respect of a listed share and consists of the distribution of an asset *in specie*.

### Note:

- The exemptions in paragraphs (a) and (b) do not apply to any foreign dividends that are tax deductible in the hands of the company paying the dividend. The exemption in paragraph (a) does also not apply to a foreign dividend paid in respect of a share other than an equity share.

### Tax losses

- A tax loss incurred by a company in any business activity, may generally be carried forward without restriction and may be set off against future profits until exhausted, provided that the company continues to trade during each year of assessment.
- However, the losses earned by a foreign branch of a South African resident company cannot be set off against income from a South African source (i.e. ring-fencing applies).

### Withholding taxes (WHTs)

#### Dividends tax (DT)

- DT came into effect on 1 April 2012 and replaced STC. It is levied at a rate of 15% on dividends declared by domestic companies and in respect of shares of non-resident companies that are listed on the JSE. It does not apply to dividends paid by a HQC (see below).
- The 15% rate may be reduced under an appropriate DTA.

- Dividend payments to domestic companies, the government, provincial administrators or municipalities, domestic retirement funds, a rehabilitation company or trust, PBOs and various exempt bodies, are exempt from DT. Exempt shareholders will have to certify their exemption status.
- In respect of *in specie* dividends, the distributing company (not the shareholder) will bear the liability, although it will be subject to similar exemptions and treaty relief as cash dividends. This has administrative implications for companies whose dividends normally flow through “regulated intermediaries” (i.e. in the case of *in specie* dividends) as the administrative burden will be upon the company itself.
- The “dividend” definition is broad, with the result that value-transfers (understood as “deemed dividends”) may be taxed under normal withholding rules.
- A dividend will be deemed to be paid on the earlier of the date on which the dividend is paid or becomes payable by the company that declared the dividend.

**Note:**

- A guide on DT can be accessed on the SARS website at: [www.sars.gov.za](http://www.sars.gov.za)

**Branch remittances**

- Profits remitted by a branch of a foreign company are not subject to WHT.

**Withholding tax on royalties**

- A WHT applies to royalties paid to or for the benefit of any foreign person to the extent that the royalty is received or accrued to that foreign person from a source within South Africa.
- The WHT on royalties is a final tax and it is levied at 15% (prior to 1 January 2015, 12%). The rate may be reduced under an appropriate DTA.
- The WHT does not apply in respect of royalties paid to a foreign person if that foreign person is an individual who was physically present in South Africa for a period in excess of 183 days in the 12-month period preceding the date on which the royalty was paid, or if the property in respect of which the royalty paid, is effectively connected to a permanent establishment (PE) of that foreign person in South Africa and the foreign person is registered as a taxpayer in South Africa. It also does not apply to royalties paid by a HQC in certain circumstances.

**Withholding tax on interest**

- A new WHT on interest has been proposed to come into effect from 1 March 2015. It is applicable to interest paid to, or for the benefit of any foreign person, to the extent that the interest is received or accrued from a South African source.
- The WHT on interest is a final tax and will be levied at a rate of 15%. The rate may be reduced under an appropriate DTA.
- Certain exemptions apply, including in respect of interest on government bonds, listed debt, debt owed by a local bank, local dealer and brokerage accounts.
- The WHT will also not apply to interest paid by HQC, nor will it apply to interest paid to non-resident individuals spending in excess of 183 days per year in South Africa, or if the relevant debt is effectively connected with a PE in South Africa and the foreign person is registered as a taxpayer in South Africa.

**Withholding tax on service fees**

- A new WHT on service fees has been proposed to come into effect from 1 January 2016. It will be applicable to service fees paid to, or for the benefit of any foreign person, to the extent that the service fees are received or accrued from a South African source.
- The WHT on service fees will be a final tax and will be levied at a rate of 15%. The rate may be reduced under an appropriate DTA.

- The WHT will not apply if the recipient of the payment is an individual who was physically present in South Africa for a period exceeding 183 days during the 12-month period to preceding the date on which the fees are paid, if the service fees are effectively connected to a PE in South Africa and the foreign person is registered as a taxpayer in South Africa, or if the service fees are paid in respect of services rendered by any person in his/her capacity as an employee.

**Tax on entertainers and sportspersons**

- A 15% WHT applies in respect of gross payments made to non-resident entertainers and sportspersons performing in South Africa. Failure to deduct or withhold tax or pay it to SARS, will render the resident taxpayer personally liable for tax. It is a final tax.

**Sale of immovable property**

- A WHT is imposed on the proceeds of the sale of fixed property in South Africa by non-residents where the proceeds exceed R2 million. The tax is an advance in respect of the seller’s liability for income tax.
- The amounts to be withheld by the purchaser from payments made to the non-resident seller are:
  - Where the seller is a natural person - 5% of the amount payable;
  - Where the seller is a company - 7.5% of the amount payable; and
  - Where the seller is a trust - 10% of the amount payable.

**Notes:**

- A list of reduced WHT rates once a specific DTA is applied can be obtained on the SARS website at: [www.sars.gov.za](http://www.sars.gov.za)

**Tax deductions and allowances**

In addition to the general tax deduction that is permitted in terms of section 11(a) of the Income Tax Act, for business expenditure that is not of a capital nature and that is incurred in the production of income, specific tax deductions and allowances may be allowed.

In the context of a business, tax deductions may include, for example, the following:

**Expenditure and losses incurred before commencement of trade**

Taxpayers are entitled to a deduction for pre-trade costs incurred before the commencement of trade. Pre-trade costs are not defined but may include costs such as advertising and marketing promotion, insurance, accounting and legal fees, rent, telephone, licences and permits, market research and feasibility studies, but exclude costs such as the purchase of buildings and motor vehicles, and pre-trade research and development expenses. Pre-trade costs incurred before the commencement of trade can only be set off against income from that trade.

**Allowance in respect of future expenditure on contracts**

Section 24C of the Income Tax Act permits the matching of receipts with corresponding future expenditure, where such receipts arise in advance of the expenditure concerned. This is found in the practice of construction contracts. The section 24C allowance is typically calculated by taking the gross profit percentage applied to the receipts to date on the contract, less the costs allowed on the contract to date. The allowance should not exceed the receipts, and should not create an overall loss. The allowance deducted in the current year shall be deemed to have accrued or been received in the following year of assessment, and as a result shall be included in taxable income in the following year.

**Movable capital assets**

With regard to capital assets, which are not subject to other capital allowances, wear-and-tear at rates in terms of SARS Interpretation Note No. 47 (Issue 3) may apply. Any asset costing R7 000 or less may be written-off in the year in which it is acquired.

**Industrial buildings**

Wear-and-tear is normally not allowed on buildings or other structures of a permanent nature. However, an allowance equal to 5% (20-year straight-line basis) of the cost to the taxpayer of industrial buildings, or of improvements to existing industrial buildings used in a process of manufacture (other than mining or farming), is granted.



**Commercial buildings**

An allowance equal to 5% (20-year straight-line basis) is permitted of the cost to the taxpayer of new and unused buildings, or improvements to buildings (other than the provision of residential accommodation). For the purposes of the 5% allowance, to the extent a taxpayer acquires part of a building without erecting or constructing that part, the following percentages will be deemed to be the cost incurred:

- 55% of the acquisition price, in the case of part of a building being acquired; and
- 30% of the acquisition price, in the case of an improvement being acquired.

**Plant and machinery**

With regard to plant and machinery, the capital allowances apply as follows:

- Manufacturing or similar process (new only): 40%/20%/20%/20%
- Industrial policy projects (additional investment allowance): 35% - 75%
- Renewable energy technology equipment: 50%/30%/20%
- Small business corporations:
  - Manufacturing assets: 100%
  - Other depreciable assets\*: 50%/30%/20%

\*General depreciation regime is optional.

### Environmental expenditure allowance

New or unused environmental treatment and recycling assets can be depreciated for tax at the rate of 40% in the first year, and 20% in the following three years. New or unused environmental waste disposal assets can be depreciated for tax at the rate of 5% per annum.

### Transportation/transmission of oil, electricity and electronic communications

An allowance equal to 10%, 5% or 6.67% is permitted on the cost incurred by a taxpayer in respect of the acquisition of assets used for the transportation /transmission of oil, electricity or electronic communications respectively.

### Rolling stock

An allowance equal to 20% is permitted on the cost incurred by a taxpayer in respect of the acquisition or improvement of any rolling stock.

### Research and development

A research and development (R&D) tax deduction applies in respect of expenditure incurred by a company on the following:

- Systematic investigative or experimental activities of which the result is uncertain for discovering non-obvious scientific or technical information, creating any invention, design, computer program or certain essential knowledge, specified improvements to the above, certain pharmaceutical products, and clinical trials: 150% allowance; and
- New or unused building, machinery, plant, implement, utensils or article or improvements thereto, brought into use for the first time for R&D purposes: 50%/30%/20% allowance.

#### Note:

- The R&D must be approved by the Minister of Science and Technology in advance to qualify for the enhanced allowance of 150%. To the extent that government grants are received to fund R&D, the expenditure so incurred does not qualify for the special allowance. Certain activities are excluded.

### Intellectual property (see also Research and development)

- Costs incurred in acquiring (i.e. other than developing or creating):
  - Inventions, patents or copyrights: 5%
  - Designs: 10%

#### Note:

- Costs not exceeding R5 000 may be deducted in full. No deduction is available in respect of trade marks.

### Urban development zone (UDZ) allowance

An allowance equal to 5% of the cost to the taxpayer of refurbishing an existing building in an UDZ, once it is brought into use, is granted. An allowance equal to 20% in the first year, and 8% in the subsequent years of the cost to the taxpayer of constructing new buildings and extending existing buildings in an UDZ, once it is brought into use, is granted. Different rules apply in circumstances where a person has acquired a building or part of a building from a developer.

### Learnership allowance

An allowance of R30 000 per annum is available as a deduction by employers for each registered learnership agreement. A completion allowance of a further R30 000 is available on completion. Where the learnership is two years or longer, the completion allowance will be the number of years times R30 000. Learners with a disability qualify for an additional R20 000 allowance.

#### Note:

- The learnership tax incentive is currently scheduled to expire in September 2016.

### Venture capital company shares

Special rules allow a taxpayer to claim a deduction for income tax purposes in respect of expenditure incurred in acquiring shares in a "venture capital company" that has been approved for such purposes by SARS.

### Transfer pricing and thin capitalisation

Transfer pricing rules in South Africa are contained in section 31 of the Income Tax Act.

South Africa follows the OECD (Organisation for Economic Cooperation and Development) Guidelines on transfer pricing and uses the "arm's length" standard/principle to test transactions between connected persons in an international transaction.

In determining an arm's length price/consideration, the five transfer pricing methods recommended by OECD are used. These include:

- Comparable uncontrolled price (CUP) method
- Resale price (RP) method
- Cost plus (CP) method
- Profit split (PS) method
- Transactional net margin method (TNMM)

Although there is no legislative requirement for organisations to prepare transfer pricing policies and documentation for South Africa, the risk of an adverse transfer pricing audit from SARS is increased in the absence of such documentation. In view of the above, it is critical that any transactions between a foreign entity and any related South African entity be considered from a transfer pricing perspective.

Where a transaction between a resident and non-resident (or PE of a resident outside South Africa) is not carried out on an arm's length basis, the amount of the difference between the arm's length basis and the basis applied, if it results in a tax benefit for the resident, is deemed to be an *in specie* dividend paid by the resident if it is a company, or is deemed to be a donation by the resident if it is a person other than a company.

Section 31 no longer deals separately with the thin capitalisation rules. Instead thin capitalisation rules have been merged into the general transfer pricing rules. This means that the thin capitalisation rules will also apply to local branches of foreign companies.

### Corporate rules

The corporate rules provide relief for transactions between group companies or between shareholders and their company.

In this regard, a "group of companies" is defined as two or more companies in which one company (the controlling group company) directly or indirectly holds shares in at least one other company (the controlled group company) to the extent that:

- At least 70% of the equity shares of each controlled group company are directly held by the controlling group company, or one or more controlled group companies, or any combination thereof; and
- The controlling group company holds at least 70% of the equity shares in at least one controlled group company.

#### Note:

- For purposes of the corporate rules, the definition of "group of companies" excludes any company that does not have its place of effective management in South Africa except, in certain fairly limited circumstances, if such company is a controlled foreign company.

The rules cover the following transactions:

- Asset-for-share transactions
- Substitutive share-for-share transactions
- Amalgamation transactions
- Intra-group transactions
- Unbundling transactions
- Liquidation, winding-up and deregistration

Each of the rules has qualifying criteria and anti-avoidance provisions. The rules provide for relief from income tax, CGT, transfer duty, securities transfer tax and, in certain circumstances, DT. VAT relief may also be obtained if certain conditions apply.

Because of concerns that the tax base is being eroded through the use of the corporate rules, provisions were introduced that may deny the deduction of interest incurred on borrowings arising from a transaction in terms of the corporate rules in certain circumstances.

A transferor and transferee may enter into a written agreement that the relevant provisions do not apply in the case of asset-for-share transactions, substitutive share-for-share transactions, intra-group transactions and liquidation transactions. With regard to amalgamation and unbundling transactions, the corporate rules will apply, unless the parties form part of the same group of companies and jointly elect for the rules not to apply. Full particulars of any transaction falling within these provisions must be disclosed in the taxpayer's tax return for the tax year in which the transaction takes place.

Special rules apply for determining contributed tax capital where shares are issued in terms of the rules.

### Controlled foreign companies (CFCs)

Also included in the income of a South African resident is a proportional amount of the net income (including capital gains) earned by a CFC. A CFC is any foreign company where South African residents directly or indirectly hold more than 50% of the total participation rights or more than 50% of the voting rights in that company. The proportionate income of the CFC will be included in the income of the resident where the resident has participation or voting rights of 10% or more. The income of the CFC is to be determined as if the South African Income Tax Act applied to such entity.

Exclusions from attribution of income under CFC rules include the following:

- Where the net income of the CFC is attributable to a foreign business establishment in a foreign country, provided that the foreign business establishment effectively operates at arm's length (subject to certain restrictions)
- Where the income is subject to WHT in South Africa on interest, royalties or services fees;
- Where the net income of the CFC is included in its South African taxable income;
- Foreign dividends declared to a CFC by another CFC;
- Interest, royalties or rental income payable to a CFC by another CFC and exchange differences between such parties, where the entities are part of the same group of companies; and
- Capital gains to the extent that the asset disposed of (subject to exclusions) is attributable to any business establishment of a CFC that forms part of the same group of companies as the CFC.

In addition, the net income of a CFC is deemed to be nil where foreign taxes paid by the CFC amount to at least 75% of the South African tax that would be payable had the CFC been a South African resident or (subject to certain conditions) all the receipts and accruals of the CFC are attributable to a foreign business establishment of the CFC.



### Hybrid equity instruments, hybrid debt instruments and third party backed shares

The Income Tax Act contains sections dealing with hybrid debt instruments, hybrid equity instruments and third party backed shares. These sections are anti-avoidance sections and are aimed at ensuring instruments are correctly classified as debt or equity for tax purposes.

### Legislation to limit excessive interest deductions

New provisions were inserted into the Income Tax Act (effective 1 April 2014) with respect to the deductibility of interest on acquisition and reorganisation indebtedness. Additional provisions have been introduced (effective 1 January 2015) relating to the deductibility of interest in respect of a debt owed to a person that is not subject to tax in South Africa where the funds are obtained directly or indirectly from a person who is in a controlling relationship (holding at least 50% of equity shares or voting rights) in relation to the debtor.

### Headquarter company (HQC) regime

The HQC regime is a significant development directed at establishing South Africa as a jurisdiction of choice for investments into Africa.

Essentially, the regime provides for a relaxation for HQCs of the CFC and arm's length rules, and for dividends declared by these companies to benefit from the same exemptions available to foreign dividends.

For this purpose, the following areas of tax relief will be granted to entities qualifying as HQCs (or their shareholders where applicable):

- Foreign subsidiaries of HQCs will not be treated as CFCs under the normal rules and, therefore, no "net income" of any CFC can be imputed to a HQC;
- Dividends declared by the HQC will be exempt from DT;
- HQCs engaged in financial assistance, will enjoy relief from the transfer pricing provisions to a certain extent;
- Interest paid or owed by a HQC to a foreign person, to the extent that it relates to back-to-back lending arrangements, will be exempt from the WHT on interest; and
- A HQC will be treated as a foreign company for the purposes of the CGT participation exemption for the benefit of qualifying shareholders disposing of their interest in such HQC.

A resident company may elect to be a HQC for a year of assessment if the following criteria are met:

- If, for the relevant year, each shareholder (together with related group companies) held 10% or more of the equity shares and voting rights in that company;

- If, at the end of the relevant year, and all prior years, 80% or more of the cost of the total assets of the company was attributable to equity shares in, loans to, or intellectual property licensed to any foreign company in which the company (together with related group companies) held at least 10%; provided that in determining the total assets of the company, there must not be taken into account any amount in cash or in the form of a bank deposit payable on demand, and in determining whether the requirements for inclusion within the definition have been satisfied, no regard must be had to any year in which the company did not own assets with a market value in excess of R50 000;
- Where the gross income of the company exceeds R5 million, if 50% or more of the gross income of the company consisted of dividends, interest, royalties or fees from any foreign company contemplated above or of proceeds from the disposal of shares in such foreign company or the above intellectual property; and
- A HQC must submit to the Minister an annual report providing the Minister with the information that the Minister may prescribe within such time and containing such information as the Minister may prescribe.

### Other

#### Partnerships

Partnerships are not treated as separate taxable entities. Each partner is taxed only on his/her share of the partnership's taxable income.

#### Shipping companies

A company that is a resident, that holds a share or shares in one or more ships that are

utilised in international shipping, is exempt from income tax (including CGT) on its international shipping income. It is also exempt from WHT on interest in respect of interest paid to a foreign person for debt used to fund the acquisition, construction or improvement of a South African ship, and dividends WHT on any dividend derived from international shipping income is levied at 0%.

#### *Mining, insurance, oil & gas, farming and public private partnerships*

Special rules apply to mining and insurance companies, oil and gas companies, farming activities and public private partnerships.

#### *Small business funding entities*

New rules will come into effect from 1 March 2015 that provide relief to entities funding small businesses. These entities will, for example, be exempt from income tax and dividends WHT on a similar basis to PBOs.

#### *Special economic zones (SEZs)*

Subject to certain conditions, companies that carry on business within a SEZ are subject to corporate income tax at the special rate of 15% on taxable income derived from business within that SEZ, to a 10% capital allowance on new or unused buildings (or improvements) within the SEZ and to other benefits. The date on which these special rules are to come into effect still needs to be announced.

#### *Government islamic bonds (i.e. sikuks).*

The regime allows for asset-based financing with the yield giving rise to tax that is equivalent to interest. These bonds essentially serve as the standard for risk-free Islamic financing within South Africa.



### Calculating taxable income

Gross income	<ul style="list-style-type: none"> <li>Receipts/accruals of a South African resident</li> </ul>
Less: Exempt income	<ul style="list-style-type: none"> <li>Receipts/accruals sourced or deemed to be sourced in South Africa accruing to a non-resident</li> <li>E.g. local dividends</li> </ul>
Less: Allowable deductions	<ul style="list-style-type: none"> <li>All non-capital expenses incurred in South Africa in the production of income</li> </ul>
Less: Other tax allowances	<ul style="list-style-type: none"> <li>E.g. other capital allowances on:                             <ul style="list-style-type: none"> <li>Plant and machinery</li> <li>Buildings and improvements to buildings etc</li> </ul> </li> </ul>
Plus: Taxable capital gain*	
Equals: Taxable income	

\* Inclusion rate for capital gains: 33.3% for individuals and special trusts, and 66.6% for companies and other trusts.

### Corporate taxation - rates of tax\*

Current central taxes		Rates
<ul style="list-style-type: none"> <li>Company tax (non-mining), including branches</li> </ul>		28%
<ul style="list-style-type: none"> <li>Qualifying companies in a SEZ (not yet in effect)</li> </ul>		15%
<ul style="list-style-type: none"> <li>Turnover tax** (micro-businesses: on an elective basis, entities with an annual turnover of <math>\leq</math> R1 million)</li> </ul>	R0 - R150 000	0%
	R150 001 - R300 000	1% of each R1 above R150 000
	R300 001 - R500 000	R1 500 + 2% of amount > R300 000
	R500 001 - R750 000	R5 500 + 4% of amount > R500 000
	R750 001 and above	R15 500 + 6% of amount > R750 000
<ul style="list-style-type: none"> <li>Small business corporations: entities with an annual turnover of <math>\leq</math> R14 million</li> </ul>	R0 – R70 700	0%
	R70 701 – R365 000	7% of taxable income >R70 700
	R365 001 – R550 000	R20 601 + 21% of taxable income > R365 000
	R550 000 +	R59 451 + 28% of taxable income > R550 000

\* Unless otherwise stipulated, rates apply to financial years ending between 1 April 2014 to 31 March 2015.  
 \*\* Turnover tax is a simplified system aimed at making it easier for micro-business to meet their tax obligations. The turnover tax system replaces income tax, VAT, provisional tax, CGT and DT for micro-businesses with a qualifying annual turnover of R1 million or less. A micro-business that is registered for turnover tax can, however, elect to remain in the VAT system (from 1 March 2012).

Tax type		Tax rate
VAT	On goods and services (exemptions apply)	14%
Other taxes:	<ul style="list-style-type: none"> <li>• CGT (part of income tax)</li> <li>• WHTs</li> <li>• Customs and excise</li> <li>• Donations tax (20%)</li> <li>• Estate duty/tax (20%)</li> <li>• Transfer duty on real estate transactions not subject to VAT (sliding scale)</li> <li>• Fuel levies</li> <li>• Motor vehicle licence</li> <li>• Electricity levies</li> <li>• Plastic bag levies</li> <li>• Incandescent light bulb levies</li> <li>• Municipal taxes on owners of real estate</li> <li>• Skills development levy</li> <li>• Airport taxes</li> <li>• CO<sub>2</sub> environmental levy</li> <li>• Road accident fund levy</li> <li>• Diamond export levy</li> <li>• Mineral petroleum and resources royalty</li> </ul>	

### Provisional tax

- Any company and other person who derives income other than remuneration (salary/ allowance), is a provisional taxpayer. Certain exclusions apply.
- A first provisional tax payment (due six months into the tax year) is calculated using the "basic amount", which is the taxable income per the last year of assessment in relation to which a notice of assessment was issued. If the abovementioned assessment is in respect of a period that ends more than one year after the latest year of assessment in relation to such estimate, the basic amount determined shall be increased by an amount equal to 8% per annum of that amount, from the end of such year to the end of the year of assessment in respect of which the estimate is made.
- In the event that a provisional taxpayer's taxable income is more than R1 million, a 20% penalty will be levied where a provisional taxpayer's second provisional tax payment (due at the end of the tax year) is based on a taxable income that is less than 80% of the taxpayer's actual taxable income for that year.
- In the event that a provisional taxpayer's taxable income is equal to or less than R1 million, a 20% penalty will be levied where a provisional taxpayer's second provisional tax payment is based on a taxable income that is less than 90% of the taxpayer's actual taxable income for that year.

#### Note:

- Where the amount of any estimate is not within the abovementioned 80% or 90% of the taxpayer's actual taxable income for that year, and the Commissioner is satisfied that the amount of any estimate was seriously calculated with due regard to the factors having a bearing thereon, and was not deliberately or negligently understated, or if the Commissioner is partly so satisfied, the Commissioner may in his/her discretion remit the additional tax or part thereof.

### Tax administration

#### Note:

- The Tax Administration Act, 28 of 2011 (TAA), was promulgated on 4 July 2012, and came into effect on 1 October 2012.

### Tax registration<sup>11</sup>

Any company that becomes liable for any normal tax, or becomes liable to submit any return of income in terms of section 66 of the Act, is required to register as a taxpayer in terms of section 67 of the Act, read with chapter 3 of the TAA. Any such person must register as a taxpayer at SARS within 60 days after so becoming a taxpayer by completing an IT77C form.

<sup>11</sup> <http://www.sars.gov.za>

The following entities are required to register as taxpayers for corporate income tax (CIT) purposes:

- Listed public companies
- Unlisted public companies
- Private company
- Cooperatives
- Other e.g. small business corporations (an entity with an annual turnover of less than R14 million)

#### **Tax year**

The tax year of a company is the same as its accounting year.

#### **Filing requirements**

Companies are required to file their income tax returns (ITR14s) annually, within 12 months of the company's financial year-end.

Advance payments of tax (provisional tax) must be made twice a year, based on estimates of the final tax amount, the first payment during the first six months of the company's financial year and the second before the end of the year. Where the provisional tax payments are less than the final tax liability, a third provisional tax payment should be made within six months after the end of the tax year.

#### **Supplementary declaration for companies and close corporations (IT14SD)**

The IT14SD return is intended to reconcile a taxpayer's financial information across tax types and customs. The IT14SD consists of the PAYE, income tax, VAT and customs reconciliation schedules that must be reconciled and submitted by the taxpayer, where applicable.

#### **Consolidated returns**

South Africa does not allow for taxation on a group or consolidated basis. Each company in a group of companies is a taxpayer in its own right.

#### **Penalties**

Penalties and interest are imposed for failure to comply.

#### **Statute of limitations (prescription)**

Where an assessment is issued by SARS, the statute of limitations is three years from the date of the original assessment, unless there is fraud, misrepresentation or non-disclosure of material facts. In the case of a self-assessment, it is five years from the date of the original assessment.

#### **Voluntary disclosure**

A permanent legislative framework for voluntary disclosure, that applies to all tax types, is included in the TAA. The main purpose of such a framework is to enhance voluntary compliance in the interest of the good management of the tax system and the best use of SARS' resources.

#### **Rulings**

A taxpayer may apply for a tax ruling in accordance with the advance tax ruling system. The ruling generally will be binding on SARS.

#### **Double taxation agreements (DTAs)**

- South Africa has concluded DTAs with a number of countries, the primary purpose being the prevention of double taxation. The agreements essentially divide up the taxing rights between the contracting countries, in situations where they might both claim such rights. Another purpose to these agreements is the prevention of tax evasion by taxpayers of the contracting countries. The tables below provide a list of existing comprehensive treaty agreements in force and treaties in the process of negotiation or finalised but not signed.
- A complete list and status overview (i.e. finalised, signed, ratified, in the process of negotiation etc) of all DTAs and Protocols, as well as other International Agreements (including Air & Sea Agreements, Exchange of Information Agreements, MAAs on VAT and Customs and Estate Duty Agreements etc.) applicable to South Africa can be accessed on SARS website at: [www.sars.gov.za](http://www.sars.gov.za)



Existing comprehensive agreements			
Algeria	France	Malta (Protocol 2013)	Singapore
Australia	Germany	Mauritius	Slovak Republic
Australia (Protocol 2008)	Ghana	Mexico	Spain
Austria (Protocol 2012)	Greece	Mozambique	Swaziland
Belarus	Hungary	Namibia	Sweden (Protocol 2012)
Belgium	India	Netherlands (Renegotiated 2008) Netherlands (Protocol 2008)	Switzerland (Renegotiated 2009)
Botswana	Grenada	New Zealand	Taiwan
Brazil	Indonesia	Nigeria	Tanzania
Bulgaria	Iran	Norway	Thailand
Canada	Ireland (Protocol 2012)	Oman (Protocol 2013)	Tunisia
China (PRC)	Israel	Pakistan	Turkey
Croatia	Italy	Poland	Uganda
Cyprus	Japan	Portugal	Ukraine
Czech Republic	Korea	Romania	United Kingdom (Protocol 2011)
DRC	Kuwait	Russian Federation	United States of America
Denmark	Lesotho	Rwanda	Zambia
Egypt	Luxembourg	Saudi Arabia	Zimbabwe
Ethiopia	Malawi	Seychelles (Protocol 2012)	
Finland	Malaysia (Protocol 2012)	Sierra Leone	

Treaties in the process of negotiation or finalised but not signed			
Austria	Hong Kong	Morocco	Switzerland
Belgium	India	Mozambique	Syria
Botswana	Indonesia	Namibia	Thailand
Brazil	Isle of Man	Netherlands	Turkey
Cameroon	Kenya	Norway	United Arab Emirates
Chile	Kuwait	Qatar	Vietnam
Cuba	Lesotho	Senegal	Zambia
Cyprus	Luxembourg	Singapore	Zimbabwe
Gabon	Malawi	Sudan	
Germany	Mauritius	Swaziland	

## 7.2. Transaction taxes

### Value added tax (VAT)

The principal source of indirect taxation revenue in South Africa is VAT.

The standard rate of VAT is 14%. Exports, certain foodstuffs, and other supplies, are zero-rated, and certain supplies are exempt (mainly certain financial services, residential accommodation and public transport).

Any person that carries on an “enterprise” in South Africa for VAT purposes and that makes taxable supplies above a certain threshold, is obliged to register as a VAT vendor. Investment in South Africa, both by a branch or through a subsidiary, will constitute an “enterprise” and will therefore require VAT registration.

VAT (output tax) is levied at 14% on the value of any supplies made by a vendor, unless such supplies qualify for a zero rating (for example, supplies physically rendered outside of South Africa are subject to VAT at the zero rate) or are exempt from VAT.

Any SA VAT charged to the vendor by suppliers, as well as VAT levied on the importation of goods, will generally be deductible as an input tax credit by the vendor.

VAT returns are generally submitted every two months but businesses with an annual turnover in excess of R30 million must submit monthly returns. Returns must be submitted within 25 days after the end of the tax period (or, in the case of electronic filing, by the last business day of the month in which the 25th day falls). Payment in full must accompany the return.

### Transfer duty

Transfer duty is applicable to real estate transactions that are not subject to VAT.

Rates of transfer duty*	
• First R600 000 of consideration	0%
• R600 001 to R1 000 000	3%
• R1 000 000 to R1 500 000	R12 500 + 5%
• R1 500 001 +	R37 000 + 8%

\* These rates are applicable to both natural and legal persons (companies and trusts).

#### Note:

- Where the sale of fixed property attracts VAT, no transfer duty is payable. Where the transfer of fixed property is not subject to VAT (at either the standard or zero rate), transfer duty is payable. The indirect acquisition of residential property by way of the acquisition of shares, or a contingent right in a discretionary trust, is subject to transfer duty. Taxpayers engaged in, for example, asset-for-share rollovers (e.g. upon formation of a company) obtain relief from transfer duty. Where a company or trust owns residential property and the shares or beneficiaries are changed or sold, it will be deemed that a sale of immovable property has occurred and transfer duty will apply.

### Securities transfer tax (STT)

STT is levied at a rate of 0.25% on every transfer of securities issued by a company incorporated, established or formed in South Africa and foreign incorporated companies listed on a licensed exchange.

Transfers include the transfer, assignment or cession, or disposal in any other manner, of a security but exclude any event that does not result in the change in beneficial ownership, the issue of a security, and cancellation or redemption where corporate existence is being terminated.

#### Estate duty

Estate duty is payable on the dutiable amount of a deceased estate. In general, the estate of a person who was ordinarily resident in South Africa at the date of his death, includes all his assets irrespective of where they are situated. In addition, an asset that is located in South Africa may be subject to estate duty even though the owner was not ordinarily resident in South Africa at the date of his death.

An estate consists of all the property of a person at the date of his death, including limited rights in property (such as a usufruct) and deemed property. Deemed property includes the following, whether or not the proceeds accrue for the benefit of the deceased's estate:

- Domestic policies of insurance on the life of the deceased;
- Lump sum payments received on death from pension, provident or retirement annuity funds (annuities payable from pension and retirement annuity funds are not dutiable); and
- Accruals under the Matrimonial Property Act.

The deductions allowed in terms of section 4 of the Estate Duty Act in calculating the dutiable amount of an estate include:

- Liabilities of the estate, including funeral and administration expenses;
- Certain foreign assets held by the deceased;
- Charitable and certain other bequests;
- Property that is inherited by the surviving spouse (a spouse includes heterosexual or same sex life partners and spouses married under any recognised system of religious law); and
- Any CGT payable by the estate (death triggers a disposal for CGT purposes).

A R3.5 million abatement (R7 million for a married couple) is deducted from all estates, regardless of personal circumstances. Estate duty is payable on the resultant dutiable amount of the estate of a person at the rate of 20%.

#### Donations tax

Donations tax is payable where a donor donates property valued in excess of R10 000 per annum (R100 000 in the case of donors that are natural persons).

The tax is levied at a rate of 20% on such excess and is payable by the donor.

Where spouses are married in community of property, a donation made by one spouse out of the joint estate will be deemed to be made in equal shares by each spouse.

Donations tax is only payable where the donor is an individual who is a tax resident of South Africa, or is a "private company" for tax purposes, which is a tax resident of South Africa. Public companies are exempt from donations tax.

A "donation" includes any gratuitous disposal of property or waiver of a right. Certain donations are exempt from tax. These include:

- Donations between spouses;
- Donations cancelled within six months from the date they took effect;
- Donations made by public companies (PBOs);
- Donations to approved PBOs and recreational clubs;
- Donations by, to or for any traditional council, traditional community or tribe;
- Donations between group companies where the recipient is a resident of South Africa; and
- Donations of property situated outside the Republic, provided certain conditions are present.

A "deemed donation" is any disposal of property for a consideration that, in the opinion of SARS, is not an adequate consideration. In the case of a deemed donation, the value of the property for donations tax purposes is reduced by any consideration given by the donee.

## Other taxes

### Customs duties

At present, customs and excise duties are imposed by the Customs and Excise Act No. 91 of 1964. Customs duties are levied on imported goods with the aim of raising revenue and protecting the local market. They are usually calculated as a percentage of the value of the goods (set in the schedules to the Customs and Excise Act). However meat, fish, tea, certain textile products, and certain firearms, attract rates of duty calculated either as a percentage of the value or as cents per unit (for example, per kilogram or metre).

### Excise duties

Excise duties and levies are imposed mostly on high-volume daily consumable products (e.g. petroleum, alcohol and tobacco products), as well as certain non-essential or luxury items (e.g. electronic equipment and cosmetics). Excise duties are levied on both imported and locally manufactured goods. These duties and levies are self-assessed by the client per periodic excise return and, depending on the product, paid to SARS on either a monthly or quarterly basis.

Customs and excise duties are levied throughout the SACU, on import into SACU, or at point of manufacture, and based on a "duties-at-source" principle. The customs and excise duties raised within the various member states are pooled and finally distributed between the SACU member states based on statistics and formulas.

### Notes:

- The Customs and Excise Act No. 91 of 1964 is in the process of being replaced by an entirely new set of rules that will be contained in the Customs Duty Act, the Customs Control Act and the Excise Duty Act.
- The last-mentioned Act will come about by way of the Customs and Excise Amendment Act 2014, which changes the name of the current Customs and Excise Act to the Excise Duty Act.
- New rules to the Customs Acts are still being drafted and the current Customs and Excise Act 1964 will remain in place until the new legislation and rules become effective. This is expected to take place during the second half of 2015.

### CO<sub>2</sub> environmental levy

New passenger motor vehicles with carbon dioxide (CO<sub>2</sub>) emissions in excess of 120g/km, and motor vehicles used for the transportation of goods with CO<sub>2</sub> emissions exceeding 175g/km, manufactured in or imported into South Africa, attract a CO<sub>2</sub> environmental levy. The levy is not payable on motor vehicles that can transport 10 or more persons or new motor vehicles manufactured and cleared for home consumption for purposes as defined (i.e. hearses and ambulances, shuttle cars for underground mines, special purpose motor vehicles etc.).

### Note:

- South Africa has plans to introduce a carbon tax from 2016. The proposed carbon tax (initially announced in the 2012 and 2013 Budget Speeches and presented in the Carbon Tax Policy Paper (May 2013)), is one of the key measures being contemplated by the South African Government to mitigate climate change.

### Air passenger tax

This tax came into effect on 1 November 2000 and is charged at a different/slightly lower rate for destinations in the SACU countries than that for destinations outside of those countries. The standard rate departures are R190 per ticket for a destination other than the SACU countries, while BLNS countries (Botswana, Lesotho, Namibia and Swaziland) have a lower rate departure of R100 per ticket. This tax is included in the ticket price and the airline/operator is liable to pay SARS.

### Diamond export levy

On 1 November 2008, a diamond export levy on unpolished diamonds exported from South Africa, was introduced. Although this is legislated in the Diamond Export Levy Act, SARS is mandated to administer and collect this levy. All producers, dealers, beneficiators and/or holders of permits, must pay this levy when exporting such diamonds. The export rate of duty is 5% of the total value less overpaid or plus underpaid. The Act provides for six-monthly payments.

### Mineral petroleum and resource royalty

SARS collects a royalty for these resources in terms of the Mineral and Petroleum Resources Royalty Act, 2008, and the Mineral and Petroleum Resources Royalty (Administration) Act, 2008. The rates for the mineral and petroleum resource royalties are currently: for refined mineral resources: the minimum of 0.5% to a maximum of 5%; and for unrefined mineral resources: the minimum of 0.5% to a maximum of 7%. These royalties should be paid at the same time as the corporate provisional tax cycle.

### 7.3. Personal taxation - Individuals

#### Income tax

South African residents are taxed on worldwide income. Non-residents are taxed on their South African-source income, and on capital gains from the disposal of immovable property and assets of a PE in South Africa.

An individual is resident if he/she is "ordinarily resident" in South Africa. Alternatively, an individual is resident if he/she is physically present in South Africa for more than 91 days during the current and each of the preceding five tax years, and is physically present in South Africa for a period exceeding 915 days in aggregate in the preceding five tax years.

#### Tax registration and return submission

The tax registration and tax return submission thresholds for individuals change periodically.

On the basis of requirements applicable to the 2014 tax year, it is anticipated (but still to be confirmed by official notice) that submission of a personal income tax (PIT) return (ITR12) will be required by a taxpayer for the 2015 tax year (i.e. tax year ending 28 February 2015) in the following situations:

- Less than 65 years of age and received an income of more than R70 700 from one or more sources during the tax year;
- Between 65 and 75 years of age and received an income of more than R110 200 from one or more sources during the tax year;
- Greater than 75 years of age and received an income of more than R123 350 from one or more sources during the tax year;

- Conducted any trade in South Africa;
- Received an allowance, such as a travel, subsistence or office bearer allowance (section 8(1)(a) of the Income Tax Act);
- Received interest in excess of R22 800 where under the age of 65 years (and in excess of R33 000 where over the age of 65 years);
- Had a local capital gain/loss exceeding R30 000;
- Received any income or capital gain in a foreign currency;
- Held any rights in a CFC; or
- Received an income tax return or was requested by SARS to submit a return for the year in question.

#### Note:

- The term "trade" includes every profession, trade, business, calling, occupation or venture, including the letting of any property, but excluding any employment income.

There are various ways in which PIT taxpayers can complete and submit their returns to SARS, namely:

- eFiling, which is the most convenient and quickest way;
- Filing electronically at a branch where SARS staff will help; or
- Completing the return(s) in writing and posting it to SARS or dropping it off in a SARS drop box.

For further information on how to complete and submit a PIT return (i.e. ITR12), a comprehensive guide can be accessed on the SARS website at: [www.sars.gov.za](http://www.sars.gov.za)

The tax year for individuals runs from 1 March to the end of February each year.

The submission deadline dates for individuals change periodically. Typically, these dates are around September for taxpayers who submit their tax returns manually, around November for taxpayers who submit their returns electronically, and around January of the succeeding year for provisional taxpayers who submit their returns electronically.

#### Note:

- The actual filing dates for the 2015 tax season (i.e. 1 March 2014 to 28 February 2015) have not yet been announced by SARS.

#### Individual tax rates and rebates

Tax rates	
Individuals, estates, special trusts (year of assessment ending 28 February 2015)*	
Taxable income	Rate of tax
R0 – R174 550	18% of taxable income
R174 551 – R272 700	R31 419 + 25% of taxable income above R174 550
R272 701 – R377 450	R55 957 + 30% of taxable income above R272 700
R377 451 – R528 000	R87 382 + 35% of taxable income above R377 450
R528 001 – R673 100	R140 074 + 38% of taxable income above R528 000
R673 101 and above	R195 212 + 40% of taxable income above R673 100

\* The tax rates are adjusted annually, as announced in the Minister of Finance's annual Budget Speech in February each year.



Tax rebates	
Natural persons (year of assessment ending 28 February 2015)*	
Primary rebate - All individuals	R12 726
Age rebate**	
Secondary rebate (65 years and older)	R7 110
Third rebate (75 years and older)	R2 367

\* The tax rebates are adjusted annually, as announced in the Minister of Finance's annual Budget Speech in February each year.

\*\* Additional to primary rebate.

**Notes:**

- Rates are progressive to a maximum rate of 40%.
- The tax year for individuals runs to the end of February. Tax returns must be filed by a date published annually by SARS.
- All taxpayers who earn income exceeding prescribed tax thresholds are required to be registered as taxpayers with SARS. This process does not happen automatically on entering the country.
- Individuals who earn income other than remuneration are required to register as provisional taxpayers. SARS reserves the right to classify any taxpayer as a provisional taxpayer.

- The tax threshold for years ending 28 February 2015 is R70 700 for individuals below 65 years of age, R110 200 for individuals aged between 65 years and 75 years of age, and R123 350 for individuals aged 75 years and older.
- Rebates are a credit against tax payable. Rebates are available only to natural persons and not to companies and trusts, and must be apportioned where a taxpayer is assessed for a period of less than a year.
- Taxpayers may be entitled to a foreign tax credit (rebate) for foreign tax paid where income from foreign sources is subject to tax in a foreign country and in South Africa.

**Taxable income**

Taxable income is gross income less exempt income and allowable deductions. Gross income from employment includes all remuneration in cash or in kind, including bonuses, allowances and taxes reimbursed or paid on the employee's behalf.

**Exemptions**

**Local interest**

Local interest earned by individuals is exempt from income tax up to certain levels. For the tax year ending 28 February 2015, the exemption is R23 800 for individuals who are under the age of 65 years, and R34 500 for individuals 65 years and older. Additional relief from tax applies under the special tax-free investment rules effective 1 March 2015 (see below).

Interest received or accrued to a non-resident will not be taxable in South Africa, unless that person is an individual that is in South Africa for a period exceeding 183 days in aggregate during the 12-month period preceding the date on which the interest was received or accrued, or the debt from which the interest arises is effectively connected to a PE of that person in South Africa.

Prior to 1 March 2015, no WHT applied in respect of interest paid to non-residents, but with effect from 1 March 2015, interest paid to non-residents, may be subject to WHT at a rate of 15% (see discussion under Withholding taxes).

**Tax-free investments**

New rules will come into effect from 1 March 2015, which will exempt from income tax any amounts received by or accrued to an individual in respect of particular prescribed investment instruments and policies.

Contributions to these prescribed investments/policies will be subject to a R30 000 annual limit and a R500 000 lifetime limit.

Capital gains and losses on the disposal of a tax-free investment will be disregarded, and no DT will apply on dividends paid to an individual in respect of a tax-free investment.

**Dividends**

Subject to certain exceptions, local dividends are fully exempt from income tax in the hands of the recipient. (See further discussion under Withholding taxes in respect of the WHT applicable to dividends).

Foreign dividends are subject to income tax in the hands of the recipient but are exempt if, for example, the shareholder holds at least 10% of the equity shares and voting rights in the foreign company declaring the dividend. Foreign dividends received by individuals from foreign companies are taxable at a maximum effective rate of 15%.

**Remuneration for services rendered outside South Africa**

South African residents working abroad for more than 183 days over a 12-month period, and for a continuous period of more than 60 days during that period, are exempt from income tax on remuneration for services rendered while abroad.

**Foreign social security and pension payments**

Social security payments received by South African residents from another country are exempt from tax in South Africa. There is also currently an exemption for pensions received from a source outside South Africa in respect of past employment outside South Africa. Lump sums and annuities are included in the exemption from 1 March 2015.

### Other exemptions

Further exemptions include: disability pensions, compensation for occupational injuries and diseases, UIF payments, alimony, government grants and scrapping payments etc. (subject to certain conditions being met).

### Deductions and tax credits

Subject to certain restrictions, deductions (and/or tax credits) are granted for contributions to pension and retirement annuity funds, certain donations, travel and motor vehicle expenses, entertainment expenses (if an employee is paid on a commission basis) and certain other qualifying expenses. A tax credit is available for medical expenses incurred by a taxpayer.

### General principles

The Income tax Act permits the deduction of certain expenses incurred in the carrying on of an individual's trade. "Trade" includes a profession, trade, business, employment, calling, occupation or venture, including the letting of property. Certain activities may not be regarded as "carrying on of trade" (the most common being investments in dividend and interest-bearing stocks and income from pensions and annuities). In order for an expense incurred in the carrying on of trade to be tax-deductible either:

- The expense must comply with the requirements of the general deduction formula (a "general deduction"); or
- The expense must specifically be allowed as a deduction under a section of the Act (a "specific deduction").

### General deductions

General deductions are permitted under what is called the "general deduction formula". The general rule is that if an expense does not comply with the requirements of the formula, it will not be deductible, unless specifically allowed by another section of the Act. Where an expense qualifies for a deduction under both the general formula and a specific section, it may only be deducted once.

In terms of the general deduction formula, the following requirements must be fulfilled before an expense can be deducted:

- The amount must have been actually incurred or there must be an actual loss;
- The taxpayer must be legally liable to pay the amount;
- The expense, or loss, must have been incurred during the year of assessment in respect of which it is claimed;
- The expenditure must be incurred in the production of income;
- The expenditure must be of a revenue and not of a capital nature; and
- The expense must be expended for the purposes of a trade.

### Specific deductions/tax credits

Those expenses, which qualify for a deduction under a specific section of the Act, need only meet the requirements of the specific section and do not have to meet the requirements of the general deduction formula. Specific deductions or credits include the following:

### Medical expenses

In an effort to achieve greater equality in the treatment of medical expenses across income groups, the previous medical scheme contribution deduction (limited to a prescribed capped amount) was replaced by a medical scheme fees tax credit and medical expenses tax credit.

The amount of the tax credit changes periodically. For the tax year ending 28 February 2015, the tax credit comprises the following:

- Medical scheme fees tax credit:
  - Monthly credit of R257 each for the taxpayer and his/her spouse (or first dependant), and a further R172 for every additional dependant; and
- Medical expenses tax credit:
  - Over 65 years of age and taxpayers with a disability (taxpayer, spouse or child): 33.3% of the amount of contributions to a medical scheme as exceeds three times the medical scheme fees tax credit, and 33.3% of qualifying medical expenses incurred; and
  - Under 65 years of age: 25% of the aggregate of the amount of fees paid to a medical scheme as exceeds four times the medical scheme fees tax credit and qualifying medical expenses, as exceeds 7.5% of taxable income (excluding retirement lump sum benefits/withdrawals and severance benefits).

### Note:

- It has been announced that a new National Health Insurance Scheme is to be phased in over a period of time. Funding options to be considered include a payroll tax (payable by employers), an increase in the VAT rate and a surcharge on individuals' taxable income. Further details are awaited.

### Donations to PBOs

Donations to certain approved PBOs are tax deductible. The tax deduction is limited to 10% of taxable income (excluding retirement fund lump sums/withdrawals and severance benefits). These organisations include most welfare, healthcare, education and development, land and housing, and conservation, environmental and animal welfare organisations, with certain exceptions. Any excess may be carried forward and is treated as a donation made in the subsequent year.

### Pension fund contributions

- Current: Maximum deduction is the greater of:
  - R 1 750; or
  - 7.5% of remuneration from "retirement-funding employment".
- Arrear: Maximum R1 800 (excluding former members of a non-statutory force or service).

### Note:

- Provident fund contributions made by an individual are not deductible for tax purposes at present.

### Retirement annuity fund contributions

- Current: Maximum deduction is the greatest of:
  - 15% of net income, excluding income from "retirement-funding employment"; or
  - R3 500, less deductible current pension contributions; or
  - R1 750.
- Reinstatement: R1 800 per annum.

#### Note:

- Significant changes to the taxation of retirement fund contributions have been proposed. Initially, these were to take effect from 1 March 2015 but the implementation of these changes has been postponed to 1 March 2016, and may be postponed further. The details may still change but were previously proposed as follows:
  - Employer contributions to retirement funds (i.e. pension and provident funds) will be a taxable fringe benefit in the hands of the employee. Currently, this contribution on behalf of an employee is made without tax consequences to the employee;
  - Individuals will be able to claim a deduction of up to 27.5% of their taxable income for contributions to pension, provident and retirement annuity funds (currently more limited deductions are allowed, only in relation to the employee's contribution to a pension fund or retirement annuity fund); and
  - A maximum annual deduction threshold will be capped at R350 000.

### Income continuation premiums

Premiums on income protection insurance policies are generally deductible. Changes are proposed to the current rules.

#### Limitation of employee deductions

Only the following expenses may be deducted by individuals, except where the employee's remuneration is wholly or mainly derived in the form of commissions based on sales or turnover:

- Business travel deduction against travel allowance;
- Certain medical expenses;
- Contributions to a pension and/or retirement annuity fund;
- Donations to certain PBOs;
- Specific expenditure against allowances of holders of public office;
- Home office expenses under certain circumstances;
- Premiums paid of an insurance policy that covers against loss of income caused by illness, injury, disability or unemployment; and
- Wear-and-tear allowances on assets.

### Employment benefits and allowances

#### Subsistence allowances

Subsistence allowances are tax-free if they are granted to an employee who is obliged to spend at least one night away from his/her usual place of residence while on business and if they do not exceed the following amounts:

- Varying amounts per day for meals and incidental costs for travel outside the Republic, depending upon the country/countries visited;
- R335 per day for meals and incidental costs for travel within the Republic (per current amounts); and
- R103 per day for incidental costs only within the Republic (per current amounts).

#### Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income as a taxable fringe benefit.

#### Residential accommodation

In terms of current rules, the taxable fringe benefit to be included in gross income is the greater of the benefit calculated by applying a prescribed formula and the cost to the employer. The formula will apply if the accommodation is owned by the employer, by an associated institution in relation to the employer, or under certain limited circumstances where it is not owned by the employer.

With effect from 1 March 2015, the taxable fringe benefit to be included in gross income, will ordinarily comprise the benefit calculated by applying the prescribed formula, but it will comprise the lower of the formula and the cost

to the employer in circumstances where the employer supplied accommodation that was obtained under an arm's length transaction with an independent third party.

No taxable fringe benefit will apply in certain circumstances, including in the case of accommodation provided to employees who are away from their usual place of residence within the Republic, or their usual place of residence outside the Republic (i.e. in respect of expatriate employees), subject to certain conditions and limitations.

#### Company car fringe benefit

The taxable value per month comprises 3.5% of the "determined value" of the motor vehicle. In terms of current rules, the "determined value" comprises the original cost to the employer in the case of a motor vehicle acquired by way of purchase from an independent third party. With effect from 1 March 2015, the determined value in this case will be the retail market value of the motor vehicle as listed by way of Government Notice. If the vehicle is subject to a maintenance plan, the taxable value per month will be 3.25% of the determined value.

These rates apply for all vehicles provided by an employer and the benefit will be reduced by any consideration paid by an employee (other than consideration relating to insurance, licensing, maintenance or fuel, for which there are specific deductions available).

On assessment there will be a reduction in the taxable fringe benefit for business use where an employee can furnish accurate records of distances travelled for business purposes and total distances travelled. The employee will also be entitled to a reduction in the taxable fringe benefit where he/she has borne the full

expenditure relating to maintenance, licensing, insurance or fuel in relation to the company car, and has kept accurate details thereof.

80% of the taxable fringe benefit will be included in remuneration for Pay-As-You-Earn (PAYE) purposes. This monthly fringe benefit inclusion may be further reduced where employees travel extensively on business travel.

No taxable fringe benefit will arise in certain circumstances.

### Travel allowances

The following table sets out the three components of the rates that may be used in determining the cost of business travel, where actual costs are not used:

Value of the vehicle (incl.VAT) (R)	Fixed cost (R p.a.)	Fuel cost (c/km)	Maintenance cost (c/km)
0 – 80 000	25 946	92.3	27.6
80 001 – 160 000	46 203	103.1	34.6
160 001 – 240 000	66 530	112.0	38.1
240 001 - 320 000	84 351	120.5	41.6
320 001 - 400 000	102 233	128.9	48.8
400 001 - 480 000	120 997	147.9	57.3
480 001 - 560 000	139 760	152.9	71.3
Exceeding 560 000	139 760	152.9	71.3

\* If the travel allowance is applicable to a portion of the tax year, the fixed cost is reduced proportionately.

\*\* Where the travel allowance is based on actual distance travelled and business travel during the tax year does not exceed 8 000 kilometres, no tax is payable on an allowance paid by an employer to an employee, up to the rate of 330 cents per kilometre regardless of the value of the vehicle. This alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

\*\*\* The logbook method to claim business travelling expenses is compulsory.

### Other tax features

#### Ring-fencing of losses from certain trades

Losses from certain trades conducted by individual taxpayers who are subject to the maximum marginal tax rate (e.g. annual taxable income exceeding R673 101 for the 2015 tax year, excluding any loss from trade) are ring-fenced in certain circumstances and such losses may only be offset against income from that trade. A trade subject to the ring-fencing means:

- A trade that has generated losses for at least three tax years out of the previous five years; or
- Any one of the specifically listed trades; namely, sporting activities, dealing in collectibles, the rental of residential accommodation, vehicles, aircraft or boats (as defined in the Eighth Schedule of the Income tax Act) unless at least 80% of the accommodation or asset is used for at least half of the tax year by persons who are not relatives of the taxpayer, farming or animal-breeding on a part-time basis, any form of performing or creative arts, gambling or betting, and the showing of animals in competitions.

Even if the above requirements are met, the ring-fencing will not apply if the taxpayer can show that the business has a reasonable prospect of generating taxable income (other than a taxable capital gain) within a reasonable period. This exemption will, however, not apply if the taxpayer has incurred an assessed loss from that trade (other than farming) during at least six out of the prior ten years, including the current tax year.

#### Capital gains tax (CGT)

Tax residents are subject to CGT in South Africa on the disposal of their worldwide assets. Non-residents are essentially subject to CGT in South Africa only on the disposal of fixed property, held directly or indirectly, located in South Africa.

On breaking tax residence, CGT will be payable on the deemed disposal of a tax resident's worldwide assets (excluding South African fixed property) i.e. the growth in value from the date of establishing tax residence to the date of breaking tax residence will be regarded as a capital gain and CGT will be payable.

33.3% of an individual's net capital gain for the year is included in his/her taxable income to be taxed at the applicable marginal tax rate. The general annual capital gains exclusion for individuals and special trusts is currently R30 000, and the exclusion on death is R300 000.

Various other exclusions and roll-over reliefs apply. These include an exclusion in respect of the disposal of personal use assets, an exclusion of up to R2 million on the disposal of a primary residence and an exclusion of up to R1.8 million on the disposal of a small business (when the owner is over 55 years of age and the market value of assets does not exceed R10 million). Roll-over relief applies, for example, in respect of the transfer of assets between spouses.

**Married persons**

Married individuals are generally taxed as separate taxpayers but may be taxed equally on, for example, investment income if they are married in community of property.

**Keyperson insurance policies**

Keyperson insurance policies are intended to insure an employer against losses suffered due to the death, disablement or severe illness of a key employee/director. Currently, a deduction may be claimed in respect of these policies even if the policy is held by a creditor of an employer as security for a debt. It is proposed that the provisions relating to the cession of keyperson insurance policies be deleted.

**Long-term insurance**

Currently, employer-paid premiums in respect of employer group income protection policies, are deemed to be a payment made by the employee to the extent that the premium is taxed as a fringe benefit in the hands of the employee. This ensures that the employee can claim a monthly deduction for PAYE.

**Severance benefits and retirement fund lump sum benefits**

Severance benefits are lump sums received by employees from employers in respect of the relinquishment or termination of employment for the following reasons:

- Attaining the age of 55 years;
- Due to incapacity through sickness or other ailment; and
- Retrenchment due to cessation of trade or general reduction in staff.

Severance benefits and lump sum awards from retirement funds following retirement or retrenchment are taxed according to the following table:

Taxable income from lump sum benefits*	Tax payable
R0 – R500 000	0% of taxable income
R500 001 – R700 000	R0 + 18% of taxable income above R500 000
R700 001 – R1 050 000	R36 000 + 27% of taxable income above R700 000
R1 050 001 and above	R130 500 + 36% of taxable income above R1 050 000

\* Taxable income is cumulative and includes all lump sum payments whether on retirement or withdrawal or a severance benefit.

**Retirement fund lump sum withdrawal benefits**

Lump sum benefits in consequence of membership of a retirement fund, including amounts assigned in terms of divorce settlements in certain circumstances, other than lump sum benefits as above, are taxed according to the following table:

Taxable income from lump sum benefits*	Tax payable
R0 – R25 000	0% of taxable income
R25 001 – R660 000	18% of taxable income above R25 000
R660 001 – R990 000	R114 300 000 + 27% of taxable income above R660 000
R990 001 and above	R203 400 + 36% of taxable income above R990 000

\* Taxable income is cumulative and includes all lump sum payments whether on retirement or withdrawal or a severance benefit.

**7.4. Employment tax**

South African employment taxes comprise: employees' tax (PAYE), skills development levies (SDL) and unemployment insurance fund (UIF) contributions.

- Employees' tax is payable to SARS monthly at prescribed tax rates in respect of any remuneration payable by an employer to an employee.
- SDL is also payable to SARS monthly and is calculated at 1% of the remuneration payable to the employee. SDL does not, however, apply to employers with an annual payroll of less than R500 000.
- UIF contributions are payable to SARS monthly and are calculated at 2% of the remuneration payable to the employees, subject to a maximum limit.

As a general rule, if an employer is required to withhold employees' tax in respect of an amount paid to a person, that employer would, subject to certain limited exceptions, also be required to withhold SDL and UIF in respect of that amount.

### Pay-As-You-Earn (PAYE)

PAYE ensures that an employee's income tax liability is settled in a continuing fashion, at the same time that the income is earned. The advantage of this is that the tax liability for the year is settled over the course of the whole year of assessment.

The employment tax rules essentially provide that, unless the person to whom the payment is made qualifies for specific tax relief, an employer is obliged to withhold employees' tax in respect of remuneration paid/payable to an employee if that employer is:

- A resident of South Africa; or
- A non-South African resident, but has a "representative employer" in South Africa.

Entities listed below would generally comprise an employer for South African employment tax purposes:

- Any South African resident company;
- A foreign company in respect of any branch/ PE it may create in South Africa;
- Any South African resident sub-contractor;
- Any non-South African resident sub-contractor who has established a PE in South Africa; and
- Any non-South African resident who has not established a PE in South Africa, but has an office or carries on a business in South Africa.

The above parties/employers are obliged to withhold employees' tax from the amounts paid to the persons who render services to them, unless the person to whom the payment is made, qualifies for specific tax relief.

Each employer should, on an individual basis, determine whether the person to whom the payment is made, qualifies for tax relief. This assessment depends on a number of factors, including whether the person is a South African resident or non-South African resident, and an individual or a corporate entity.

If the recipient of the payment qualifies for tax relief, no employees' tax needs to be withheld in respect of that specific person. If, however, no tax relief applies, the employer will be obliged to withhold employees' tax from the amount paid to that person.

#### Notes:

- The employers listed above will be required to register for employees' tax, SDL, and UIF, and submit monthly employment tax returns to SARS and other relevant authorities. Employment taxes are paid to SARS.
- All persons (individuals and corporate entities, South African residents and non-South African residents) who are liable for income tax in South Africa, are required to register as taxpayers and must, where required, submit annual income tax returns.

- Fringe benefits and allowances provided to employees as part of their remuneration packages, may be taxable or may be subject to exemption up to specified levels if certain conditions are met.
- Temporary employees ("non-standard employees") are generally not taxed based on standard tax rates for employees' tax purposes. Instead, employers must deduct employees' tax at a rate of 25% from the taxable remuneration paid to temporary employees.
- Failure by an employer to comply with its employment tax obligations may result in significant penalties and interest being imposed by SARS.

### Unemployment Insurance Fund (UIF)

Every employer will be liable to pay a monthly contribution to UIF in respect of its employees, which is based on a maximum (i.e. capped) monthly gross remuneration per employee of R14 872 (the limit is adjusted periodically). The employer will contribute 1%, and the employee will (by means of a deduction from salary) contribute 1% of remuneration, up to the prescribed calculation limit. Remuneration for purposes of calculating UIF excludes the following:

- Payments to independent contractors;
- Non-employment related payments (such as annuity or pension payments);
- Payments made to labour brokers that hold a valid exemption certificate;
- Retrenchment payments;
- Lump sums paid from pension, provident, or retirement annuities;
- Restraint of trade payments;
- Commission; and
- Payments made to juristic persons (such as companies).

Employees that are excluded from contributing toward UIF, but must still be reported in the return, are:

- Temporary workers (working less than 24 hours per month);
- Employees in the national or provincial sphere of government;
- Foreign employees that will be repatriated at the end of the service/employment contract term;
- Employees with no taxable income, or commission only; and
- Learners under contract (in terms of the Skills Development Act).

**Note:**

- It has been proposed that the Unemployment Insurance Contributions Act be aligned with the amendments in the Unemployment Insurance Amendment Bill, which proposes to extend unemployment insurance benefits to learners in learnership training, civil servants and foreigners working in South Africa. However, civil servants would not be expected to make contributions and, instead, the fiscus would make funds available to cover the cost of government workers who qualify to claim unemployment insurance benefits.

**Skills Development Levy (SDL)**

Employers are liable to monthly pay a 1% levy of total remuneration paid by that employer, where the employer's annual payroll exceeds R500 000. Generally, the total value of remuneration paid is used to calculate the levy, but excludes the following:

- Amounts paid to independent contractors;
- Reimbursement payments to employees;
- Pensions paid; and
- Remuneration of learners under contract.

**Employment tax incentive**

Government introduced the employment tax incentive on 1 January 2014 to encourage employers to hire young and less experienced work seekers and thereby help reduce youth unemployment.

It comprises a deduction (credit) that may be claimed by employers against their employees' tax liability and, in general, it applies in respect of employees between the age of 18 years and 29 years, employees in a SEZ and certain industries that may be designated by the Minister of Finance.

Currently, excess amounts can be set off against future PAYE liabilities.

For the first 12 months of employment, the incentive is as follows:

- 50% of an employee's monthly remuneration up to R2 000 per month. (This would only be applicable if the minimum wage prescribed by the relevant sector determination or bargaining council agreement was less than R2 000 per month.);
- For an employee with a monthly remuneration of between R2 000 and R4 000, the incentive will be R1 000 per month; and
- For employees with monthly remuneration of between R4 000 and R6 000, the value of the incentive will be between R1 000 and zero per month, as determined in terms of a formula.

For the second 12 months of employment, the incentive is as follows:

- Half of the amounts mentioned above apply.

**Note:**

- To enhance this incentive, SARS has developed a mechanism to reimburse employers in instances where the incentive exceeds PAYE payable.



## 8. Incentives and industrial financing

### 8.1. Overview<sup>91</sup>

South African government departments offer an array of incentive schemes to stimulate and facilitate the development of sustainable, competitive enterprises.

A variety of these incentive schemes seek to support the development or growth of commercially viable and sustainable enterprises through the provision of either funding or tax relief. Most of the incentives are housed within **the dti**, with a few others in other government departments.

These incentive schemes are broadly classified into three categories, as follows:

- Concept and Research & Development Incentives (CRD): These are incentives available to private sector enterprises that invest in the creation, design and improvement of new products and processes. Such businesses conduct investigative activities with the intention of making a discovery that can either lead to the development of such new products and processes or to the improvement of existing products;

- Capital Expenditure Incentives (CEI): These are incentives for companies that want to acquire or upgrade assets in order either to establish or expand the business' productive capacity; and
- Competitiveness Enhancement Incentives (ECA): These are investments that facilitate increased competitiveness, sustainable economic growth and development in a specific sector.

**Note:**

- The three categories generally mirror the stages involved in project development.

<sup>91</sup> Source: Information provided by **the dti**, Industrial Development Corporation (IDC) and Economic Development Department. Website: [www.investmentincentives.co.za](http://www.investmentincentives.co.za).



## 8.2. Investment and enterprise development incentives

<b>(ECA) Critical Infrastructure Programme (CIP)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	Support the competitiveness of South African industries by lowering business costs and risks and to provide targeted financial support for physical infrastructure that will leverage strategic investment with a positive impact on the economy.
<b>Applicability:</b>	New or expanding enterprises investing in infrastructure such as roads, railways, electricity transmission and distribution, water pipelines, telecommunication networks, sewage systems etc. Available to municipalities, public sector enterprises and private enterprises.
<b>Benefit:</b>	Cash grant incentive that covers between 10% and 30% of the infrastructure development costs limited to R30 million per application.
<b>(ECA) National Electrification Programme (Municipal)</b> <i>(Managed by the Department of Energy)</i>	
<b>Objective:</b>	To provide capital subsidies to municipalities to address the electrification backlog of permanently occupied residential dwellings, the installation of bulk infrastructure and rehabilitation of electrification infrastructure.
<b>Applicability:</b>	All metro, district and local municipalities in South Africa.
<b>Benefit:</b>	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.

<b>(ECA) Municipal Infrastructure Grant (MIG)</b> <i>(Managed by the Department of Provincial and Local Government)</i>	
<b>Objective:</b>	To supplement municipal capital budgets through the funding of basic municipal infrastructure backlogs for the provision of basic services to primarily service poor households. This infrastructure must be provided in such a way that employment is maximised and opportunities are created to support enterprise development.
<b>Applicability:</b>	All metro, district and local municipalities in South Africa.
<b>Benefit:</b>	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.
<b>(ECA) Neighbourhood Development Partnership Grant (NDPG)</b> <i>(Managed by National Treasury)</i>	
<b>Objective:</b>	To create enabling economic infrastructure in dormitory townships across South Africa that will attract private sector investment.
<b>Applicability:</b>	All metro, district, and local municipalities in South Africa.
<b>Benefit:</b>	Benefits are in the form of the technical assistance grant and the capital assistance grant, to assist municipalities in implementing community facility projects that are not presently funded through the equitable share or other grants.
<b>(ECA) Local Economic Development (LED) Programme</b> <i>(Managed by the Department of Cooperative Governance and Traditional Affairs)</i>	
<b>Objective:</b>	Creating an enabling environment for investment into the area and encouraging the development of the market to facilitate linkages between established and emerging sectors.
<b>Applicability:</b>	Local government, private sector enterprises, enterprises forming partnerships with government agencies, donors and other enterprises aiming to develop clusters to strengthen their sector.
<b>Benefit:</b>	Up to 70% grant-based funding available for certain identified areas.

<b>(ECA) Business Process Services (BPS) incentive</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To attract investment in the BPS sector that creates employment opportunities through offshore activities.
<b>Applicability:</b>	Local and foreign investors that are providing IT-enabled services to an offshore market, through a captive or outsourced business environment, thus creating jobs in South Africa.
<b>Benefits:</b>	<ul style="list-style-type: none"> <li>• Non-Complex Jobs (L1) with fully loaded costs up to R300 000 - A total grant of up to R124 000 per offshore job created and maintained over five years.</li> <li>• Complex Jobs (L2) with fully loaded costs above R300 000 - A total grant of up to R184 000 per offshore job created and maintained over five years.</li> <li>• The grant will be payable over a period of five years.</li> <li>• Additional bonus structures will be applicable for projects creating more than 400 or 800 offshore jobs for L1 and L2 respectively.</li> </ul>

<b>(CEI) Tourism Enterprise Partnership</b> <i>(Managed by the Tourism Enterprise Partnership (TEP))</i>	
<b>Objective:</b>	To facilitate the growth, development and sustainability of micro, small and medium tourism enterprises.
<b>Applicability:</b>	Micro, small and medium tourism enterprises.
<b>Benefits:</b>	<p>The TEP offers the following products and services:</p> <ul style="list-style-type: none"> <li>• Access to Information</li> <li>• Business Support</li> <li>• Skills Development</li> <li>• Market Access</li> </ul> <p>For further information refer to: <a href="http://www.tep.co.za">www.tep.co.za</a></p>

<b>(CEI) Enterprise Investment Programme (EIP): Aquaculture Development and Enhancement Programme (ADEP)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	Investment in the aquaculture sector.
<b>Applicability:</b>	SA entities involved in fish hatcheries and fish farms (primary aquaculture), processing and preserving of aquaculture fish (secondary aquaculture), service activities to operators of hatcheries and fish farms (ancillary aquaculture).
<b>Benefit:</b>	20% - 45% grant for investment in land, and buildings, machinery and equipment, commercial vehicles and work boats and bulk infrastructure capped at R40 million per application.
<b>Section 12I Tax Allowance Incentive (12I TAI)</b> <i>(Managed by the dti)</i>	
<p>The incentive is designed to support Greenfield investments (i.e. new industrial projects that utilise only new and unused manufacturing assets), as well as Brownfield investments (i.e. expansions or upgrades of existing industrial projects). The incentive offers support based on capital investment and training.</p> <p>The minimum investment in Qualifying Assets required is R50 million for a Greenfield project and an additional investment of R30 million for a Brownfield project.</p>	
<b>Objectives:</b>	<p>The objectives of the incentive programme are to support:</p> <ul style="list-style-type: none"> <li>• Investment in manufacturing assets, to improve the productivity of the South African manufacturing sector; and</li> <li>• Training of personnel; to improve labour productivity and the skills profile of the labour force.</li> </ul>

<b>Offerings:</b>	(a) Investment Allowance: <ul style="list-style-type: none"> <li>- 55% of Qualifying Assets or a maximum of R900 million investment allowance in the case of any Greenfield project with a preferred status (100% if located in a SEZ);</li> <li>- 35% of Qualifying Assets or a maximum R550 million investment allowance in the case of any other Greenfield project (75% if located in a SEZ);</li> <li>- 55% of Qualifying Assets or a maximum of R550 million investment allowance in the case of any Brownfield project with a preferred status; and</li> <li>- 35% of Qualifying Assets or a maximum of R350 million investment allowance in the case of any other Brownfield project.</li> </ul> <p>Qualifying Assets are defined as new and unused buildings and new and unused plant &amp; machinery contracted for and acquired after date of approval and brought into use within four years from date of approval.</p>
	(b) Training Allowance: <ul style="list-style-type: none"> <li>- A training allowance of R36 000 per full time employee may be deducted from taxable income during the first six years; and</li> <li>- According to the points system, an industrial policy project will achieve "qualifying status" if it achieves at least four of the total eight points, and "preferred status" if it achieves at least seven of the total eight points.</li> </ul> <p>The project could score points for:</p> <ul style="list-style-type: none"> <li>• Upgrade an industry within South Africa by utilising innovative processes;</li> <li>• Utilising new technology that results in improved Energy Efficiency and cleaner production technology;</li> <li>• Provide general business linkages within South Africa;</li> <li>• Acquire goods and services from SMMEs;</li> <li>• Provide skills development in South Africa; and</li> <li>• In the case of a Greenfield project, is located within a SEZ.</li> </ul>

<b>Targeted Enterprises:</b>	<ul style="list-style-type: none"> <li>• The investment must be:                 <ul style="list-style-type: none"> <li>- A Greenfield project (new project);</li> <li>- A Brownfield project (expansion or upgrade); or</li> <li>- Classified under "Major Division 3: Manufacturing in the Standard Industrial Classification of All Economic Activities ("SIC") 5th Edition or SIC 7th Edition, Section C: Manufacturing".</li> </ul> </li> </ul>
<b>Note:</b>	The point scoring system is subject to changes during 2015.
<b>(CEI) Automotive Investment Scheme (AIS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To grow and develop the automotive sector by increasing plant production volumes and strengthening the automotive value chain.
<b>Applicability:</b>	Light motor vehicle and automotive component manufacturers.
<b>Benefits:</b>	A taxable grant of between 20% and 30% of the value of the qualifying investment in productive assets.
<b>(ECA) Foreign Film and Television Production Incentive</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To encourage and attract large budget films and television productions that will contribute towards South Africa's economic development and international profile and increase foreign direct investment.
<b>Applicability:</b>	Foreign-owned qualifying productions with Qualifying South African Production Expenditure (QSAPE) of R12 million and above.
<b>Benefit:</b>	Rebate of 20% of the QSAPE to qualifying productions and an additional 2.5% - 5% for post-production conducted in South Africa.
<b>(ECA) South African Film and Television Production and Co-Production Incentive</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To support the local film industry and to contribute towards employment opportunities in South Africa.
<b>Applicability:</b>	Local productions and official treaty co-productions with a total production budget of R2.5 million and above.
<b>Benefit:</b>	Rebate of 35% for the first R6 million, and 25% for the remainder of the QSAPE.

<b>(ECA) South African Emerging Black Filmmakers Incentive</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To nurture emerging black filmmakers and to capacitate them to take up large productions in order to contribute towards job creation.
<b>Applicability:</b>	South African black-owned qualifying productions with production budgets greater than R1 million.
<b>Benefit:</b>	Rebate of 50% for the first R6 million, and 25% for the remainder of the QSAPE.

<b>(ECA) PSOM Business Incentive: Dutch Programme for Cooperation with Emerging Markets</b> <i>(Funded by Ministry of Foreign Affairs, Development Cooperation)</i>	
<b>Objective:</b>	To provide opportunities for Dutch companies to expand investments and trade relations with South Africa.
<b>Applicability:</b>	Dutch companies that wish to invest in South Africa in partnership with a local South African company. The grant is also available for companies based in emerging markets (such as South Africa) investing into Mozambique and Uganda.
<b>Benefit:</b>	Grants contributing up to 50% of total project costs up to a maximum of €1.5 million.

<b>(CEI) Isivande Women's Fund (IWF)</b> <i>(Managed by the dti)</i>	
Isivande Women's Fund (IWF) is an exclusive women's fund established by the <b>the dti</b> Gender and Women Empowerment Unit in partnership with Old Mutual Masisizane Fund. The fund aims at accelerating women's economic empowerment by providing affordable, usable and responsive finance than is presently the case. IWF targets formally registered, 60% women-owned and/or managed enterprises that have been existing and operating for two or more years with a loan range of R30 000 - R2 million.	
<b>Objective:</b>	The fund improves and expands access to finance to woman entrepreneurs by lending and investing in woman enterprises and generating income that will improve their living standards.

<b>Applicability:</b>	The IWF targets formally registered, 60% women-owned and/or managed enterprises that have been in existence for at least two years. It also focuses on professional women with feasible business ideas, high potential survivalists, micro-enterprises and cooperatives on a case-by-case basis. The fund pursues deals involving start-up funding, business expansions, business rehabilitation and turnaround franchises and bridging finance.
<b>Benefit:</b>	Loan range from R30 000 - R2 million and the loan repayment period is a maximum of five years.

**8.3. Competitive enhancement incentives**

<b>(ECA) Black Business Supplier Development Programme (BBSDP)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To improve the sustainability of black-owned enterprises by providing funding to increase the competitiveness of the businesses.
<b>Applicability:</b>	Companies that are majority black-owned (51% or more), have an annual turnover of between R250 000 and R35 million and have a predominantly black management team. The entity must have a minimum trading history of one year.
<b>Benefit:</b>	The programme provides grants up to a maximum of R1 million in total that will be limited to a payment of R800 000 for tools, machinery and equipment and limited to a payment of R200 000 for business development and training interventions.

<b>(ECA) The Cooperative Incentive Scheme (CIS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To promote cooperatives by improving the viability and competitiveness of the cooperative enterprises by lowering the cost of doing business.
<b>Applicability:</b>	Any entity incorporated and registered in South Africa in terms of the Cooperatives Act. Target is cooperatives operating in the emerging sector, and manufacturing, retail and services sector.
<b>Benefits:</b>	Cost-sharing grant of 100% paid by <b>the dti</b> up to a maximum of R350 000 for costs relating to business development services, business profile development, feasibility studies/market research, start-up requirements etc.

<b>(ECA) Incubation Support Programme (ISP)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To develop and nurture sustainable SMMEs that can provide jobs.
<b>Applicability:</b>	South African registered legal entities. Specifically, registered higher education or further education institutions in partnership with private sector; and licensed and/or registered science councils in partnership with private sector.
<b>Benefits:</b>	A grant of 50% or 60% of the qualifying costs of the incubator limited to R30 million per application.

<b>(ECA) Clothing and Textile Competitiveness Programme (CTCP) - Production Incentive (PI)</b> <i>(Managed by the Industrial Development Corporation (IDC))</i>	
<b>Objective:</b>	To structurally change the clothing and textile industry by providing funding assistance for enterprises to invest in competitiveness improvement interventions.
<b>Applicability:</b>	Clothing manufacturers, textiles manufacturers, Cut, Make and Trim (CMT) operators, footwear manufacturers, leather goods manufacturers and leather processors.
<b>Benefit:</b>	The incentive comprises two components; namely an Upgrade Grant Facility, which is meant to focus on competitiveness improvement and an Interest Subsidy for Working Capital Facility, which is meant to support working capital requirements resulting from past and future upgrading interventions. The grant is limited to a benefit ceiling, which is calculated as 7.5% of a company's manufacturing value addition.

<b>(ECA) The Clothing and Textile Competitiveness Improvement Programme (CTCIP)</b> <i>(Managed by the IDC)</i>	
<b>Objective:</b>	To stimulate the competitiveness of the South African clothing, textiles, footwear and leather goods manufacturing sectors by encouraging world-class manufacturing initiatives aimed at improving people, processes and products.
<b>Applicability:</b>	Competitiveness improvement projects undertaken on an individual company level or on a cluster level.
<b>Benefit:</b>	Cost-sharing grant of 75% of project costs for cluster projects and 65% of project costs for company level projects. The cluster project grant will be limited to R25 million per approved cluster and the company level grant will be limited to R2.5 million per approved company.

<b>(ECA) Jobs Fund</b> <i>(Managed by the Development Bank of Southern Africa)</i>	
<b>Objective:</b>	To co-finance public and private sector projects that will significantly contribute to job creation.
<b>Applicability:</b>	The Fund will, on a competitive basis, consider co-financing proposals from private sector, non-governmental organisations, government departments and municipalities that show economic development potential linked to sustainable job creation.
<b>Benefit:</b>	Matching grant funding for the following windows: <ul style="list-style-type: none"> <li>• Enterprise development initiatives: Initiatives that reduce risk, remove barriers to market access and broaden supply chains;</li> <li>• Infrastructure initiatives: Light infrastructure initiatives necessary to unlock job creation; and</li> <li>• Work-seekers initiatives: Initiatives linking work-seekers to the formal employment sector.</li> </ul>

### 8.4. Export incentives - Non-industry specific

<b>(ECA) Export Marketing and Investment Assistance (EMIA) Scheme</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To assist South African exporters in establishing export markets for their products and to attract foreign investment into South Africa through the following schemes: National Pavillions, Individual Participation in Exhibitions, Outward Investment and Selling Missions, Inward Buying And Investment Missions, Individual Inward Missions, Foreign Direct Investment and Primary Market Research.
<b>Applicability:</b>	Available to all enterprises registered with the Commissioner of Customs and Excise with special terms for SMMEs.
<b>Benefit:</b>	A portion of specified costs relating to: <ul style="list-style-type: none"> <li>• Travel (economy class)</li> <li>• Daily subsistence</li> <li>• Transportation of samples for specific events</li> <li>• Development of marketing materials for specific events</li> <li>• Exhibition costs relating to stand rental, stand design and set-up costs</li> <li>• Costs of brochures</li> </ul>
<b>(ECA) Sector Specific Assistance Scheme (SSAS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	Develop new export markets, broaden the specific industry export base, increase participation of B-BBEE and SMME companies in the export process.
<b>Applicability:</b>	Approved export councils, registered industry associations and joint actions groups.
<b>Benefit:</b>	A matching grant of 80% of the cost to support the development and growth of exports.

<b>(ECA) Capital Projects Feasibility Programme (CPFP)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To facilitate feasibility studies that are likely to lead to projects that will increase South African exports and stimulate growth for local capital goods and services.
<b>Applicability:</b>	South African registered companies. Capital goods sectors and consulting engineers.
<b>Benefit:</b>	An advance up to a maximum of 50% of study costs for projects outside Africa and 55% for projects in Africa capped at R8 million.
<b>(ECA) Steel Rebate</b> <i>(Funded by South African Iron and Steel Institute)</i>	
<b>Objective:</b>	To promote the development of the value-added steel-processing industry in South Africa as an expanding market for locally produced primary steel products, to enhance South Africa's foreign currency earnings and increase employment opportunities.
<b>Applicability:</b>	Exporters (situated in SACU) of fabricated steel products where 20% value has been added.
<b>Benefit:</b>	Rebates based on the value of exports, currently at R173 per ton of net steel content (VAT exclusive) provided by steel suppliers.
<b>(ECA) Customs Rebate and Drawback Provisions</b> <i>(Managed by the International Trade Administration Commission of South Africa (the dti))</i>	
<b>Objective:</b>	Promote manufacturing and exporting of South African goods.
<b>Applicability:</b>	Importers, exporters and manufacturers.
<b>Benefit:</b>	Rebate or drawback of customs duties on imported goods, raw materials and components used in manufacturing or processing of goods for export.

**(ECA) Special Economic Zones (SEZs)**  
*(Managed by the dti)*

<b>Objective:</b>	To promote targeted investment to facilitate economic growth and job creation.
<b>Applicability:</b>	Qualifying projects located in SEZs.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• 15% corporate tax rate.</li> <li>• Accelerated write-off of buildings over a 10 year period.</li> <li>• Employment tax allowance per job created.</li> <li>• Customs controlled area for duty-free rebate and VAT exemption for importing inputs of export products.</li> <li>• One-stop-shop for investment facilitation.</li> </ul>

**(ECA) Value Added Tax (VAT) - Export Incentives**  
*(Managed by the South African Revenue Service)*

<b>Objective:</b>	To encourage exports from and investment in South Africa.
<b>Applicability:</b>	Exporters, registered as VAT vendors in South Africa.
<b>Benefit:</b>	<p>A vendor may supply movable goods at the zero rate where the vendor consigns or delivers the goods to an address outside South Africa.</p> <p>Requirements as outlined in VAT Interpretation Notes 30 (Issue 2), 31 or the Export Incentive Scheme (1998) should be complied with. Alternatively the "qualifying purchaser" may claim a refund of the VAT from the VAT refund administrator upon the exit of the goods from South Africa.</p>

**(ECA) Value Added Tax - Licensed Customs and Excise Storage Warehouse**  
*(Managed by the South African Revenue Service)*

The supply of goods by a non-resident of the Republic that have been entered for storage into a licensed customs and excise storage warehouse but not yet cleared for home consumption is exempt from VAT, unless the non-resident applies in writing to SARS to be allowed to zero rate the supply.

<b>Objective:</b>	To limit the VAT registration and administrative burden for non-residents in South Africa.
<b>Benefit:</b>	Non-residents do not have to register and charge VAT on supplies within such storage warehouses. Non-residents applying to be registered and zero rating their supplies will be able to claim back any VAT incurred in relation to such zero-rated supplies.



## 8.5. Export incentives - Industry specific

<b>(ECA) Automotive Production and Development Programme (APDP)</b> <i>(Managed by the dti)</i>	
<b>Background:</b>	<p>The APDP objectives include the following:</p> <ul style="list-style-type: none"> <li>Stimulate expansion of automotive vehicle production to 1.2 million vehicles per annum by 2020 with associated deepening of the components industry;</li> <li>Achieve better balance between domestic and export sales to supply growing domestic demand;</li> <li>Expand value-added investment, employment and net government revenue (directly and via multiplier effect); and</li> <li>Make a large positive contribution to the balance of payments.</li> </ul>
<b>Benefits:</b>	<p>The following benefits will be available under APDP:</p> <ul style="list-style-type: none"> <li><b>Automotive Investment Scheme (AIS):</b> Investment-based incentive linked to investments in buildings, machinery, equipment and tooling to be used in manufacturing of motor vehicles and related components to increase plant production volumes and strengthening of the automotive value chain;</li> <li><b>Production Incentive (PI):</b> Incentive available to final manufacturers based in the SACU in the form of a duty-free import credit based on value added in the production process of qualifying automotive components; and</li> <li><b>Vehicle Assembly Allowance (VAA):</b> The VAA is a duty-free import credit for qualifying local vehicle assemblers.</li> </ul>

<b>(CEI) Automotive Investment Scheme (AIS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To encourage investment in the motor industry sector by manufacturers of specified light motor vehicles and automotive components with the aim of encouraging the localisation of components fitted to new or replacement motor vehicle models, encouraging manufactures to achieve economies of scale by increasing plant production volumes, encouraging upgrading in manufacturing processes and strengthening the automotive value chain.
<b>Applicability:</b>	Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.
<b>Benefit:</b>	20% taxable cash grant of the value of the investment in productive assets, approved by <b>the dti</b> , spread equally over a three-year period. An additional taxable cash grant, 5% or 10% over and above the 20% taxable cash grant is available to projects found to be strategic by <b>the dti</b> .
<b>(CEI) People-Carrier Automotive Investment Scheme (PAIS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To encourage growth of the people-carrier sector through investment in new and replacement models and components.
<b>Applicability:</b>	Semi Knock Down (SKD) and Complete Knock Down (CKD) vehicle assemblers.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>20% grant of the value of investment for SKD assemblers with start of production dates before 31 March 2015.</li> <li>25% grant of the value of investment for CKD assemblers with start of production dates before 31 March 2015.</li> <li>20% grant of the value of investment for CKD assemblers with start of production dates after 1 April 2015.</li> <li>A top-up grant of 5% or 10% of the value of the investment made for strategic projects.</li> </ul>





**(ECA) Production Incentive (PI) (with effect from 1 January 2013)**

*(Managed by the ITAC)*

The PI is an incentive available to final manufacturers based in the SACU based on value added in the production process of qualifying automotive components. The PI is calculated on the sales invoice of the final manufacturer less the value of imports and local materials introduced by itself or by other manufacturers in the manufacturing chain. 25% of certain material is deemed to have a local content.

<b>Applicability:</b>	Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.
<b>Benefit:</b>	Duty-free import credit calculated at 50% - 55% of value added, or 80% - 50% of value added for non-vulnerable and vulnerable industries respectively.

**(ECA) Vehicle Assembly Allowance (VAA)**

*(Managed by the ITAC)*

The VAA covers all vehicles assembled within South Africa irrespective of their market focus.

<b>Applicability:</b>	Exclusive to motor vehicle assemblers on production of motor vehicles for the domestic market.
<b>Benefit:</b>	The incentive will commence with 20% in 2013, reducing by 1% each year until 2015, at which it will remain at 18% until 2020.

**8.6. Industrial financing**

**(ECA) Agro-industries**  
*(Managed by the IDC)*

<b>Objective:</b>	Provide support to agro-processing and aquaculture sectors.
<b>Applicability:</b>	Focus areas are: <ul style="list-style-type: none"> <li>• Horticulture primary agricultural sector</li> <li>• Food processing sector</li> <li>• Agro-industrial sector</li> <li>• Beverage sector</li> <li>• Fishing and aquaculture sectors</li> </ul>
<b>Minimum finance requirement:</b>	More than R1 million in debt and/or more than R5 million in equity.
<b>Benefit:</b>	Competitive, risk-related interest rates are based on the prime bank overdraft rate.

**(ECA) Chemicals and Allied Industries**  
*(Managed by the dti and IDC)*

<b>Objective:</b>	To stimulate development and sustainable global competitiveness.
<b>Applicability:</b>	Focus areas are: <ul style="list-style-type: none"> <li>• Upstream and basic chemicals</li> <li>• Ceramic, concrete and stone products</li> <li>• Cosmetics and detergents</li> <li>• Fine and speciality chemicals</li> <li>• Glass products</li> <li>• Recycling</li> <li>• Rubber products</li> <li>• Plastic products</li> </ul>
<b>Minimum investment requirements:</b>	• Funding from R1 million
<b>Benefit:</b>	Competitive, risk-related interest rates are based on the prime bank overdraft rate.

(ECA) Mining and Minerals Beneficiation	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	Assistance for small and medium-sized mining and beneficiation activities and jewellery manufacturing.
<b>Applicability:</b>	<p>Focus areas are:</p> <ul style="list-style-type: none"> <li>• Financial and technical assistance for the development of mining, beneficiation and metals projects in South Africa and the rest of the continent;</li> <li>• Financial assistance for junior and emerging mining houses and mining-related activities such as contract mining;</li> <li>• Facilitating the acquisition of mining assets by historically disadvantaged persons (HDPs); and</li> <li>• Developing the South African jewellery manufacturing industry and optimising value-addition beneficiation opportunities.</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.
(ECA) Forestry and Wood Products	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To be the key player in the generation of a balanced, integrated and internationally competitive forest products sector within the Southern African region.
<b>Applicability:</b>	<p>Focus areas are projects and investments in the following industries:</p> <ul style="list-style-type: none"> <li>• Forestry</li> <li>• Pulp and paper</li> <li>• Furniture</li> <li>• Saw milling, board production, etc</li> <li>• Renewable energy</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.

(ECA) Healthcare	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To support and develop businesses in both the healthcare and education sectors in South Africa and the rest of the continent. These include the financing of Greenfield projects, expansions and acquisitions and combinations thereof.
<b>Applicability:</b>	<p>Focus areas are:</p> <ul style="list-style-type: none"> <li>• Manufacturing of medical equipment;</li> <li>• Medical schemes administration and medical schemes management;</li> <li>• Medical and dental practice activities;</li> <li>• Clinics and related services;</li> <li>• Hospital services;</li> <li>• Human health services;</li> <li>• Management services of the above businesses; and</li> <li>• Buy-ins or take-overs by B-BBEE partners of the above existing businesses.</li> </ul>
<b>Note:</b>	
Preference is given to Greenfield projects, expansions and rehabilitations; projects exhibiting economic merit in terms of profitability and sustainability; projects that have a significant development impact (e.g. rural development, empowerment, job creation); financing of fixed assets and the fixed portion of growth in working capital, buy-ins or take-overs by HDIs and businesses led by competent management team members.	
<b>Minimum requirements:</b>	<ul style="list-style-type: none"> <li>• Compliance with international environmental standards.</li> <li>• Shareholders/owners are expected to make a significant financial contribution.</li> </ul>
<b>Benefit:</b>	Competitive, risk-related interest rates based on the prime bank overdraft rate.

<b>(ECA) Metal, Transport and Machinery Products</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To develop and support viable downstream metal producers with a focus on the automotive, other transport, structural and fabricated metal, as well as the machinery sectors.
<b>Applicability:</b>	Focus areas are: <ul style="list-style-type: none"> <li>• Basic iron, steel and non-ferrous fabricated metal products;</li> <li>• Plant, machinery and equipment;</li> <li>• Motor vehicles, components and accessories; and</li> <li>• Diverse transport products such as boats, planes and trains.</li> </ul>
<b>Note:</b> Preference is given to financing of fixed assets and the fixed portion of growth in working capital requirements and projects/businesses that have a significant developmental impact (e.g. rural development, empowerment, job creation).	
<b>Minimum investment requirements:</b>	<ul style="list-style-type: none"> <li>• Minimum equity amount is R10 million.</li> <li>• Shareholders/owners are expected to make a significant financial contribution.</li> </ul>
<b>Benefit:</b>	Competitive, risk-related interest rates based on the prime bank overdraft rate.

<b>(ECA) Information Communication Technology (ICT)</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	Development and expansion of technology intensive businesses in IT, telecommunication, electronic and electrical industries.
<b>Applicability:</b>	Entrepreneurs in the IT, telecommunication, electronic and electrical industries wanting to develop or expand their businesses. New technology ventures with strong local or foreign technology partners and proven technology.
<b>Minimum investment requirements:</b>	<ul style="list-style-type: none"> <li>• Minimum equity amount is R5 million, which requires a minimum real after-tax IRR and a percentage of upside.</li> <li>• Shareholders/owners are expected to make a significant financial contribution.</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.
<b>(ECA) Tourism Finance</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To contribute to Government's strategy for the tourism industry, participate in the establishment of good quality hotels in South Africa and the rest of Africa and diversify the portfolio into other subsectors such as cultural and heritage products, arts and crafts and business tourism.
<b>Applicability:</b>	Focus on asset-based finance, with the bulk of the portfolio invested in the accommodation sector.
<b>Preference is given to:</b>	<ul style="list-style-type: none"> <li>• Projects that show profitability and sustainable commercial viability.</li> <li>• Financing of fixed assets and capital expenditure.</li> <li>• A product or facility for which there is an identifiable demand from a quantifiable market.</li> <li>• Projects that have a significant developmental impact (i.e. job creation, empowerment and rural development).</li> </ul>
<b>Minimum financing requirement:</b>	Minimum 40% owner's contribution.
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.

<b>(ECA) Gold Loan Scheme</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To provide working capital loans to gold jewellery manufacturers.
<b>Applicability:</b>	Existing gold jewellery manufacturers.
<b>Benefit:</b>	The working capital loans under the Scheme are provided at a fixed interest rate of 3% per annum.  The IDC's business support programme offers non-financial support to entrepreneurs. The support is available pre- and post-approval.
<b>(ECA) Technology Venture Capital Fund (TVC)</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	A fund established by <b>the dti</b> and managed by IDC to provide business support and seed capital for the commercialisation of innovative products, processes and technologies. The Fund aims to increase the number of economically productive companies in South Africa, and thus contributes to economic growth and international competitiveness through innovation and technological advancement.
<b>Applicability:</b>	South African SMME companies.
<b>Benefit:</b>	Financial assistance to qualifying companies wishing to commercialise innovative products.
<b>(ECA) Technology Development Fund (TIA)</b>	
<i>(Managed by the Technology Innovation Agency)</i>	
<b>Objective:</b>	The Fund is set up to fund the creation of new technology based products or services that can be commercially exploited.
<b>Applicability:</b>	Individual inventors, SMMEs, science councils and higher education institutions (HEIs).
<b>Benefit:</b>	A royalty grant for full development costs, as well as non-financial business support services on completion of a project in order to link with other late stage funders.

<b>(ECA) Green Energy Efficiency Fund (GEEF)</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To encourage investments in energy efficiency and renewable energy projects aimed at improving energy efficiency, facilitating South Africa's transition towards a low-carbon economy.
<b>Applicability:</b>	Priority will be given to companies that have less than or equal to: <ul style="list-style-type: none"> <li>• R51 million turnover, or</li> <li>• R55 million assets, or</li> <li>• 200 employees.</li> <li>• Priority will be given to projects that have a high local content where there is local manufacture of a particular technology in South Africa.</li> <li>• Replicable and/or bundled industrial energy efficiency projects are preferred.</li> <li>• Projects for non-SMEs or low local content may be also considered if they provide significant energy and emissions reductions.</li> <li>• Only available to businesses registered and operating in South Africa.</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.
<b>(ECA) Gro-E Scheme</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To promote competitiveness in the manufacturing arena and ensure job retention in this sector.
<b>Applicability:</b>	<ul style="list-style-type: none"> <li>• Financial support to start-up businesses, including funding for buildings, equipment and working capital.</li> <li>• Companies wanting to expand also funded. The proviso is that they must show an ability to create jobs.</li> <li>• Africa and the rest of the continent.</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.

<b>(ECA) Transformation and Entrepreneurship Scheme</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To stimulate and develop largely small and medium enterprises, and make the mainstream economy accessible to marginalised groups (i.e. women, people with disabilities, and workers and communities).
<b>Applicability:</b>	Funding for start-up businesses, expansions or expansionary acquisitions.
<b>Benefit:</b>	<p>The Scheme consists of five funds:</p> <ul style="list-style-type: none"> <li>• Women Entrepreneurial Fund</li> <li>• People with Disabilities Fund</li> <li>• Equity Contribution Fund</li> <li>• Development Fund for Workers</li> <li>• Community Fund</li> </ul> <p>There are general criteria set out for all funds:</p> <ul style="list-style-type: none"> <li>• Applicants must be able to demonstrate that their business is economically viable and financially sustainable;</li> <li>• The business must be in one of the IDC's mandated sectors; and</li> <li>• Provision must be made for the employment of people with disabilities.</li> </ul>
<b>(ECA) Risk Capital Facility Programme</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To provide risk finance to companies owned by historically disadvantaged people.
<b>Applicability:</b>	SMEs located either in South Africa or elsewhere in Africa.
<b>Benefit:</b>	There are three channels through which funding is provided: a direct channel operating alongside the IDC's mainstream business; a niche fund channel, where venture capital funds target a specific sector that has a developmental focus; and a third party channel, where funds co-invest with other financial institutions. The maximum investment for the niche fund channel is R30 million.

<b>(CRD) Venture Capital</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	To facilitate the development and commercialisation of technology-rich South African Intellectual Property (IP) that is unique from a global perspective.
<b>Applicability:</b>	<ul style="list-style-type: none"> <li>• IP owned by the company.</li> <li>• Development of IP done in-house.</li> <li>• IP that is patentable (if not patentable, should provide some form of sustainable competitive advantage).</li> <li>• Management teams must include people with all the required key competencies.</li> <li>• Key founding shareholders should be involved in the business on a full-time basis.</li> <li>• Business should display good prospects of being economically viable.</li> </ul>
<b>Benefit:</b>	Equity funding of between R1 million and R30 million per project (maximum first round funding of R15 million with the right, but not obligation, to provide follow-on funding up to maximum of R30 million).



## 8.7. Industrial participation

<b>Note:</b>	
The Department of Public Enterprises (DPE) established a Competitive Supplier Development Programme (CSDP), which is responsible for finding innovative ways to leverage state-owned enterprises (SOE) procurement to build local world-class manufacturing capabilities, both to supply the SOE with capital goods in their build programmes and to gain access to the global value chains of the SOE's first tier multi-national suppliers. This project also coordinates supplier industry support measures across Government, involving <b>the dti</b> , DST and the IDC. Another key component of this project is creating world-class procurement practices in the SOE through training and certification.	
<b>The ultimate goals of the CSDP are:</b>	<ul style="list-style-type: none"> <li>• To contribute to the AsgiSA aims of increasing economic growth, employment creation, skills development and B-BBEE;</li> <li>• To develop local industries to supply participating SOEs with high quality, globally competitive goods and services;</li> <li>• To improve the quality, efficiency and cost effectiveness of the services provided by the SOEs as a result of their obtaining more competitive goods and services from local suppliers; and</li> <li>• To improve the competitiveness of the SOEs as a result of savings resulting from their sourcing from innovative, responsive and more competitive suppliers.</li> </ul>
<b>(ECA) Defence Industrial Participation Programme (DIP)</b>	
<i>(Managed by the dti)</i>	
<b>Objective:</b>	The process where purchases of the Department of Defence are used as a leverage to oblige a foreign seller of defence commodities/services to do defence related business in South Africa on a reciprocal basis in order to advance military strategic and defence related industrial imperatives.
<b>Applicability:</b>	Mandatory on all foreign defence purchases above US\$2 million.
<b>Requirements (defence purchases):</b>	<ul style="list-style-type: none"> <li>• Exceeding US\$2 million but less than US\$10 million: Require a DIP obligation of up to 50%; and</li> <li>• Exceeding US\$10 million: Require a DIP obligation of at least 50% and a National Industrial Participation obligation of at least 30%.</li> </ul>
<b>(ECA) National Industrial Participation Programme (NIPP)</b>	
<i>(Managed by the dti)</i>	
Industrial Participation is a programme that seeks to leverage economic benefits and support the development of South African industry by effectively utilising the instrument of government procurement.	
Mandatory on all government and state-owned entity procurement of goods and services with an imported content greater than US\$10 million.	

## 8.8. Social responsibility

<b>(ECA) DANIDA Business-To-Business Programme</b>	
<i>(Managed by Small Enterprise Finance Agency (SEFA))</i>	
<b>Objective:</b>	To develop and strengthen business opportunities and create jobs for eligible entrepreneurs from previously disadvantaged communities.
<b>Applicability:</b>	Development support is provided to commercially viable businesses, based on the formation of business partnerships between black-owned/controlled South African companies and Danish business enterprises.
<b>Benefit:</b>	Support for expenses relating to the transfer of management and business skills, technology from Danish to South African companies and to provide access to financing for the South African company. Khula may issue up to 100% guarantee to the financial institution that will issue a loan for the procurement of shares, purchase of machinery and capital equipment for the business.
<b>(ECA) DEG Public Private Partnership (PPP)</b>	
<b>Objective:</b>	Provides co-financing for private sector activities in developing countries that positively affect sustainable development and social upliftment.
<b>Applicability:</b>	Projects that lead up to or accompany investment, the transfer of technology and entrepreneurial know-how, training of employees and raising social and environmental standards. Companies partnering with, or related to, companies of the EU, Norway and Switzerland.
<b>Benefit:</b>	Up to a maximum of 50% of the costs of an individual activity not exceeding €200 000 per project.

## 8.9. Tax incentives

Preferential Corporate Tax Rate for Small Business <i>(Managed by the South African Revenue Service)(ECA)</i>	
<b>Objective:</b>	To encourage small/medium business development in South Africa.
<b>Applicability:</b>	Qualifying small/medium businesses with a turnover for the year of assessment that does not exceed R14 million are eligible (for years of assessment commencing on or after 1 April 2012).
<b>Benefit (taxable income):</b>	<ul style="list-style-type: none"> <li>• R0 – R70 700 = 0%</li> <li>• R70 701 - R365 000 = 7%</li> <li>• &gt; R365 001 = R20 601 + 21% of amount greater than R350 000</li> <li>• &gt; R550 000 = R59 451 + 28% of amount greater than R350 000</li> </ul>
(CRD) Research and Development (R&D) <i>(Managed by the South African Revenue Service and the Department of Science and Technology)</i>	
<b>Objective:</b>	To stimulate scientific or technological R&D.
<b>Applicability:</b>	Expenditure incurred in the discovery of novel, practical and non-obvious information or devising, developing or creating any invention, design or computer programme or any knowledge essential to the use of the invention, design or computer programme.
<b>Benefit:</b>	Deduction increased to 150% for expenditure incurred on or after 2 November 2006. Accelerated allowance on R&D assets.

(CEI) Depreciation <i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To stimulate investment in capital assets.
<b>Applicability:</b>	<ul style="list-style-type: none"> <li>• Plant and machinery</li> <li>• Manufacturing or similar process (new or unused)</li> <li>• Hotel equipment</li> <li>• Farming</li> <li>• Buildings:                             <ul style="list-style-type: none"> <li>- Industrial (manufacturing or similar process)</li> <li>- Hotels</li> <li>- Hotel refurbishments</li> </ul> </li> </ul>
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• New or unused (Plant and Machinery):                             <ul style="list-style-type: none"> <li>- 40% per annum - 1st year</li> <li>- 20% per annum - 2nd to 4th years</li> </ul> </li> <li>• Used (Plant and Machinery):                             <ul style="list-style-type: none"> <li>- 20 % per annum</li> </ul> </li> <li>• Hotel equipment:                             <ul style="list-style-type: none"> <li>- 20% per annum</li> </ul> </li> <li>• Farming and production of renewable energy:                             <ul style="list-style-type: none"> <li>- 50% - 1st year</li> <li>- 30% - 2nd year</li> <li>- 20% - 3rd year</li> </ul> </li> <li>• Hotel refurbishment:                             <ul style="list-style-type: none"> <li>- 5% per annum for external refurbishments</li> <li>- 20% per annum for internal refurbishments</li> </ul> </li> </ul>
Special depreciation allowances on manufacturing buildings vary between 2% per annum and 10% per annum. Wear-and-tear rates vary for assets not used as part of the manufacturing process.	

<b>(ECA) Urban Development Allowances</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To counter decay and stimulate urban regeneration.
<b>Applicability:</b>	All taxpayers refurbishing a building within a designated urban development zone or taxpayers constructing a new commercial or residential building in such a zone.
<b>Benefit:</b>	<p>The following allowances are available:</p> <ul style="list-style-type: none"> <li>• In the case of the erection of new buildings or extensions or additions thereto, the allowance is equal to 20% of the cost incurred, which is deductible in the year of assessment the building is brought into use solely for the purposes of the taxpayer's trade; and 8% of that cost in each of the 16 succeeding years of assessment. The total cost can therefore be claimed over 11 years; and</li> <li>• In the case of improving an existing building, the allowance is equal to 20% of the cost incurred; deductible for the first time in the year of assessment the improved part is brought into use solely for the purposes of the taxpayer's trade, and 20% for each succeeding year of assessment. The total cost can therefore be claimed over five years.</li> </ul>
<b>(ECA) 12i Investment and Training Allowance</b>	
<i>(Managed by the dti)</i>	
<b>Objective:</b>	To promote industrial upgrading and new investment in large-scale manufacturing.
<b>Applicability:</b>	Medium to large manufacturers with investment from R30 million.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• Training allowance: max. R36 000 per person.</li> <li>• Max. 55% of qualifying investment costs in machinery and equipment.</li> </ul>

<b>(ECA) Infrastructural Development</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To encourage investment in infrastructure.
<b>Applicability:</b>	Taxpayers involved in the erection of pipelines, transmission lines and railway lines.
<b>Benefit:</b>	<p>A tax deduction is granted in respect of any new or unused affected assets owned by the taxpayer. The allowances are as follows:</p> <ul style="list-style-type: none"> <li>• Pipelines used to transport natural oil: <ul style="list-style-type: none"> <li>- 10% of the cost per annum</li> </ul> </li> <li>• All other affected assets</li> </ul>
<b>(ECA) Public Private Partnerships</b>	
<i>(Managed by National Treasury)</i>	
<b>Objective:</b>	Encouragement of the private sector to invest in infrastructure in partnership with the public sector.
<b>Applicability:</b>	Grants received by the Government and utilised by the taxpayer to effect improvements to state-owned property, in pursuance of the terms of the relevant lease agreement with the State.
<b>Benefit:</b>	The receipt of qualifying Government grants is exempt from tax. In addition, a tax allowance is available in respect of such improvements actually effected by the taxpayer.
<b>(ECA) Rolling Stock Depreciation</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	Encouragement of infrastructural development of rail transportation.
<b>Applicability:</b>	Rolling stock, this is understood to mean trains, carriages and the like.
<b>Benefit:</b>	Deduction of 20% per annum of the cost incurred in respect of rolling stock brought into use on or after 1 January 2008.



<b>(ECA) Environmental Expenditure Deductions</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	Provide relief for the depreciation of environmental expenditure.
<b>Applicability:</b>	Environmental treatment and recycling assets and environmental waste disposal assets ancillary to a manufacturing process.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• Environmental treatment and recycling assets:                             <ul style="list-style-type: none"> <li>- 40% per annum 1st year</li> <li>- 20% per annum 2nd to 4th year</li> </ul> </li> <li>• Environmental waste disposal assets:                             <ul style="list-style-type: none"> <li>- 5% per annum</li> </ul> </li> </ul>
<b>(ECA) Commercial Buildings Depreciation</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	Provide relief in respect of commercial buildings.
<b>Applicability:</b>	Buildings (and improvements) used wholly or mainly in the production of income, where building is owned by the taxpayer.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• 5% depreciation per annum on new or unused buildings (and improvements).</li> <li>• Specifically excludes buildings used in the provision of residential accommodation.</li> </ul>
<b>(ECA) Carbon-reducing Charges</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To take advantage of the Clean Development Mechanism (CDM) opportunities of the Kyoto Protocol.
<b>Applicability:</b>	Companies that receive revenue from Certified Emission Reductions (CERs).
<b>Benefit:</b>	Revenue derived from primary CERs (from CDM projects) is tax exempt. This applies to all revenue received in respect of disposals on or after 11 February 2009.

<b>(ECA) Energy Expenditure Allowances</b>	
<i>(Managed by the Department of Energy)</i>	
<b>Objective:</b>	To promote energy efficiencies.
<b>Applicability:</b>	Energy efficiency savings.
<b>Benefit:</b>	An additional 45 cents per kilowatt hour equivalent energy savings.
<b>(ECA) Oil and Gas Income Tax Incentive</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To provide tax incentives to oil and gas companies involved in incidental trades in South Africa.
<b>Applicability:</b>	Oil and gas companies.
<b>Benefit:</b>	Tax incentives to be provided to oil and gas companies that are involved in incidental trades inside South Africa.
<b>(ECA) Underwater Telecommunication Cable Allowances</b>	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To provide relief for the depreciation of underwater telecommunication cables.
<b>Applicability:</b>	Underwater telecommunication cables.
<b>Benefit:</b>	5% depreciation allowance over 20 years.
<b>(ECA) Film Rebate Subsidies</b>	
<i>(Managed by the dti)</i>	
<b>Objective:</b>	To provide tax exemptions to investor-owner film producers.
<b>Applicability:</b>	Investor-owner film producers.
<b>Benefit:</b>	Tax exemptions to be granted to investor-owner film producers.

<b>(CRD) Support Programme for Industrial Innovation (SPII) (Suspended)</b>	
<i>(Managed by the IDC)</i>	
<b>Objective:</b>	Promote technology development in South Africa through provision of financial assistance to all South African registered enterprises in manufacturing or software development that engage in development of innovative, competitive products and/or processes.
<b>(CRD) SPli Matching Scheme (Suspended)</b>	
<i>(Managed by the IDC)</i>	
<b>Applicability:</b>	The Matching Scheme is available to all South African registered small and medium enterprises (SMEs): (employees < 200, turnover < R51 million, assets < R19 million) in the private sector that are engaged in a manufacturing or an information technology related project.  The Matching Scheme is also available to large companies.
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>For SMEs: A grant of between 50% to 75% of the qualifying cost incurred during the technical development stage up to a maximum of R3 million per project. For enterprises with &lt;25% black shareholding - the grant amount is 50%, for enterprises with &gt;25% ≤50% black shareholding or women/physically challenged shareholding - the grant amount is 65%, and for enterprises with black shareholding &gt;50% - the grant amount is 75%.</li> <li>For large companies: A grant of 50% of the qualifying cost incurred during the technical development stage up to a maximum of R30 million per project. The incentives for B-BBEE and women participation provided under both the Product Process Development (PPD) and Matching Schemes do not apply to large companies.</li> </ul>

<b>(CRD) SPII - Partnership Scheme</b>	
<i>(Managed by the IDC)</i>	
<b>Applicability:</b>	All private sector enterprises engaged in a manufacturing or an IT-related project.
<b>Benefit:</b>	A conditional repayable grant of 50% of the qualifying cost incurred during development activity with a minimum grant amount of R3 million per project, repayable on successful commercialisation of the project.
<b>(CRD) SPII - Product Process Development Scheme</b>	
<i>(Managed by the IDC)</i>	
<b>Applicability:</b>	All small and micro-private sector enterprises (employees less than 50, turnover less than R13 million, total gross assets less than R5 million) whose members are actively involved in the management of a business that is engaged in a manufacturing or an information technology-related project.
<b>Benefit:</b>	A grant of between 50% and 85% of the qualifying cost incurred during the technical development stage with a maximum grant amount of R1 million per project. For enterprises with <25% black shareholding - the grant amount is 50%. For enterprises with >25% ≤50% black shareholding or women/physically challenged shareholding - the grant amount is 75%. For enterprises with black shareholding >50% - the grant amount is 85%.
<b>(CRD) Technology and Human Resources for Industry Programme (THRIP)</b>	
<i>(Managed by the National Research Foundation and the dti)</i>	
<b>Objective:</b>	To boost South African industry by supporting R&D, and by enhancing the quality and quantity of appropriately skilled people.
<b>Applicability:</b>	THRIP supports all companies undertaking science, engineering and technology (SET) research in collaboration with educational institutions and will consider the support of projects in which the primary aim is to promote and facilitate scientific research, technology development, and technology diffusion, or any combination of these.
<b>Benefit:</b>	THRIP will contribute between 30% and 50% of the funds invested by a company in research projects. For all SMME and all SMME and B-BBEE partners the THRIP funding will contribute between 100% and 200% of the funds invested. The maximum level of THRIP funding per grant holder will be set at R8 million across any number of projects per annum.

(CRD) Innovation Fund (IF)	
<i>(Funded by the Department of Science and Technology)</i>	
<ul style="list-style-type: none"> <li>• <b>Advancement Programme (TAP):</b> Invests in R&amp;D from “proof-of-idea”/science to “proof-of-concept”, and is open to publicly funded institutions (including higher education institutions and science councils), small and medium-sized businesses, and any consortia consisting of these.</li> <li>• <b>Missions in Technology Programme (MiTech):</b> A public-private partnership programme for the development of technology platforms.</li> <li>• <b>Seed Fund:</b> Invests in early commercialisation/start-up activities to take a technology that is at “proof-of-concept”/prototype to the market.</li> <li>• <b>Patent Support Fund for SMEs:</b> To assist in absorbing the cost of protecting their intellectual property through patent registration.</li> <li>• <b>Patent Support Fund-Technopreneur:</b> This fund supports the filing of at least a South African provisional patent application in respect of technological inventions by individuals, so-called techno-entrepreneurs, where such inventions have commercial merit and a prototype can be developed in under 12 months.</li> <li>• <b>Patent Support Fund for Research Institutions:</b> Provides subsidy to publicly funded institutions (higher education institutions and science councils) for costs incurred in filing and prosecuting patent applications, and maintaining patents.</li> <li>• <b>Patent Incentive Scheme:</b> A scheme to encourage patent protection through cash incentives to inventors in publicly funded institutions (higher education institutions and science councils) who obtain patents for their inventions.</li> </ul>	
<b>Benefit:</b>	The IF uses a flexible returns structure; be it royalty, equity, convertible loans or combinations thereof, structured as appropriate for each investment.

(CEI) Manufacturing Competitive Enhancement Programme (MCEP)	
<i>(Managed by the Department of Trade and Industry (the dti))</i>	
<b>Objective:</b>	The Manufacturing Competitiveness Enhancement Programme (MCEP), which is one of the key action programmes of the IPAP, provides enhanced manufacturing support aimed at encouraging manufacturers to upgrade their production facilities in a manner that sustains employment and maximises value-addition in the short to medium term.
<b>Applicability:</b>	<p>Providing assistance for participants in the manufacturing and engineering sector, including conformity assessment agencies.</p> <p><b>Note:</b></p> <p>This incentive programme will not be available to start-ups or companies without at least one year’s manufacturing track record. It is, however, important that all enterprises that are in the manufacturing value chain, should take cognisance of MCEP as it may affect them, whether directly or indirectly.</p>
<b>Benefit:</b>	<p>Applicants will be assigned a benefit ceiling based on entity-level manufacturing value-add, which the applicant will have to claim through the seven sub-programmes of the MCEP within a two-year period. MCEP consists of two categories, a production incentive and industrial financing loan facilities. The two categories have seven components in terms of which an applicant can benefit from MCEP. These are:</p> <ol style="list-style-type: none"> <li>1. Production Incentive: <ul style="list-style-type: none"> <li>• Capital Investment</li> <li>• Green Technology and Resource Efficiency Improvement</li> <li>• Enterprise Level Competitiveness Improvement</li> <li>• Feasibility Studies</li> <li>• Cluster Competitiveness Improvement</li> </ul> </li> <li>2. Industrial Financing Loan Facilities: <ul style="list-style-type: none"> <li>• Pre- and Post-dispatch Working Capital Facility</li> <li>• Industrial Policy Niche Projects Fund</li> </ul> </li> </ol> <p>The cash benefit, based on the MVA, which is available through the above listed nine components will amount to the following percentages of the calculated MVA:</p>

Asset Value	MVA Benefit
100% black shareholding	25%
< R5 million	Based on a cost-sharing grant (MVA not applicable)
> R5 million but < R30 million	25%
> R30 million but < R200 million	20%
> R200 million	10%

It is also important to note that an applicant can apply for a combination of the seven components of MCEP and that the benefits can be substantial. As example, benefits for capital investment and green technology and resource efficiency improvements are capped at R30 million and R20 million respectively.



## 9. Contacts in South Africa

### 9.1. Business information services

#### The Department of Trade and Industry (the dti)

Private Bag X84, Pretoria, 0001

**Tel:** 0861 843 384 (National)/+27 (12) 394 9550 (International)

**Fax:** 0861 843 888 (National)/+27 (12) 394 9501 (International)

**E-mail:** [contactus@thedti.gov.za](mailto:contactus@thedti.gov.za)

[www.thedti.gov.za](http://www.thedti.gov.za)

#### The National Empowerment Fund (NEF)

P O Box 31, Melrose Arch, Melrose North, 2076

**Call Centre:** 0861 843 633/0861 (THE NEF)

**Tel:** +27 11 305 8000

**Fax:** +27 11 305 8001

**E-mail:** [applications@nefcorp.co.za](mailto:applications@nefcorp.co.za) (Funding)/

[info@nefcorp.co.za](mailto:info@nefcorp.co.za) (General Enquiries)

<http://www.nefcorp.co.za>

#### Development Bank of Southern Africa (DBSA)

P O Box 1234, Halfway House, 1685

**Tel:** +27 11 313 3911

**Fax:** +27 11 313 3086

**E-mail:** [webmaster@dbsa.org](mailto:webmaster@dbsa.org)

[www.dbsa.org](http://www.dbsa.org)

#### Industrial Development Corporation (IDC)

P O Box 784055, Sandton, 2146

**Tel:** +27 11 269 3000

**Fax:** +27 11 269 3116

[www.idc.co.za](http://www.idc.co.za)

#### Small Enterprise Finance Agency (SEFA)

Eco Fusion 5, Building D,

1004 Teak Close,

Witch Hazel Avenue, Highveld,

Centurion, 0157

**Tel:** +27 12 394 5560 /5900

**Fax:** +27 12 394 6560

**Call centre:** 086 000 7332

**E-mail:** [helpline@sefa.org.za](mailto:helpline@sefa.org.za)

[www.sefa.org.za](http://www.sefa.org.za)

#### Small Enterprise Development Agency (Seda)

Box 56714, Arcadia, 0007

**Call Centre:** 0860 103 703

**Tel:** +27 12 441 1000

**Fax:** +27 12 441 2064

**E-mail:** [info@seda.org.za](mailto:info@seda.org.za)

[www.seda.org.za](http://www.seda.org.za)

#### Black Business Council

87 Central Street, Houghton, Johannesburg, 2000

**Tel:** +27 11 728 3336

**Fax:** +27 11 728 3331

**E-mail:** [info@blackbusinesscouncil.org](mailto:info@blackbusinesscouncil.org)

#### Business Leadership

P O Box 7006, Johannesburg, 2000

**Tel:** +27 11 356 4650

**Fax:** +27 11 726 4705

[www.businessleadership.org.za](http://www.businessleadership.org.za)

## 9.2. Banking<sup>h1</sup>

### Foreign bank representatives

Institution	Telephone	Website address
1. AfrAsia Bank Limited	+27 11 268 5780	www.afrasiabank.com
2. African Banking Corporation of Botswana Limited (trading as BancABC Botswana)	+27 11 722 5300	
3. Banco Angolano de Investimentos	+27 11 881 5651	
4. Banco BPI, SA	+27 11 622 4376/86	
5. Banco Espirito Santo e Comercial de Lisboa	+27 11 616 5382/9	
6. Banco Internacional de Credito	+27 11 6 161 726	
7. Banco Nacional De Desenvolvimento Econômico E Social	+27 11 341 4000	
8. Banco Santander Totta S.A.	+27 11 656 3156	
9. Banif - Banco Internacional do Funchal, S.A.	+27 11 616 6322	
10. Bank Leumi Le-Israel BM	+27 11 328 1700	
11. Bank of America, National Association	+27 11 305 5842	
12. Bank of Cyprus Group	+27 11 784 3941	
13. Commerzbank AG Johannesburg	+27 11 486 0724 +27 11 486 0565	
14. Credit Suisse AG	+27 11 012 8000	www.credit-suisse.com
15. Ecobank	+27 11 783 6197	
16. Export-Import Bank of India	+27 11 326 5103	www.eximbankindia.com
17. Fairbairn Private Bank (Isle of Man) Limited	+27 11 295 8195	
18. Fairbairn Private Bank (Jersey) Limited	+27 11 295 8195	
19. First Bank of Nigeria	+27 11 784 9922 +27 11 784 9925	
20. First City Monument Bank Plc	+27 11 881 5520	
21. Hellenic Bank Public Company Limited	+27 11 783 0155	www.hellenicbank.com

<sup>h1</sup> www.reservebank.co.za

22. Icici Bank Limited	+27 11 676 7800	
23. Industrial and Commercial Bank of China African Representative Office	+27 21 200 8005	
24. KfW Iplex-Bank GmbH	+27 11 507 2511	
25. Millenium BCP	+27 11 622 0847 +27 11 622 0857	
26. Mizuho Bank Limited	+27 11 881 5410	
27. National Bank of Egypt	+27 11 268 0500/ +27 11 268 0501	
28. NATIXIS Southern Africa Representative Office	+27 21 418 0306	
29. Royal Bank of Canada (Suisse) SA	+27 11 305 2382	
30. Royal Bank of Scotland International Limited	+27 11 303 5993	www.rbsint.com
31. Société Générale Representative Office for Southern Africa	+27 11 778 4381	www.socgen.com
32. Sumitomo Mitsui Banking Corporation	+27 11 219 5300 +27 11 219 5303	www.smbcgroup.com
33. The Bank of New York Mellon	+27 11 217 7160 +27 11 217 7161	
34. The Bank of Tokyo-Mitsubishi UFJ, Ltd	+27 11 884 4721	
36. The Mauritius Commercial Bank Limited	+27 11 880 8472	
37. The Rep. Off. for Southern and Eastern Africa of The Export-Import Bank of China	+27 11 783 0767	
38. The Royal Bank of Scotland Plc	+27 11 505 7300	
39. UBS AG	+27 11 322 7918	www.ubs.com
40. Unicredit Bank AG	+27 11 881 5570	
41. Union Bank of Nigeria Plc	+27 11 883 3313 +27 11 883 2915	www.unionbankng.com
42. Vnesheconombank	+27 11 783 3425	
43. Wells Fargo Bank, National Association	+27 11 447 5373	
44. Zenith Bank Plc	+27 11 783 5826/ +27 11 783 5827	

### Foreign controlled banks

Institution	Telephone	Website address
1. ABSA Bank Limited	+27 11 350 4000	www.absa.co.za
2. Albaraka Bank Limited	+27 31 366 9000	www.albaraka.co.za
3. Habib Overseas Bank Limited	+27 11 834 7441	www.habiboverseas.co.za
4. HBZ Bank Limited	+27 31 267 4400	www.hbzbank.co.za
5. Mercantile Bank Limited	+27 11 302 0300	www.mercantile.co.za
6. The South African Bank of Athens Limited	+27 11 634 4300	www.bankofathens.co.za

### Locally controlled banks

Institution	Telephone	Website address
1. African Bank Limited*	+27 11 256 9000	www.africanbank.co.za
2. Bidvest Bank Limited	+27 11 407 3000	www.bidvestbank.co.za
3. Capitec Bank Limited	+27 21 809 5900	www.capitecbank.co.za
4. FirstRand Bank Limited	+27 11 282 8000	www.firstrand.co.za
5. Grindrod Bank Limited	+27 31 333 6600	www.grindrodbank.co.za
6. Investec Bank Limited	+27 11 286 7000	www.investec.com
7. Nedbank Limited	+27 11 294 4444	www.nedbank.co.za
8. Sasfin Bank Limited	+27 11 809 7500	www.sasfin.co.za
9. The Standard Bank of South Africa Limited	+27 11 636 9111	www.standardbank.co.za
10. UBANK Limited	+27 11 518 5000	www.ubank.co.za

\* The South African Reserve Bank has placed African Bank under curatorship with the intention to maintain African Bank's future as an issuer of credit.

### Mutual banks

Institution	Telephone	Website address
1. Finbond Mutual Bank	+27 12 460 7288	www.finbondmutualbank.co.za
2. GBS Mutual Bank	+27 46 622 7109	www.gbsbank.co.za
3. VBS Mutual Bank	+27 15 516 3542 +27 15 516 4410	www.vbsmutualbank.co.za

### Banks in liquidation

Institution	Telephone	Website address
1. Islamic Bank Limited (In final liquidation)	+27 11 484 7860	
2. Regal Treasury Private Bank Limited (In liquidation)	+27 12 344 4315/ +27 11 839 3920	



### 9.3. Chambers of commerce and industry

#### Afrikaanse Handelsinstituut (AHI)

P O Box 3510, Menlo Park, 0102  
**Tel:** +27 12 348 5440  
**Fax:** +27 12 348 8771  
[www.ahi.co.za](http://www.ahi.co.za)

#### Foundation for African Business and Consumer Services (FABCOS)

ICT Globe Micro Telco E-Ncubator, Building 10, Oxford Office Park,  
 3 Bauhenia Road, Highveld Techno Park, Centurion (temporarily located)  
 P O Box 8785, Johannesburg, 2000  
**Tel:** +27 11 079 7580  
**Emergency contact:** +27 73 526 1492/+27 61 475 1941  
[www.fabcos.co.za](http://www.fabcos.co.za)

#### National African Federation of Chambers of Commerce (NAFCOC)

P O Box 784880, Sandton, 807 5063  
**Tel:** +27 11 807 5063  
**Fax:** +27 11 807 9816  
**E-mail:** [info@nafcoc.org.za](mailto:info@nafcoc.org.za)  
[www.nafcoc.org.za](http://www.nafcoc.org.za)

#### South African Chamber of Commerce and Industry (SACCI)

P O Box 213, Saxonwold, 2132  
**Tel:** +27 11 446 3800  
**Fax:** +27 11 446 3804  
[www.sacci.org.za](http://www.sacci.org.za)

#### Business Unity South Africa (BUSA)

P O Box 652807, Benmore, 2010  
**Tel:** +27 11 784 8000/1/2/3  
**Fax:** +27 11 784 8004/086 609 8248  
[www.busa.org.za](http://www.busa.org.za)

### 9.4. Investment promotion agencies

#### Trade and Investment South Africa (TISA)

Private Bag X84, Pretoria, 0001  
**Tel:** +27 12 394 1339 /12 394 5935  
**Fax:** +27 12 394 4016  
**E-mail:** [investmentsa@thedti.gov.za](mailto:investmentsa@thedti.gov.za)  
[www.thedti.gov.za](http://www.thedti.gov.za)

#### Durban Investment Promotion Agency (DIPA)

P O Box 1203, Durban, 4000  
**Tel:** +27 31 336 2540  
**Fax:** +27 31 336 2511  
[www.dipa.co.za](http://www.dipa.co.za)

#### City of Johannesburg

P O Box 1049, Johannesburg, 2000  
**Tel:** 086 056 2874  
**Fax:** +27 11 339 5704  
**E-mail:** [cgis@joburg.org.za](mailto:cgis@joburg.org.za)  
[www.joburg.org.za](http://www.joburg.org.za)

#### Free State Development Corporation (FDC)

P O Box 989, Bloemfontein, 9301  
**Tel:** +27 51 4000 800/810  
**Fax:** +27 51 447 0929  
[www.fdc.co.za](http://www.fdc.co.za)

#### Gauteng Growth and Development Agency (GGDA)

124 Main Street, Marshalltown, Johannesburg, 2107  
**Tel:** +27 11 085 2400  
[www.ggda.co.za](http://www.ggda.co.za)

#### North West Development Corporation

Mafikeng Headoffice  
 P O Box 3011, Mmabatho, 2735  
**Tel:** +27 18 381 3663/4/5  
**Fax:** +27 18 381 2041  
**E-mail:** [info@nwdc.co.za](mailto:info@nwdc.co.za)  
[www.nwdc.co.za](http://www.nwdc.co.za)



### Rustenburg Trade & Investment

P O Box 6352, Rustenburg, 0300  
**Tel:** +27 14 594 2570  
**Fax:** 086 559 6549

### Trade and Investment KZN (TIK)

P O Box 4245, Durban, 4000  
**Tel:** +27 31 368 9600  
**Fax:** +27 31 368 5888  
**E-mail:** info@tikzn.co.za  
[www.tikzn.co.za](http://www.tikzn.co.za)

### Trade and Investment Limpopo

P O Box 3490, Polokwane, 0700  
**Tel:** +27 15 295 5171  
**Fax:** +27 15 295 5197  
[www.til.co.za](http://www.til.co.za)

### Wesgro

P O Box 1678, Cape Town, 8000  
**Tel:** +27 21 487 8600  
**Fax:** +27 21 487 8700/5  
**E-mail:** info@wesgro.co.za  
[www.wesgro.co.za](http://www.wesgro.co.za)

### Eastern Cape Development Corporation (ECDC)

P O Box 11197, Southernwood, East London, Eastern Cape, South Africa, 5213  
**Tel:** +27 43 704 5600  
**Fax:** +27 43 704 5700  
**E-mail:** info@ecdc.co.za  
[www.ecdc.co.za](http://www.ecdc.co.za)

### Northern Cape Department of Economic Affairs & Tourism

Private Bag X5054, Kimberley, 8300  
**Tel:** +27 53 839 4000  
**Fax:** +27 53 832 9464  
**E-mail:** dedat@ncpg.gov.za  
[economic.ncape.gov.za](http://economic.ncape.gov.za)

## 9.5. Government departments

### Department of Home Affairs Republic of South Africa

Private Bag X114, Pretoria, 0001  
**Tel:** 0800 60 11 90 (Toll free hotline)/  
+27 12 406 2500 (Local)  
[www.dha.gov.za](http://www.dha.gov.za)

### Department of International Relations and Cooperation

Private Bag X152, Pretoria, 0001  
**Tel:** +27 12 351 1000  
**Fax:** +27 12 329 1000  
**E-mail:** consular@dirco.gov.za  
[www.dirco.gov.za](http://www.dirco.gov.za)

### The Department of Trade and Industry (the dti)

Private Bag X84, Pretoria, 0001  
**Tel:** 0861 843 384  
**International:** +27 12 394 9500  
**Fax (National):** 0861 84 38 88  
**Fax (International):** +27 12 394 9501  
**E-mail:** contactus@thedti.gov.za  
[www.thedti.gov.za](http://www.thedti.gov.za)

### International Trade Administration Commission of South Africa (ITAC)

Private Bag X753, Pretoria, 0001  
**Tel:** +27 12 394 3688/3728  
**Fax:** +27 12 394 0520  
**Import and Export Control Call Centre:** 0861 112 369  
**E-mail:** info@itac.org.za  
[www.itac.org.za](http://www.itac.org.za)

### Companies and Intellectual Property Commission (CIPC)

P O Box 429, Pretoria, 0001  
Call Centre: 086 100 2472 (CIPC)  
International Tel: +27 12 394 9973  
Fax Number: 086 517 7224  
International Fax: +27 12 394 1015  
E-mail: [info@cipc.co.za](mailto:info@cipc.co.za)  
[www.cipc.co.za](http://www.cipc.co.za)

### The National Consumer Commission (NCC)

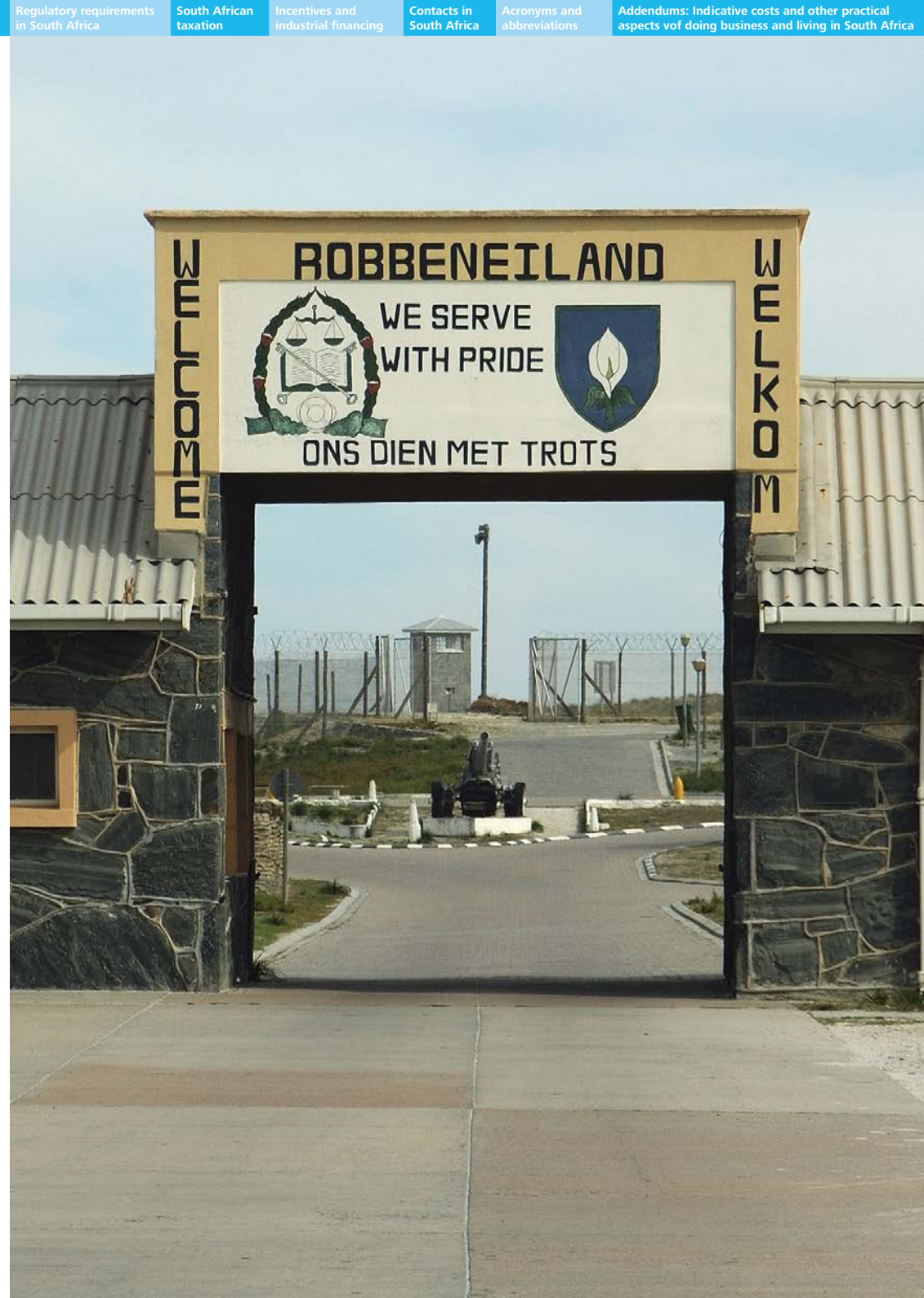
Tel: +27 12 761 3000 /086 000 3600  
Fax: 086 758 4990  
E-mail: [NNetshitomboni@thencc.co.za/complaints@thencc.org.za](mailto:NNetshitomboni@thencc.co.za/complaints@thencc.org.za)  
[www.nccsa.org.za](http://www.nccsa.org.za)

### The Commissioner of South African Revenue Services (SARS)

Private Bag X923, Pretoria, 0001  
Tel: +27 12 422 4000  
Call Centre: 0800 007277  
Fax: +27 010 208 5005  
[www.sars.gov.za](http://www.sars.gov.za)

### The South African Reserve Bank (SARB) (Exchange Control and Securities)

P O Box 427, Pretoria, 0001  
Tel: +27 12 313 3911/0861 12 SARB (0861 12 7272)  
Fax: +27 12 313 3197/3929  
[www.resbank.co.za](http://www.resbank.co.za)



## 10. Acronyms and abbreviations

AACSB	Advance Collegiate Schools of Business
ACSA	Airports Company South Africa
AEC	African Economic Community
AEO	Authorised Economic Operator
AGOA	Africa Growth and Opportunity Act
AHI	Afrikaanse Handelsinstituut
AIS	Automotive Incentive Allowance
AltX	Alternative Exchange
AMBA	Association of MBAs
AML	Anti-Money Laundering
ANC	African National Congress
APDP	Automotive Production and Development Programme
AsgiSA	Accelerated and Shared Growth - South Africa
ATM	Autoteller Machine
ATS	Antarctic Treaty System
AU	African Union
AV/av	Average
B-BBEE	Broad-Based Black Economic Empowerment
BBSDP	Black Business Supplier Development Programme
BCEA	Basic Conditions of Employment Act
BEE	Black Economic Empowerment
BLNS	Botswana, Lesotho, Namibia and Swaziland Member States
BILLION/billion	Billion
BOP	Balance of Payments
BPS	Business Process Services
BRICS	Brazil, Russia, India, China and South Africa
BRTS	Bus Rapid Transport System
BUSA	Business Unity South Africa
CC	Close Corporation

CCA	Customs Controlled Area
CCB	Customs Control Bill
CCMA	Commission for Conciliation, Mediation and Arbitration
CDB	Customs Duty Bill
CDM	Clean Development Mechanism
CEI	Capital Expenditure Incentives
CEO	Chief Executive Officer
CERs	Certified Emission Reductions/carbon credits
CFC	Controlled Foreign Company
CGT	Capital Gains Tax
CIP	Critical Infrastructure Programme
CIPC	Companies and Intellectual Property Commission
CIS	Cooperative Incentive Scheme
CITES	Convention on International Trade in Endangered Species
CKD	Complete Knock Down
CMA	Common Monetary Area
COMESA	Common Market for Eastern and Southern Africa
CPA	Consumer Protection Act
COSATU	Congress of South African Trade Unions
CP	Cost Plus
CPA	Consumer Protection Act
Corp	Corporation
CPI	Consumer Price Index
CRD	Concept and Research and Development Incentives
CSDP	Competitive Supplier Development Programme
CTCIP	Clothing and Textile Competitiveness Improvement Programme
CTCP	Clothing and Textiles Competitiveness Programme
CUP	Comparable Uncontrolled Price
DBSA	Development Bank of Southern Africa

DEA	Department of Environmental Affairs
DFA	Duty-free Allowance
DFIs	Development Finance Institutions
DIPA	Durban Investment Promotion Agency
DIPP	Defence Industrial Participation Programme
DMR	Department of Mineral Resources
DNA	Designated National Authority
DoE	Department of Energy
DPE	Department of Public Enterprises
DRC	Democratic Republic of Congo
DSL	Digital Subscriber Line
DT	Dividend Tax
<b>the dti</b>	The Department of Trade and Industry
DWEA	Department of Water and Environmental Affairs
ECDC	Eastern Cape Development Corporation
ED	Estate Duty
EE	Equity Equivalent
EEA	Employment Equity Act
EIS	Enterprise Investment Programme
EFTA	European Free Trade Area
e.g.	For example
EIA	Environmental Impact Assessment
EIU	Economic Intelligence Unit
EMIA	Export Marketing and Investment Assistance
EPA	EU Economic Partnership Agreement
EQUIS	European Quality Improvement System
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
et al.	et alii (and others)
EU	European Union

FABCOS	Foundation for African Business and Consumer Services
FATF	Financial Action Task Force
FAX/fax	Facsimile
FBE	Free Basic Electricity
FDC	Free State Development Corporation
FEDUSA	Federation of Unions of South Africa
FDI	Foreign Direct Investment
FICA	The Financial Intelligence Centre Act No. 38 of 2011
FIFA	International Federation of Football Association/Fédération Internationale de Football Association
FSB	Financial Services Board
FSC	Forest Stewardship Council
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GNI	Gross National Income
GMT	Greenwich Mean Time
GSP	General System of Preferences
GTL	Gas-to-liquids
G8	Group of Eight
G8+5	Group of Eight plus Five
G20	Group of Twenty
HDPs	Historically Disadvantaged Persons
HQC	Headquarter Company
HR	Human Resources
ICT	Information and Communication Technology
IDC	Industrial Development Corporation
IDZs	Industrial Development Zones
IF	Innovation Fund



IHQ	International Headquarter Company
IMF	International Monetary Fund
IP	Intellectual Property
IPAP	Industrial Policy Action Plan
IPPs	Independent Power Producers
IT	Information Technology
ITAC	International Trade Administration Commission

ITED	International Trade and Economic Development
IWF	Isivande Women's Fund
JI	Joint Implementation
JHB	Johannesburg/Joburg
JSE	Johannesburg Securities Exchange SA
km	Kilometres
LED	Local Economic Development
LRA	Labour Relations Act
LSE	London Stock Exchange
MBA	Master of Business Administration
MCEP	Manufacturing Competitive Enhancement Programme
MDGs	Millennium Development Goals
MFN	Most Favoured Nation
MiTech	Missions in Technology Programme
MIG	Municipal Infrastructure Grant
MIP	Manufacturing Investment Programme
MOI	Memorandum of Incorporation
MPRDA	Mineral and Petroleum Resources Development Act
NAAMSA	National Association of Automobile Manufacturers
NAFCOC	National African Federation of Chambers of Commerce
NACTU	National Council of Trade Unions
NCA	National Credit Act
NDPG	Neighbourhood Development Partnership Grant
NEF	National Empowerment Fund
NEMA	National Environmental Act
NEMAQA	National Environmental Management: Air Quality Act
NEMBA	National Environmental Management: Biodiversity Act
NEMPA	The National Environmental Management: Protected Areas Act
NEMWA	The National Environmental Management: Waste Act
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation

NIP	The National Industrial Participation
NIPP	National Industrial Policy Framework
NIPP	National Industrial Participation Programme
NOA	National Outsourcing Association
NT	National Treasury
NWA	The National Water Act
OECD	Organisation for Economic Cooperation and Development
PAIS	People-Carrier Automotive Investment Scheme
PAYE	Pay-As-You-Earn
PBO	Public Benefit Organisation
PBRs	Plant Breeders Rights
PCT	Patent Cooperation Treaty
PI	Production Incentive
Pop.	Population
POCA	Protection of Organised Crime Act 121 of 1998
POCDATARA	Protection of Constitutional Democracy Against Terrorist Related Activities Act 33 of 2004
PPD	Product Process Development
PPIA	Protection of Personal Information Act
PPP	Purchasing Power Parity
PPPFA	Preferential Procurement Policy Framework Act
PRECCA	Prevention and Combatting of Corrupt Activities Act
Prasa	Passenger Rail Agency of South Africa
PS	Profit Split
PSOM	Programme for Cooperation with Emerging Markets
PTA	Preferential Trade Agreement
PTI	Preferred Trader Initiative
PTIF	Public Transport Infrastructure
QSAPE	Qualifying South African Production Expenditure

R&D	Research and Development
RICA	Regulation of Interception of Communication and Communication Related Information Act
RISDP	Regional Indicative Strategic Development Plan
ROO	Rules of Origin
RP	Resale Price
RSA	Republic of South Africa
SA	South Africa
SAA	South African Airways
SABS	South African Bureau of Standards
SACCI	South African Chamber of Commerce and Industry
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAICA	South African Institute of Chartered Accountants
SANCB	South African National Convention Bureau
SANRAL	South African National Roads Agency
SANS	South African National Standards
SAPS	South African Police Service
SARB	South African Reserve Bank
SARS	South African Revenue Service
SDL	Skills Development Levy
SDP	Supplier Development Programme
SEDA	Small Enterprise Development Agency
SEFA	Small Enterprise Finance Agency
SET	Science Engineering and Technology
SEZA	Special Economic Zone Act
SEZs	Special Economic Zones
SKD	Semi Knock Down
SMEs	Small Medium Enterprises

SMME	Small, Medium and Micro Enterprises
SOCs	State-Owned Companies
SOE	State-Owned Enterprises
SPII	Strategic Partnership for Industrial Innovation
SPS	Sanitary and Phyto-Sanitary Measures
SSAS	Sector Specific Assistance Scheme
STC	Secondary Tax on Companies
STT	Securities Transfer Tax
TAA	Tax Administration Act 28 of 2011
TAP	Advancement Programme
TAX/tax	Taxation
TBT	Technical Barriers to Trade
TD	Transfer Duty
TDCA	Trade, Development and Cooperation Agreement
TEP	Tourism Enterprise Partnership
TEL/tel	Telephone
T-FTA	SADC-EAC-COMESA Tripartite FTA
<b>the dti</b>	Department of Trade and Industry
THRIP	Technology and Human Resources for Industry Programme
TIDCA	Trade, Investment, Development and Cooperation Agreement
TIFA	Trade and Investment Framework Agreement
TIK	Trade and Investment KZN
TISA	Trade and Investment South Africa
TNMM	Transactional Net Margin Method
UAE	United Arab Emirates
UCT	University of Cape Town
UIF	Unemployment Insurance Fund
UK	United Kingdom
UN	United Nations

UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNISA	University of South Africa
UPOV	International Convention for the Protection of New Varieties of Plants
US	United States
USA	United States of America
VAT	Value Added Tax
WEF	World Economic Forum
WEE	Women's Economic Empowerment
WHO	World Health Organisation
WHT	Withholding Tax
WTO	World Trade Organisation
ZAR	The South African Rand
ZPCSA	South Atlantic Peace and Cooperation Zone



# 11. Addendums: Indicative costs and other practical aspects of doing business and living in South Africa

## 11.1. Addendum 1: Telecommunication costs

### Telkom call rate charges<sup>11</sup>

The following tables provide an overview of the Telkom call rate charges for 2014/15 (effective from 1 August 2014).

#### ADSL prices

##### Telkom capped accounts

##### Home SoftCap bundles

Product (Telkom internet)	Data		Price		Difference in price	Price per GB
	Current	New	Current	New		
5GB SoftCap	5	10	R99.00	R99.00	R0.00	R9.90
10GB SoftCap	10	20	R149.00	R149.00	R0.00	R7.45
20GB SoftCap	20	50	R239.00	R269.00	R30.00	R5.38
30GB SoftCap	30	50	R395.00	R269.00	-R126.00	R5.38
40GB SoftCap	40	100	R525.00	R525.00	R0.00	R5.25
50GB SoftCap	50	100	R645.00	R525.00	-R120.00	R5.25
80GB SoftCap	80	100	R995.00	R525.00	-R470.00	R5.25
100GB SoftCap	100	100	R1 225.00	R525.00	-R700.00	R5.25
200GB SoftCap	200	200	R2 395.00	R995.00	-R1 400.00	R4.98
New 300GB SoftCap		300		R1 495.00	R1 495.00	R4.98
500GB SoftCap	500	500	R5 595.00	R2 495.00	-R3 100.00	R4.99

<sup>11</sup> <http://www.telkom.co.za/summerofwow/index.html>



Telkom internet home SoftCap bundles						
Bundles	DSL speed	Current		New		Difference
		Telkom internet account	Bundle price	Telkom internet account	Bundle price	
do Basic	Up to 2 Mbps	5GB SoftCap	R219.00	10GB SoftCap	R219.00	R0.00
do Advanced	Up to 4 Mbps	10GB SoftCap	R395.00	20GB SoftCap	R395.00	R0.00
do Premium	Up to 10 Mbps	20GB SoftCap	R554.00	50GB SoftCap	R584.00	R30.00
do Premium Plus	Up to 10 Mbps	30GB SoftCap	R639.00	50GB SoftCap	R584.00	-R55.00
do Elite	Up to 20 Mbps	30GB SoftCap	R727.00	50GB SoftCap	R601.00	-R126.00
do Elite Plus	Up to 40 Mbps	50GB SoftCap	R1 099.00	100GB SoftCap	R979.00	-R120.00
do Elite Simple	Up to 20 Mbps	30GB SoftCap	R899.00	50GB SoftCap	R773.00	-R126.00
do Elite Plus Simple	Up to 40 Mbps	50GB SoftCap	R1 279.00	100GB SoftCap	R1 159.00	-R120.00
Simple	Up to 2 Mbps	5GB SoftCap	R399.00	10GB SoftCap	R399.00	R0.00
Simple Plus	Up to 4 Mbps	10GB SoftCap	R499.00	20GB SoftCap	R499.00	R0.00

*Telkom uncapped accounts*  
Home uncapped products

Telkom internet home uncapped standalone data				
Bundles	DSL speed	Current price	New price	Difference
do Uncapped Basic	2 Mbps	R199.00	R229.00	R30.00
do Uncapped Advanced	4 Mbps	R249.00	R286.00	R37.00
do Uncapped Premium	4 Mbps	R249.00	R286.00	R37.00
do Uncapped Premium Plus	10 Mbps	R574.00	R574.00	R0.00
do Uncapped Elite	20 Mbps	R1 209.00	R1 099.00	-R110.00
do Uncapped Elite Plus	40 Mbps	R2 309.00	R1 799.00	-R510.00

Telkom internet home uncapped bundles					
Bundles	DSL speed	Telkom internet uncapped usage speed	Current price	New price	Difference
do Uncapped Basic	Up to 2 Mbps	2 Mbps	R364.00	R394.00	R30.00
do Uncapped Advanced	Up to 4 Mbps	4 Mbps	R548.00	R585.00	R37.00
do Uncapped Premium	Up to 10 Mbps	4 Mbps	R674.00	R711.00	R37.00
do Uncapped Premium Plus	Up to 10 Mbps	10 Mbps	R999.00	R999.00	R0.00
do Uncapped Elite	Up to 20 Mbps	20 Mbps	R1 799.00	R1 639.00	-R160.00
do Uncapped Elite Plus	Up to 40 Mbps	40 Mbps	R3 104.00	R2 594.00	-R510.00
Simple Uncapped	Up to 2 Mbps	2 Mbps	R549.00	R579.00	R30.00
Simple Uncapped Plus	Up to 4 Mbps	4 Mbps	R733.00	R770.00	R37.00

*Broadband prices*  
Uncapped business broadband prices

Business broadband services			
Service plan	Downstream	Upstream	Monthly charge
Telkom Business TBiz PremiumPlus Uncapped	10Mbps	1Mbps	R2 549.00
Vodacom BBC Fibre 10Mbps	10Mbps	5Mbps	R3 499.00
iBurst BusinessLink	10Mbps	10Mbps	R6 499.00
Neotel NeoBroadband Fibre	10Mbps	10Mbps	R9 348.00
Telkom Business TBiz Elite Uncapped	20Mbps	2Mbps	R3 274.00
Vodacom BBC Fibre 20Mbps	20Mbps	10Mbps	R5 899.00
iBurst BusinessLink	20Mbps	20Mbps	R10 999.00
Telkom Business TBiz ElitePlus Uncapped	40Mbps	3Mbps	R4 174.00
Vodacom BBC Fibre 40Mbps	40Mbps	20Mbps	R7 999.00
iBurst BusinessLink Uncapped	40Mbps	40Mbps	R20 001.00

### International call charges<sup>12</sup>

	Minimum price per minute (incl. VAT)*
Africa	R1.13
Europe	R0.60
South America	R1.14
North America	R0.57
Australia and Oceania	R0.81
Asia	R0.74

\* Minimum rates per minute. Rates may vary for countries within each international destination/region.

#### Note:

- The new (i.e. 2014/15) comparative rates (and packages) for Vodacom and Cell C can be accessed on their websites at: [www.vodacom.co.za/personal/phonesandpackages/businesscall](http://www.vodacom.co.za/personal/phonesandpackages/businesscall) and [www.cellc.co.za/cell-phone-contract/businesschat](http://www.cellc.co.za/cell-phone-contract/businesschat) respectively.



<sup>12</sup> <http://www.telkom.co.za/sites/athome/productsandservices/productsatoz/residentialcallrates/#!/null>

### 11.2. Addendum 2: Fuel costs

#### Latest fuel prices: 2014<sup>13</sup>

2014 (RSA c/litre)	South African fuel price history						
	Petrol			Diesel		Illuminating paraffin	
	Leaded replacement petrol	Unleaded		0.05% sulphur			
		Inland 93	Coast 95	Inland 95	Reef	Coast	Coast
Jan	1 336.00	1 320.00	1 357.00	1 287.157	1 260.550	963.828	1 009.728
Feb	1 375.00	1 359.00	1 396.00	1 311.350	1 284.750	975.828	1 021.728
Mar	1 411.00	1 395.00	1 432.00	1 338.550	1 311.950	991.828	1 037.728
Apr	1 416.00	1 398.00	1 439.00	1 329.750	1 299.150	953.028	1 003.228
May	1 401.00	1 383.00	1 424.00	1 299.970	1 269.370	934.028	984.228
Jun	1 379.00	1 361.00	1 402.00	1 276.390	1 245.790	924.028	974.228
July	1 408.00	1 392.00	1 433.00	1 290.390	1 259.790	947.028	997.228
Aug	1 408.00	1 392.00	1 433.00	1 284.770	1 254.170	940.028	990.228

<sup>13</sup> [www.aa.co.za/on-the-road/calculator-tools/fuel-pricing.html](http://www.aa.co.za/on-the-road/calculator-tools/fuel-pricing.html)

### Worldwide fuel price comparison<sup>14</sup>

1 American gallon = 3.785 litres

1 Imperial gallon = 4.540 litres

Currency converter = [www.oanda.com/convert/classic](http://www.oanda.com/convert/classic)

Worldwide fuel list									
Country	Leaded petrol		Unleaded petrol		Diesel	LPG	Currency	Per	
	Price	Octane rating	Price	Rating					
Argentina	-	-	7.329	95	7.149	-	ARS	litre	
			8.099	97					
Australia	-	-	1.512	95	1.577	-	AUD	litre	
Germany	-	-	1.600	95	1.397	0.750	EUR	litre	
			1.551	95E10					
			1.640	98					
India	-	-	70.57	91	43.31	33.37	INR	litre	
Japan	-	-	154.70	90	132.06		JPY	litre	
			165.57	100					
Kenya	-	-	108.03	93	107.00	-	KES	litre	
			114.60						
Mozambique	-	-	47.52	-	36.81	-	MZM	litre	
Russia	-	-	28.45	92	31.15	15.90	RUB	litre	
			31.00	95					
			34.00	98					
South Africa (Coastal)	13.18 LRP	93	13.12	93	12.26	22.58	ZAR	litre	
		95	13.18	95					
South Africa (Gauteng)	13.32 LRP	93	13.32	93	12.53	24.40	ZAR	litre	
		95	13.55	95					
United Kingdom	-	-	1.341	95	1.417	0.692	GBP	litre	
			1.453	98					
United States of America	-	-	3.541	87	3.870	-	USD	Am. gal	
			3.712	89					
			3.878	91					
			2.858	E85					

<sup>14</sup> AIT/FIA Information Centre - OTA. Retrieved August 2014.

### 11.3. Addendum 3: Water tariffs

The national and regional water tariffs/charges for 2014/15 for the Western Cape, Eastern Cape, Free State and Gauteng can be obtained directly from the Department of Water Affairs or alternatively accessed on their website at: [www.dwaf.gov.za/Projects/WARMS/Revenue/charges2014.aspx](http://www.dwaf.gov.za/Projects/WARMS/Revenue/charges2014.aspx)

### 11.4. Addendum 4: Cost of living comparison<sup>15</sup>

#### About cost of living indices

Indices on this website are relative to New York City (NYC), which means that for NYC, each index should be 100%. If another city has, for example, a rent index of 120, it means rents in average in that city are 20% more expensive than in NYC. If a city has a rent index of 70, that means in the average in that city, rents are 30% less expensive than in NYC.

**Consumer price excl. rent index (CPI)** is a relative indicator of consumer goods price, including groceries, restaurants, transportation and utilities. CPI index doesn't include accommodation expenses such as rent or mortgage. If a city has a CPI index of 120, it means it is 20% more expensive than in NYC (excluding rent).

<sup>15</sup> [http://www.numbeo.com/cost-of-living/country\\_result.jsp?country=South+Africa](http://www.numbeo.com/cost-of-living/country_result.jsp?country=South+Africa). August 2014.

**Rent index** is estimation of prices of renting apartments in the city compared to NYC. If the rent index is 80, the price for renting in that city is 80% of the price in NYC.

**Groceries index** is an estimation of grocery prices in the city compared to NYC. If groceries index is 40, estimated grocery prices in that city are 40% of prices in NYC.

**Restaurants index** is a comparison of prices of meals and drinks in restaurants and bars compared to NYC. If a city has a restaurant index of 105, it means it is 5% more expensive than in NYC.

**Local purchasing power** shows relative purchasing power in buying goods and services in a given city for the average wage in that city. If domestic purchasing power is 40, this means that the inhabitants of that city, with the average salary, can afford to buy 60% less typical goods and services than NYC residents with an average salary.

Country	Consumer price index	Rent index	Groceries index	Restaurant price index	Local purchasing power index
Norway	145.16	61.54	137.08	166.66	89.81
Switzerland	142.49	64.86	147.75	139.88	137.03
Angola	117.92	137.36	107.07	112.64	42.33
Denmark	115.09	42.10	101.85	133.40	91.59
Australia	114.59	61.52	111.96	101.16	100.49
Luxembourg	107.41	69.79	91.93	120.47	107.17
New Zealand	106.70	43.52	107.59	92.72	84.16
Ireland	105.62	40.23	101.16	101.30	89.55
United Kingdom	103.14	45.30	97.12	101.87	90.04
Finland	101.95	34.58	97.82	101.61	96.56
France	101.95	37.62	101.30	99.69	86.87
Belgium	101.13	36.10	96.05	105.55	82.38
Singapore	100.98	95.86	90.42	60.72	65.17
Netherlands	98.70	41.78	78.92	112.44	91.81
Sweden	98.53	33.16	95.60	97.37	101.91
Japan	96.69	38.44	101.71	58.20	90.86
Italy	95.76	31.49	84.75	102.47	72.47
Israel	91.55	36.28	81.22	94.35	76.71
South Korea	91.41	38.62	110.90	52.87	78.08
Canada	89.61	36.99	97.25	78.56	101.88
Austria	87.66	33.89	85.74	77.13	89.05
Germany	86.82	31.60	77.41	75.96	105.80
Greece	80.79	14.44	68.80	79.19	44.56
United States	76.97	37.82	83.66	66.12	125.63
Hong Kong	75.86	86.04	80.56	54.82	68.02
Qatar	72.38	76.88	66.87	76.23	118.87

Country	Consumer price index	Rent index	Groceries index	Restaurant price index	Local purchasing power index
Ghana	71.20	57.45	76.67	60.27	13.53
Nigeria	68.48	24.24	64.49	54.94	37.84
United Arab Emirates	67.79	65.83	61.67	61.78	102.01
Portugal	67.78	21.88	56.36	56.38	51.81
Zimbabwe	67.71	20.39	62.40	52.53	30.87
Brazil	66.24	23.29	54.10	51.77	38.37
Mozambique	64.54	37.50	57.36	62.12	36.27
Namibia	63.68	26.34	58.48	53.77	40.28
Russia	61.75	30.63	51.07	67.40	36.08
Saudi Arabia	61.37	15.99	68.52	33.76	98.93
Taiwan	59.37	19.34	71.56	29.07	65.72
Mauritius	57.90	24.20	53.69	49.55	63.36
Oman	55.08	30.56	50.19	39.35	99.91
Kenya	53.78	20.08	56.83	35.21	27.26
Turkey	53.64	13.40	43.69	39.76	49.61
Poland	53.36	18.85	44.63	43.54	56.42
Ethiopia	53.23	20.61	54.81	26.91	14.72
Tanzania	52.82	25.71	55.99	28.76	35.28
Uganda	52.72	10.15	49.09	24.98	23.76
China	52.64	24.51	55.82	37.53	40.17
Iraq	51.89	19.12	44.47	44.96	37.25
Libya	51.89	18.82	60.68	41.17	40.86
South Africa	49.55	18.59	44.44	44.07	94.77
Morocco	45.35	12.72	40.53	35.75	30.52
Egypt	36.22	9.00	35.06	30.95	24.68
India	27.72	7.48	30.46	16.18	59.26

### 11.5. Addendum 5: Education costs

South Africa has a single national education system, organised and managed by the National Department of Education. South Africa also has numerous private schools. The table below provides an indicative cost of private schooling in South Africa.

**Note:**

- By law, in South Africa no child can be excluded from a state school if his/her parents can't afford to pay the fees. If both parents' annual earnings (before tax) are less than 10 times the annual school fees, the child qualifies for a full-fee exemption. Partial exemptions can also be made for parents with financial problems. You should apply to your school governing body for fee exemption. If your application is rejected, you can lodge an appeal with your provincial education department.

For further information regarding schools (private, public and boarding schools) and schooling fees, contact:

- The National Department of Education: 0800 202 933  
Tel: +27 12 357 3000 or [www.education.gov.za](http://www.education.gov.za)
- The South African Schools Network: [www.southafricanschools.net/282\\_283](http://www.southafricanschools.net/282_283)



### The American International School of Johannesburg (AISJ)<sup>6</sup>

**Tuition fees for 2014/15**

Due to incurring both US\$ and South African Rand(R) expenses, AISJ charges tuition fees in dual currencies. Students joining prior to 26 November 2014, have two options for payment: Plan A or Plan B. The Plan B schedule is payable in two instalments and carries a 5% surcharge.

Plan A: Payable in full prior to 1 August 2014 or prior to starting school			
	US\$ portion		R portion
Pre-kindergarten	\$6 845	Plus	R88 610
Elementary school kindergarten to grade 5	\$9 130	Plus	R118 150
Middle school grades 6 to 8	\$10 665	Plus	R138 100
High school grades 9 to 12	\$11 850	Plus	R153 435

Plan B: Payable in two instalments and carries a 5% surcharge									
	Total amount payable			60% Due prior to 1 August 2014			40% due prior to 1 January 2015		
	US\$ portion	Plus	R portion	US\$ portion	Plus	R portion	US\$ portion	Plus	R portion
Pre-kindergarten	\$7 187	Plus	R 93 040	\$4 312	Plus	R55 824	\$2 875	Plus	R37 216
Elementary school kindergarten to grade 5	\$9 587	Plus	R124 058	\$5 752	Plus	R74 435	\$3 835	Plus	R49 623
Middle school grades 6 to 8	\$11 198	Plus	R145 005	\$6 719	Plus	R87 003	\$4 479	Plus	R58 002
High school grades 9 to 12	\$12 443	Plus	R161 107	\$7 466	Plus	R96 664	\$4 977	Plus	R64 443

<sup>6</sup> [www.aisj-jhb.com](http://www.aisj-jhb.com)

**Unisa<sup>17</sup>**

**Prescribed student fees (undergraduate studies)**

The following table provides the prescribed fees for the various undergraduate modules and degrees, together with the payment dates and minimum fees due by those dates:

**Master's & doctoral studies**

**Prescribed student fees (master's degrees)**

Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2014	Due by 15 May 2014	Due by 15 Aug 2014
<b>Subjects in Education; Law; Psychology; and Public Management and Services</b>						
Half module	S1	R650.00	R305.00	R345.00		
	S2	R650.00	R305.00			R345.00
	YEAR	R650.00	R305.00			R345.00
Module/paper	S1	R1 300.00	R610.00	R690.00		
	S2	R1 300.00	R610.00			R690.00
	YEAR	R1 300.00	R610.00			R690.00
Full-year module	YEAR	R2 600.00	R1 220.00		R690.00	R690.00
<b>Subjects in Business, Economics and Management Studies; Communication, Journalism and Related Studies; Computer and Information Sciences; Languages, Linguistics and Literature; Philosophy, Religion and Theology; and Social Sciences</b>						
Half module	S1	R635.00	R305.00	R330.00		
	S2	R635.00	R305.00			R330.00
	YEAR	R635.00	R305.00			R330.00
Module/paper	S1	R1 270.00	R610.00	R660.00		
	S2	R1 270.00	R610.00			R660.00
	YEAR	R1 270.00	R610.00			R660.00
Full-year module	YEAR	R2 540.00	R1 220.00		R660.00	R660.00

Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2014	Due by 15 May 2014	Due by 15 Aug 2014
<b>Subjects in Architecture and the Built Environment; Engineering; Family Ecology and Consumer Sciences; and Mathematics and Statistics</b>						
Half module	S1	R615.00	R305.00	R310.00		
	S2	R615.00	R305.00			R310.00
	YEAR	R615.00	R305.00			R310.00
Module/paper	S1	R1 230.00	R610.00	R620.00		
	S2	R1 230.00	R610.00			R620.00
	YEAR	R1 230.00	R610.00			R620.00
Full-year module	YEAR	R2 460.00	R1 220.00		R620.00	R620.00
<b>Subjects in Agriculture, Agricultural Operations and related Sciences; Visual and Performing Arts; Health Professions and Related Clinical Sciences; Life Sciences; and Physical Sciences</b>						
Half module	S1	R560.00	R305.00	R255.00		
	S2	R560.00	R305.00			R255.00
	YEAR	R560.00	R305.00			R255.00
Module/paper	S1	R1 120.00	R610.00	R510.00		
	S2	R1 120.00	R610.00			R510.00
	YEAR	R1 120.00	R610.00			R510.00
Full-year module	YEAR	R2 240.00	R1 220.00		R510.00	R510.00

<sup>17</sup> www.unisa.co.za

Description	Semester	Total	Minimum amount payable on registration
<b>Subjects in Education; Law; Psychology; and Public Management and Services</b>			
Half module	YEAR	R915.00	R400.00
Module	S1	R1 830.00	R800.00
	S2	R1 830.00	R800.00
	YEAR	R1 830.00	R800.00
Full-year module/paper	YEAR	R3 660.00	R1 600.00
Full-year module/paper 36 credits	YEAR	R5 490.00	R2 440.00
<b>Subjects in Business, Economics and Management Studies; Communication, Journalism and Related Studies; Computer and Information Sciences; Languages, Linguistics and Literature; Philosophy, Religion and Theology; and Social Sciences</b>			
Half module	YEAR	R860.00	R400.00
Module	S1	R1 720.00	R800.00
	S2	R1 720.00	R800.00
	YEAR	R1 720.00	R800.00
Full-year module/paper	YEAR	R3 440.00	R1 600.00
Full-year module/paper 36 credits	YEAR	R5 160.00	R2 440.00
<b>Subjects in Architecture and the Built Environment; Engineering; Family Ecology and Consumer Sciences; and Mathematics and Statistics</b>			
Half module	YEAR	R 820.00	R400.00
Module	S1	R1 640.00	R800.00
	S2	R1 640.00	R800.00
	YEAR	R1 640.00	R800.00
Full-year module/paper	YEAR	R3 280.00	R1 600.00
Full-year module/paper 36 credits	YEAR	R4 920.00	R2 440.00
<b>Subjects in Agriculture, Agricultural Operations and related Sciences; Visual and Performing Arts; Health Professions and Related Clinical Sciences; Life Sciences; and Physical Sciences</b>			

Description	Semester	Total	Minimum amount payable on registration
Half module	YEAR	R 755.00	R400.00
Module	S1	R1 510.00	R800.00
	S2	R1 510.00	R800.00
	YEAR	R1 510.00	R800.00
Full-year module/paper	YEAR	R3 020.00	R1 600.00
Full-year module/paper 36 credits	YEAR	R4 530.00	R2 440.00

### Miscellaneous fees

Apart from your general fees, there are various miscellaneous fees that you will encounter in the course of your studies, such as supplementary exams, remarks, exemption certificates and library cards. All miscellaneous fees are payable to Unisa and may be included with your student fees.

The following table details all these fees and indicates who they apply to:

Supplementary, special and aegrotat examinations			R195.00
Remarking of examinations scripts			R340.00
Issuing of complete or conditional exemption certificates by the Matriculation Board (payable before or on registration)			R410.00
Dishonored payments			R500.00
Levy on students in foreign countries	Category	Levy per course	Levy per module
	A	R970.00	R485.00
	B	R1 940.00	R970.00
Library card (smart card)			R45.00
Amount forfeited in case of death prior to the examination period			R1 220.00
Visual art studio fee			R120.00

## 11.6. Addendum 6: Cost of office space and industrial land

The Rode Report analyses most property transactions and reports on most sectors of the property market in the major, and some secondary cities in South Africa. It covers, *inter alia*, trends and levels of rentals and standard capitalisation rates by property type, grade, node/ township, the listed real estate market, building construction costs and building activity. The following excerpts from the 2014 Rode Report provide an indication of the cost of office space and industrial land in South Africa:

### Addendum 6.1: Market rental rates for office buildings<sup>18</sup>

Market rental rates for office buildings Quarter 2014:1 Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Johannesburg CBD	108.00	79.17	70.00	35.00
Braamfontein	95.00	82.50	75.50	45.00
Sandton CBD	193.50	150.83	117.00	98.33
Randburg Ferndale	86.38	76.70	69.50	63.50
Rivonia	107.50	92.67	85.75	76.67
Rosebank	171.67	127.50	105.00	88.00
Ilovo	162.50	145.00	98.33	86.50
Parktown	115.67	95.83	83.33	80.67
Richmond/Millpark	-	85.00	72.50	65.25
Bedfordview	160.00	107.50	100.00	86.00
Bruma	140.00	103.12	83.75	73.33
Woodmead	121.50	107.50	84.60	77.50
Sunninghill	102.50	92.33	85.00	77.00
Bryanston/ Epsom	142.75	119.75	96.50	83.00
Fourways	134.64	113.00	92.96	80.88
Houghton	110.62	104.70	88.92	83.92
Hydepark	129.43	117.33	91.95	81.11
Ormonde	-	78.50	67.25	64.67
Midrand	119.17	93.38	84.62	70.35

<sup>18</sup> Rode's Report 2014(pp.28-29). www.rode.co.za

Market rental rates for office buildings Quarter 2014:1 Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Pretoria	115.00	80.00	70.00	62.50
Lynnwood	138.50	98.50	85.50	77.00
Menlyn	159.33	127.50	110.00	-
Hatfield	147.50	123.33	105.00	-
Centurion	149.50	123.67	105.00	-
Highveld Technopark	112.50	114.50	83.67	-
Sunnyside	145.00	95.00	80.00	70.00
Arcadia	-	95.00	85.00	-
Nelspruit	142.50	122.50	95.00	75.00
Bloemfontein CBD	117.50	106.50	82.50	63.33
Durban CBD	85.00	72.50	52.50	45.00
Westville	125.00	103.33	90.00	80.00
Pinetown	92.50	82.50	72.50	50.00
Port Elizabeth	-	-	-	55.00
Cape Town CBD	148.33	105.00	82.50	63.33
Sea Point	125.00	95.00	75.00	60.00
V&A Portswood Ridge	-	142.50	-	-
Granger Bay	-	142.50	-	-
Salt River	60.00	55.00	50.00	45.00
Woodstock	85.00	72.50	60.00	52.50
Observatory	115.00	100.00	85.00	55.00
Kenilworth	106.67	88.33	-	-
Rondebosch/Newlands	120.00	98.33	65.00	-
Wynberg	-	-	82.50	-
Westlake	111.67	91.67	-	-
Claremont Upper	131.67	108.33	95.00	-
Hout Bay	-	95.00	70.00	55.00



Market rental rates for office buildings Quarter 2014:1 Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Pinelands	100.00	-	-	-
Milnerton	-	85.00	70.00	-
Century City	151.67	132.50.00	102.50	-
Maitland	-	-	40.00	35.00
Goodwood (N1 City)	100.00	95.00	80.00	75.00
Bellville CBD	-	100.00	75.00	59.00
Tyger Valley area	117.50	105.00	87.50	75.00
Durbanville	120.00	95.00	-	-

**Addendum 6.2: Mean market values for serviced and level industrial stands**

Mean market values for serviced and level industrial stands Quarter 2014:1 (R/m <sup>2</sup> excl. VAT)					
Location	Area: in m <sup>2</sup>				
	1 000	2 000	5 000	10 000	Vacancy
Central Witwatersrand	820	805	747	722	1.5
West Rand	698	698	669	658	2.2
East Rand	846	833	789	791	1.4
Durban	1 566	1 497	1 254	1 135	2.1
Cape Peninsula	1 276	1 218	1 088	1 038	1.8
George	293	286	310	283	5.3
Port Elizabeth	740	577	413	400	4.2
Bloemfontein	313	288	257	168	1.5



**Addendum 6.3: Indicative operating expenses for industrial buildings<sup>19</sup>**

Typical gross outgoings for prime office buildings Quarter 2014:1 Rands/m <sup>2</sup> per month				
	Stand-alone		Park	
	R/m <sup>2</sup>	SD	R/m <sup>2</sup>	SD
Central Witwatersrand	8.80	0.98	9.92	1.88
West Rand	5.30	1.33	8.31	1.08
East Rand	7.00	1.58	11.00	0.41
Far East Rand	6.33	0.47	8.00	1.63
Pretoria	7.00	-	12.00	-
Polokwane	17.50	10.00	20.25	11.75
Nelspruit	8.00	0.00	14.00	1.00
Durban	10.17	1.47	13.00	1.00
Cape Peninsula	5.50	1.47	13.50	1.50
Bloemfontein	6.50	-	6.50	-

<sup>19</sup> Rode's Report 2014 (pp. 81 - 82). [www.rode.co.za](http://www.rode.co.za).

### Addendum 6.4: Flat rentals for standard units<sup>110</sup>

Flat Rentals: Standard units Quarter 2014:1 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R2 532	R3 331	R4 131	R5 057
Germiston average	-	-	-	-
Pretoria average	R2 563	R2 913	R3 546	R4 123
Durban average	R2 771	R3 355	R4 102	R5 050
Cape Town average	R2 864	R3 487	R4 378	R5 581
Port Elizabeth average	R2 311	R2 785	R3 515	R4 354
East London average	R2 510	R2 783	R3 261	R3 692
Bloemfontein average	R2 228	R2 650	R3 526	R3 995

### Addendum 6.5: Flat rentals for upmarket units<sup>111</sup>

Flat rentals: Upmarket units Quarter 2014:1 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R3 142	R4 406	R5 474	R6 045
Centurion average	R3 588	R4 133	R4 986	R6 264
Durban average	R3 214	R4 079	R5 052	R6 644
Cape Town average	R3 620	R4 422	R5 896	R7 703
Port Elizabeth average	R2 610	R3 066	R3 563	R4 320
East London average	R2 867	R3 060	R3 493	R3 945

<sup>110</sup> Rode's Report 2014 (pp.107 - 112). [www.rode.co.za](http://www.rode.co.za).

<sup>111</sup> Rode's Report 2014 (pp.113 - 118). [www.rode.co.za](http://www.rode.co.za)

### 11.7. Addendum 7: Ease of Doing Business (DB) in South Africa<sup>112</sup>

#### Note:

- This addendum summarises the World Bank "Doing Business 2014" data for South Africa. The first table lists the overall "Ease of Doing Business" rank (out of 189 economies) and the rankings by each topic. The rest of the tables summarise the key indicators for each topic and benchmark against regional and high-income economy (OECD) averages.

#### Ease of doing business

Doing business 2014 rank	Doing business 2013 rank	Change in rank
41	41	0

Topic	DB 2014 rank	DB 2013 rank	Change in rank
Starting a business	64	56	-8
Dealing with construction permits	26	25	-1
Getting electricity	150	151	+ 1
Registering property	99	95	- 4
Getting credit	28	24	- 4
Protecting investors	10	10	No change
Paying taxes	24	26	+ 2
Trading across borders	106	110	+ 4
Enforcing contracts	80	80	No change
Resolving insolvency	82	82	No change

<sup>112</sup> [www.doingbusiness.org/data/exploreeconomies/south-africa](http://www.doingbusiness.org/data/exploreeconomies/south-africa)

## Starting a business

DB 2014 rank	DB 2013 rank	Change in rank
64	56	-8

Indicator	South Africa	Sub-Saharan Africa	OECD
Procedures (number)	5	8	5
Time (days)	19	29.7	11.1
Cost (% of income per capita)	0.3	67.4	3.6
Paid-in min. capital (% of income per capita)	0.00	125.7	10.4

Procedure	Time to complete	Associated costs
Lodge formation documentation with the CIPC	5 -7 days	R175
Open a bank account	1-2 days	no charge
Register with the office of the local receiver of revenue (SARS) for income tax, VAT, PAYE and SITE	12 days	no charge
Register with the Department of Labour for UIF	4 days (simultaneous with procedure 4)	no charge
Register with the Commissioner according to the Compensation for Occupational Injuries and Diseases Act	About 10 days, simultaneous with Procedure 4	no charge

## Key world rankings

### Note:

- Economies are ranked on their "Ease of Doing Business", from 1 – 189. A high ranking on the Ease of Doing Business Index means the regulatory environment is more conducive to the starting and operation of a local firm. This index averages the country's percentile rankings on 10 topics, made up of a variety of indicators, giving equal weight to each topic.

Economy	Ease of Doing Business rank	Starting a business	Dealing with construction permits	Getting electricity	Registering property	Getting credit	Protecting investors	Paying taxes	Trading across borders	Enforcing contracts	Resolving insolvency
United States	4	20	34	13	25	3	6	64	22	11	17
United Kingdom	10	28	27	74	68	1	10	14	16	56	7
Australia	11	4	10	34	40	3	68	44	46	14	18
Mauritius	20	19	123	48	65	42	12	13	12	54	61
Germany	21	111	12	3	81	28	98	89	14	5	13
Japan	27	120	91	26	66	28	16	140	23	36	1
United Arab Emirates	23	37	5	4	4	86	98	1	4	100	101
South Africa	41	64	26	150	99	28	10	24	106	80	82
Botswana	56	96	69	107	41	73	52	47	145	86	34
Namibia	98	132	31	72	178	55	80	114	141	69	85
China	96	158	185	119	48	73	98	120	74	19	78
Zambia	83	45	57	152	102	13	80	68	163	120	73
Brazil	116	123	130	14	107	109	80	159	124	121	135
India	134	179	182	111	92	28	34	158	132	186	121
Lesotho	136	89	145	136	88	159	98	101	144	144	104
Malawi	171	149	173	183	85	130	80	81	176	145	150
Angola	179	178	65	170	132	130	80	155	169	187	189
Zimbabwe	170	150	170	157	93	109	128	142	167	118	156

### 11.8. Addendum 8: National remuneration data<sup>13</sup>

National remuneration guide	
Job category	National salary range (per annum)*
Cleaner	R85 663 – R105 832
Messenger/Driver	R130 169 – R160 853
Telephonist - Level 1	R138 987 – R171 723
Telephonist - Level 3	R182 804 – R226 841
Receptionist - Level 1	R136 446 – R168 382
Receptionist - Level 2	R157 869 – R196 168
Secretary - Level 1	R196 166 – R242 248
Secretary - Level 3	R259 018 – R319 832
Personal Assistant - Level 1	R263 115 – R322 306
Personal Assistant - To CEO	R423 051 – R522 181
Human Resources (HR) Manager - Level 1	R703 577 – R868 953
Human Resources (HR) Manager - Level 2	R897 144 – R1108 135
Graphic Artist / Designer - Junior	R294 483 – R363 580
Graphic Artist / Designer - Senior	R491 123 – R606 697
Clerk (General) - Level 1	R127 921 – R158 082
Clerk (General) - Level 3	R200 557 – R247 650
Chartered Accountant (Qualified) - Level 3	R649 701 – R802 367
Chartered Accountant (Qualified) - Level 5	R872 086 – R1079 219

\*Guaranteed salary package - Total basic and benefits.

Regional differences in remuneration					
Regional variances from the national norm*					
Region	Mid-managerial/ high level specialist	Specialised/ skilled senior supervisory	General staff/clerical supervisory	Lower skilled/ hourly rated	Overall average
National	100	100	100	100	100
Cape Town and Environs	102	101	100	100	101
Durban and Environs	98	97	97	97	97
East Rand	105	104	105	105	105
Eastern Cape	90	92	92	91	91
Free State	91	90	90	89	90
Johannesburg	106	106	104	106	106
Limpopo Province	93	95	93	90	93
Midrand	103	103	103	104	103
Mpumalanga	96	96	95	98	96
Northern Cape	92	91	91	92	92
North West Province	94	93	94	93	94
Other KwaZulu-Natal	100	98	99	99	99
Pretoria	104	102	101	101	102
Vaal Triangle	101	100	97	103	100
West Rand	95	94	96	95	95
Western Cape	97	99	98	96	98

\*Regional variances from the national norm (indexed at 100).

<sup>13</sup> Based on data provided by Deloitte Human Capital (February 2014), projected to (August 2014).

Regional differences in remuneration (comparative ratios)*	
Region	National (100)
Cape Town and Environs	101
Durban and Environs	99
East Rand	105
Eastern Cape	94
Free State	90
Johannesburg	106
Limpopo Province	91
Midrand	103
Mpumalanga	96
Northern Cape	92
North West Province	93
Other KwaZulu-Natal	97
Pretoria	102
Vaal Triangle	104
West Rand	95
Western Cape	98

\*Regional variances from the national norm (indexed at 100).

## 11.9. Addendum 9: Transportation costs for goods

### Addendum 9.1: Rail<sup>114</sup>

#### Transnet freight rail, rail charge levy

Transnet freight rail, rail charge levy (%)

	Levy components	Effective date	Effective date	Effective date
		2014-04-01	2014-08-13	2014-09-10
Diesel	Diesel fuel price adjustments	0.000%	0.000%	0.000%
Electricity	Electrical energy price adjustments	0.000%	0.000%	0.000%
Exchange	Foreign currency exchange rate adjustments	0.000%	0.000%	0.000%
Steel	Steel price adjustments	0.000%	0.099%	0.054%
Total levy applicable 2nd Wednesday of month.		0.000%	0.099%	0.054%



<sup>114</sup> Source: [http://www.transnetfreightrail.co.za/Website/charge\\_levy.html](http://www.transnetfreightrail.co.za/Website/charge_levy.html) Retrieved August 2014

### Detail for levy components

Constants	Diesel price examples	Effective date	Effective date	Effective date
		2014-04-01	2014-08-13	2014-09-10
R	Energy (Diesel) Component of Rail price (P1 to P3)	9.600%	9.600%	9.600%
NP	New Diesel price Diesel Levy	R1 329.75	R1 284.77	R1 259.39
BPx	Diesel Basis price adjusted yearly as on 1 April YYYY	R1 329.75	R1 329.75	R1 329.75
Ix	Diesel Levy Applicable 2nd Wednesday of month	0.0000%	0.0000%	0.0000%
Constants	Electricity % examples	Effective date	Effective date	Effective date
		2014-04-01	2014-08-13	2014-09-10
RP	Energy (Electricity) component of rail price	8.4000%	8.4000%	8.4000%
S	Cumulative electricity increase/decrease margin	0.000%	0.000%	0.000%
Sbe	Electricity price increase	0.000%	0.000%	0.000%
	Electricity levy			
Ax	Electricity basis adjusted yearly as on 1 April YYYY	0.000%	0.000%	0.000%
Ix	Electricity levy applicable 2nd Wednesday of month	0.000%	0.000%	0.000%

Constants	Foreign currency exchange rate adjustment examples	Effective date	Effective date	Effective date
		2014-04-01	2014-08-13	2014-09-10
R	Currency component of rail price (P1 to P3)	0.500%	0.500%	0.500%
S	Cumulative currency increase/decrease margin	0.80	0.80	0.80
NR	New USD RAND (USD ZAR) currency exchange Energy levy	10.7384	10.6490	10.6553
	Energy levy			
BRx	Base currency rate adjusted yearly as end March YYYY	10.7384	10.7384	10.7384
C	Monthly Effective currency adjustment	0.0000	0.0000	0.0000
Ix	Currency levy applicable 2nd Wednesday of month	0.000%	0.000%	0.000%
Constants	Steel price examples	Effective date	Effective date	Effective date
		2014-04-01	2014-08-13	2014-09-10
R	Steel component of rail price (P1 to P3)	3.500%	3.500%	3.500%
NP	Basic metals (Unit: Index: 2000=100; Source: P0142.1 - Table 8) Energy Levy	116.4000	119.7000	118.2000
	Energy levy			
BSx	Basis metals price index adjusted yearly as in Feb YYYY	116.4000	116.4000	116.4000
Ix	Steel Levy applicable 2nd Wednesday of month	0.000%	0.099%	0.054%
	Total levy applicable 2nd Wednesday of month	0.000%	0.099%	0.054%

Addendum 9.2: Road<sup>115</sup>

Toll tariffs 2014/15\*

PLAZA All amounts in Rands		CLASS 1 Light vehicles	CLASS 2 2 axle heavy vehicles	CLASS 3 3 & 4 axle heavy vehicles	CLASS 4 5 & more axle heavy vehicles
<b>N1</b>					
Huguenot	Mainline	30.00	79.00	124.00	201.00
Verkeerdevlei	Mainline	43.00	82.00	124.00	174.00
Vaal	Mainline	50.50	90.00	109.00	145.00
Grasmere	Mainline	15.00	43.00	50.00	66.00
	Ramp (S)	7.50	21.50	25.00	33.00
	Ramp (N)	7.50	21.50	25.00	33.00
Stormvoël	Ramp	7.00	16.50	19.50	23.50
Zambesi	Ramp	8.50	20.00	23.50	28.00
Pumulani	Mainline	9.00	22.00	25.00	31.00
Wallmansthal	Ramp	4.20	10.00	12.00	14.00
Murrayhill	Ramp	8.50	20.00	24.00	28.00
Hammanskraal	Ramp	20.00	64.00	70.00	80.00
Carousel	Mainline	42.00	108.00	119.00	138.00
Maubane	Ramp	18.50	47.00	52.00	60.00
Kranskop	Mainline	33.50	82.00	110.00	135.00
	Ramp	9.50	24.00	29.00	43.00
Nyl	Mainline	44.00	83.00	100.00	134.00
Sebetiela	Ramp	13.50	25.00	32.00	43.00
Capricorn	Mainline	34.50	97.00	114.00	142.00
Baobab	Mainline	33.50	93.00	128.00	154.00

\*Effective May 2014.

PLAZA All amounts in Rands		CLASS 1 Light vehicles	CLASS 2 2 axle heavy vehicles	CLASS 3 3 & 4 axle heavy vehicles	CLASS 4 5 & more axle heavy vehicles
<b>R30</b>					
Brandfort	Mainline	34.50	69.00	105.00	147.00
<b>N2</b>					
Tsitsikamma	Mainline	40.00	102.00	243.00	343.00
	Ramp	40.00	102.00	243.00	343.00
Izotsha	Ramp	7.00	13.00	17.00	30.00
Oribi	Mainline	22.00	40.00	56.00	90.00
	Ramp (S)	10.00	19.00	26.00	41.00
	Ramp (N)	12.00	21.00	30.00	56.00
Umtentweni	Ramp	9.50	17.00	24.00	34.00
King Shaka Airport	Ramp	4.50	9.00	15.00	19.00
Thongathi	Mainline	8.50	18.00	234.00	34.00
	Ramp (S)	4.50	9.50	12.00	17.00
	Ramp (N)	4.50	9.50	12.00	17.00
Mvoti	Mainline	10.00	29.00	39.00	58.00
Mandini	Ramp	5.50	11.00	13.00	17.00
Dokodweni	Ramp	14.50	30.00	34.00	47.00
<b>N3</b>					
Mariannahill	Mainline	9.00	17.00	21.00	32.00
Mooi	Mainline	39.00	96.00	134.00	182.00
	Ramp (S)	27.00	67.00	94.00	127.00
	Ramp (N)	12.00	29.00	40.00	54.00
Treverton	Ramp	12.00	29.00	40.00	54.00
Bergville	Ramp	17.00	20.00	36.00	56.00
Tugela	Mainline	56.00	92.00	145.00	201.00
Tugela East	Ramp	35.00	57.00	85.00	118.00
Wilge	Mainline	52.00	90.00	120.00	170.00
De Hoek	Mainline	38.00	59.00	89.00	129.00

<sup>115</sup> www.nra.co.za/live/content.php?Item\_ID=202

PLAZA All amounts in Rands		CLASS 1 Light vehicles	CLASS 2 2 axle heavy vehicles	CLASS 3 3 & 4 axle heavy vehicles	CLASS 4 5 & more axle heavy vehicles
<b>N4</b>					
Pelindaba	Mainline	4.50	8.50	12.00	15.00
Quagga	Mainline	3.50	6.50	9.00	12.00
Swartruggens	Mainline	75.00	187.00	227.00	267.00
Kroondal	Ramp	11.50	27.00	30.00	36.00
Marikana	Mainline	17.00	41.00	46.00	54.00
Buffelspoort	Ramp	11.50	27.00	30.00	36.00
Brits	Mainline	11.50	40.00	43.00	51.00
Doornpoort	Mainline	11.50	28.00	33.00	40.00
Donkerhoek	Ramp	9.50	14.00	20.00	38.00
Cullinan	Ramp	12.00	20.00	29.00	48.00
Diamond Hill	Mainline	29.00	40.00	75.00	124.00
Valtaki	Ramp	22.00	31.00	46.00	103.00
Ekandustria	Ramp	17.00	26.00	35.00	71.00
Middelburg	Mainline	47.00	102.00	155.00	204.00
Machadodorp	Mainline	71.00	196.00	286.00	408.00
Nkomazi	Mainline	54.00	109.00	157.00	227.00
<b>N17</b>					
Gosforth	Mainline	9.50	25.00	28.00	39.00
	Ramp (W)	5.00	11.00	14.00	18.00
	Ramp (E)	4.50	16.00	17.00	24.00
Dalpark	Mainline	8.50	18.00	24.00	32.00
Denne	Ramp	7.50	15.00	20.00	26.00
Leandra	Mainline	28.00	70.00	106.00	140.00
	Ramp	17.00	43.00	63.00	84.00

### Addendum 9.3: Sea

For international and domestic shipment costs refer to: Transnet - National Port Authority Tariffs (effective 1 April 2014), [www.transnetnationalportsauthority.net](http://www.transnetnationalportsauthority.net)

### Addendum 9.4: Air<sup>16</sup>

Domestic and International airfreight costs can be obtained directly from South African Airways, SAA Cargo Services.

Contact SAA Cargo Services at:

Tel: +27 11 978 1119

Toll Free: +27 800 002 869

#### Domestic Airfreight Tariffs\*

\*Effective 1 April 2014 until 31 March 2015.

#### Passenger flights SAA/Mango\*\*

- General freight: R79.06 - min charge: common rated R6.22 (excl JNB-DUR-JNB R4.04 per kg under 100kg, Common rated R6.12 excl JNB- DUR-JNB, R3.47 per kg over 100kg);
- Express freight: R112.78 – min charge: common rated R21.92 (excl JNB-DUR-JNB R11.92 per kg under 100kg, Common rated R21.44 excl JNB-DUR-JNB R11.65 per kg over 100kg);
- Valuable cargo: R361.23 - min charge: 200% of Express Rate (express rates X2);
- Motor vehicles: on request: DGR fees apply; and
- Motorbikes: on request: DGR fees apply.

\*\* Minimum charges will not be included in the calculation of discounts.

#### Passenger flights SA Express

- General freight: R79.06 min charge: common rated R8.78 (excl George R6.22 per kg under 100kg, Common rated R8.62 excl George R6.06 per kg over 100kg); and
- Express freight: R112.78 – min charge: common rated R21.92 (excl per kg under 100kg, Common rated R21.44 excl per kg over 100kg)

#### Starlight Express rates

- Min: R112.78, and
- BFN/GRJ road feeder available: R4.37PLZ-GRJ and R11.25 JNB -BFN

	CPT	DUR	ELS	JNB	PLZ
CPT		R 31.55	R 30.07	R 26.25	R 15.05
DUR	R 31.55		R 15.05	R 14.74	R 32.13
ELS	R 30.07	R 15.05		R 30.07	R 15.05
JNB	R 26.25	R 14.74	R 30.07		R 27.49
PLZ	R 15.05	R 32.13	R 15.05	R 27.49	

<sup>16</sup> [www.flysaa.com/za/en/Saa\\_Cargo\\_new/Rates/flysaa\\_cargo\\_rates\\_domestic.html](http://www.flysaa.com/za/en/Saa_Cargo_new/Rates/flysaa_cargo_rates_domestic.html)



**Class commodities**

Human remains	200% of express rates
Livestock	100% of express rates
Day old poultry	150% of express rates
Dangerous goods	200% of express rates
Valuable cargo	200% of express rates
Vulnerable cargo	Express rate plus R340.95 handling fee

**Additional charges**

- AWB amendment fee (after acceptance): R206.42;
- Airline security charge per kg: R0.15 (all customers, all cargo, non-commissionable);
- Part 108 Screening: R0.22 per kg, min R17.00 (this charge includes VAT);
- AWB Fee – All Services: R48.52 per AWB – Applicable to all customers requiring manual capture of AWB\*; and
- AWB Fee- Starlight express: R141.09 per AWB – Applicable to all customers requiring manual capture of AWB\*.

\* Customers with over R550k spend negotiable.

**Discount structure\***

- Between R22.5K and R55K per month: 5%;
- Between R55K and R165K per month: 10%;
- Between R165K and R275K per month: 15%;
- Between R275K and R550K per month: 20%; and
- Over R550K per month: Negotiable.

\* Discounts are based on domestic spend only and exclude minimum shipments and surcharges, per company per month provided that the account is settle within term.

**11.10. Addendum 10: Cost of electricity in major centres**

**Cape Town<sup>17</sup>**

**Proposed schedule of electricity tariffs for 2014/15 \***

\* All tariffs below are exclusive of VAT and effective from 1 July 2014.

Residential consumers					
Consumers receiving less than 250 kWh/month on average and charged at the Lifeline Tariff and will receive a free basic supply of up to 60 kWh per month. Consumers receiving between 250 kWh and 450 kWh per month on average will receive a free basic supply of 25 kWh per month NOTE: Qualifying residential consumers using pre-payment meters					
will not receive the free basic service of electricity for months in which no energy is purchased unless this is specifically claimed at a vending outlet in each such month.					
The free 60 or 25 kWh forms part of the first block of 350 kWh for Lifeline consumers (e.g. first 60 kWh are free, the next 190 kWh are at the appropriate rate, or the first 25 are free, with the next 325 at the appropriate rate.)					
Qualifying residential consumers using credit meters will be credited with as much of the free basic service of electricity as is used during the metering period.					
New residential consumers (supplies <= 100 Amps) will be charged at the domestic rate unless they are subsidised connections in which case they will be charged the Lifeline tariff.					
Domestic (> 450 kWh received/month) <No free basic service					
Services rendered		Unit	Remarks	2014/15 R excl. VAT	2014/15 R incl. VAT
Energy charge	Block 1	c/kWh	0-600kWh	134.76	153.63
	Block 2	c/kWh	600.1+kWh	163.87	186.81
Lifeline (for qualifying customers only) Free basic service					
Services rendered		Unit	Remarks	2014/15 R incl. VAT	2014/15 R incl. VAT
Energy charge	Block 1	c/kWh	0-350kWh	84.31	96.12
	Block 2	c/kWh	350.1+kWh	204.65	233.30

<sup>17</sup> www.capetown.gov.za

Residential small-scale embedded generation				
This tariff is available only for approved residential SSEG Connections, where the Consumers offset their small scale generation against their purchases from the Municipality, provided that their purchases exceed their generation. An additional meter reading fee may also be applicable.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	11.43	13.03	
Energy charge - consumption	c/kWh	95.76	109.57	
Energy charge - generation	c/kWh	49.72	56.68	
Commercial consumers				
Commercial consumers with installed capacity up to 500kVA may elect to take their supply at the Small or Large Power User LV tariffs.				
Residential establishments where a business license exists (such as hotels, bed and breakfast premises, hostels, retirement homes etc), or where the supply to a single residential consumer exceeds 100 Amps, will be regarded as commercial consumers.				
Small power users (For supply up to a maximum of 500 kVA)				
Small power users 1 (High consumption - >1000 kWh /month)				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	22.25	25.37	
Energy charge	c/kWh	120.03	136.83	
Small power users 2 (Low consumption - <1000 kWh /month)				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Energy charge	c/kWh	187.69	213.97	
Off-peak				
This tariff is reserved for existing consumers only as of 1 July 2012.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Minimum charge	R/day	83.04	86.40	
Energy charge	c/kWh	75.79	94.67	

Large power users				
Consumers with installed capacity between 500kVA and 1 MVA must be charged at either the Low or Medium Voltage Large Power User tariff.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	37.05	42.24	
Energy charge	c/kWh	62.93	71.74	
Demand charge	R/kVA	187.27	213.49	
This tariff is compulsory for consumers with installed capacity above 1 MVA unless they elect to be supplied at a Time of Use tariff.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	37.05	42.24	
Energy charge	c/kWh	58.50	66.69	
Demand charge	R/kVA	174.17	198.55	
This tariff is only available at medium voltage.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	6 050.00	6 897.00	
Energy charge: High demand (June to August)				
Peak	c/kWh	270.79	308.70	
Standard	c/kWh	78.42	89.40	
Off-peak	c/kWh	42.89	48.89	
Energy charge: Low demand (September to May)				
Peak	c/kWh	84.20	95.99	
Standard	c/kWh	56.37	64.26	
Off-peak	c/kWh	37.93	43.24	
Demand charge	R/kVA	92.63	105.60	

This tariff is only available at medium voltage and in Atlantis.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	5 5000.00	6 270.00	
Energy charge: High demand (June to August)				
Peak	c/kWh	246.17	280.63	
Standard	c/kWh	71.29	81.27	
Off-peak	c/kWh	38.99	44.45	
Energy charge: High demand (June to August)				
Peak	c/kWh	76.55	87.27	
Standard	c/kWh	51.25	58.43	
Off-peak	c/kWh	34.48	39.31	
Demand charge	R/kVA	84.21	96.00	
High voltage time of use tariff				
This tariff is only available at 66kV or 132kV depending on the available network.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Service charge	R/day	6 050.00	6 897.00	
Energy charge: High demand (June to August)				
Peak	c/kWh	262.67	299.44	
Standard	c/kWh	76.07	86.72	
Off-peak	c/kWh	41.60	47.42	
Energy charge: High demand (June to August)				
Peak	c/kWh	81.67	93.10	
Standard	c/kWh	54.68	62.34	
Off-peak	c/kWh	36.79	41.94	
Demand charge	R/kVA	92.63	105.60	
Time of use tariffs: Hours of operation				
Peak: Weekdays 07:00 to 10:00; 18:00 to 20:00				
Standard : Weekdays 06:00 to 07:00; 10:00 to 18:00; 20:00 to 22:00				
Off peak: All other times				

Wheeling tariff				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Energy surcharge	Firm	c/kWh	16.34	18.63
	Non-firm	c/kWh	10.03	11.43
Non-residential small scale embedded generation				
This tariff is available only for approved non-residential SSEG Connections, where the Consumers offset their small scale generation against their purchases from the Municipality, provided that their purchases exceed their generation. An additional meter reading fee may also be applicable. This is not applicable to consumers on the SPU2 tariff.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Energy charge generation	c/kWh	49.72	56.68	
Lighting tariffs				
Street lighting and traffic signals				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Energy charge	R /100 W per burning hour	0.1316	0.1500	
Floodlighting of private buildings				
1. Subject to prior approval of the Director: Planning & Economic Development and the Director: Electricity Services.				
2. Applicant to bear cost of equipment installation and removal.				
3. Ownership of all material shall vest in the Council.				
Services rendered	Unit	2014/15 R excl. VAT	2014/15 R incl. VAT	
Energy charge	R /100 W per burning hour	0.1437	0.1638	

Johannesburg<sup>i18</sup>

**Proposed schedule of electricity tariffs for 2014/15\***

\*All tariffs below are exclusive of VAT and effective from 1 July 2014.

Description		2014/15
Domestic (prepaid) – energy charge (c/kWh)	<b>Summer &amp; Winter</b>	
	0 < 500 kWh	94.26
	501<1000 kWh	107.09
	1001 < 2000 kWh	114.99
	2001 < 3000 kWh	129.90
	> 3001 kWh	140.77
Domestic single phase – service charge (R/m)	60A & 80A	93.85
Domestic single phase – capacity charge (R/m)	60A	276.47
Domestic single phase – capacity charge (R/m)	80A	304.00
Domestic single phase – energy (c/kWh)	<b>Summer &amp; Winter</b>	
	0 < 500 kWh	90.63
	501<1000 kWh	104.01
	1001 < 2000 kWh	111.68
	2001 < 3000 kWh	117.83
	> 3001 kWh	123.61
Domestic three phase – capacity charge (R/m)	60A	344.40
Domestic three phase – capacity charge (R/m)	80A	378.70
Domestic three phase – energy (c/kWh)	<b>Summer &amp; Winter</b>	
	0 < 500 kWh	90.63
	501 < 1 000 kWh	104.01
	1001 < 2000 kWh	111.68
	2001 < 3000 kWh	117.83
	> 3001 kWh	123.61

Description		2014/15
Domestic single phase (seasonal) - service charge (R/m)	60A & 80A	93.85
Domestic single phase (seasonal) - capacity charge (R/m)	60A	276.47
Domestic single phase (seasonal) - capacity charge (R/m)	80A	304.00
Domestic single phase (seasonal) - energy (c/kWh)	<b>Summer</b>	
	0 < 500 kWh	86.20
	501 < 1 000 kWh	99.58
	1001 < 2000 kWh	107.25
	2001 < 3000 kWh	113.40
	> 3001 kWh	119.18
Domestic single phase (seasonal) - energy(c/kWh)	<b>Winter</b>	
	0 < 500 kWh	103.92
	501 < 1 000 kWh	117.30
	1001 < 2000 kWh	124.97
	2001 < 3000 kWh	131.12
	> 3001 kWh	136.90
Domestic three phase (seasonal) - service charge(R/m)	60A & 80A	93.85
Domestic three phase (seasonal) – capacity charge (R/m)	60A	344.40
Domestic three phase (seasonal) – capacity charge (R/m)	80A	378.70
Domestic three phase (seasonal) - energy(c/kWh)	<b>Summer</b>	
	0 < 500 kWh	86.20
	501 < 1 000 kWh	99.58
	1001 < 2000 kWh	107.25
	2001 < 3000 kWh	113.40
	> 3001 kWh	119.18
Domestic three phase (seasonal) - energy(c/kWh)	<b>Winter</b>	
	0 < 500 kWh	103.92
	501 < 1 000 kWh	117.30
	1001 < 2000 kWh	124.97
	2001 < 3000 kWh	131.12
	> 3001 kWh	136.90

<sup>i18</sup> <http://www.joburg.org.za/images/stories/2013/March/Tariffs2013/electricity%20services.pdf>

Description		2014/15
	<b>Winter</b>	
	0 < 500 kWh	101.72
	501 < 1 000 kWh	103.90
	1001 < 2000 kWh	110.62
	2001 < 3000 kWh	122.37
	> 3001 kWh	131.21
Agricultural - service charge (R/m)	<50 kVA	281.54
	>50 kVA	281.54
Agricultural - capacity charge (R/m)	<50 kVA	378.70
	>50 kVA	378.70
Agricultural - energy (c/kWh)	<b>Summer</b>	105.41
	<b>Winter</b>	123.14
Robot intersections - energy (c/kWh)		175.85
Streetlight and billboard per luminaire - energy (c/kWh)		197.13
Business – service charge (R/m)		
	<50	281.54
Business – capacity charge (R/m)	<50	269.94
Business – service charge (R/m)		
	<100	281.54
Business – capacity charge (R/m)	<100	385.75
Business – service charge (R/m)		
	<500	281.54
Business – capacity charge (R/m)	<500	612.86
Business – service charge (R/m)		
	>500	281.54
Business – capacity charge (R/m)	>500	1 039.23
Business – energy charge (c/kWh))	<b>Summer</b>	
	0 < 500 kWh	137.40
	501 < 1 000 kWh	150.81
	1001 < 2000 kWh	158.15
	2001 < 3000 kWh	163.92
	> 3001 kWh	169.24

Description		2014/15
Business – energy charge (c/kWh)	<b>Winter</b>	
	0 < 500 kWh	152.15
	501 < 1 000 kWh	165.56
	1001 < 2000 kWh	172.90
	2001 < 3000 kWh	178.67
	> 3001 kWh	183.99
Business (prepaid) – energy charge (c/kWh)	<b>Summer</b>	
	0 < 500 kWh	141.09
	501 < 1 000 kWh	154.50
	1001 < 2000 kWh	161.84
	2001 < 3000 kWh	167.61
	> 3001 kWh	172.93
Business (prepaid) – energy charge (c/kWh)	<b>Winter</b>	
	0 < 500 kWh	141.09
	501 < 1 000 kWh	154.50
	1001 < 2000 kWh	161.84
	2001 < 3000 kWh	167.61
	> 3001 kWh	172.93
Reseller business (conventional) - service charge (R/m)	<50 kVA	281.54
Reseller business (conventional) – capacity charge (R/m)	<50 kVA	269.94
Reseller business (conventional) – energy charge (c/kWh)	<b>Summer</b>	
	0 < 500 kWh	133.40
	501 < 1 000 kWh	146.81
	1001 < 2000 kWh	154.15
	2001 < 3000 kWh	159.92
	> 3001 kWh	165.24
Reseller business (conventional) – energy charge (c/kWh)	<b>Winter</b>	
	0 < 500 kWh	148.15
	501 < 1 000 kWh	161.90
	1001 < 2000 kWh	168.90
	2001 < 3000 kWh	174.67
	> 3001 kWh	179.99

Description		2014/15
Reseller business (prepaid) – energy charge (c/kWh)	<b>Summer</b>	
	0 < 500 kWh	137.09
	501 < 1 000 kWh	150.50
	1001 < 2000 kWh	157.84
	2001 < 3000 kWh	163.61
	> 3001 kWh	168.93
Reseller business (prepaid) – energy charge (c/kWh)	<b>Winter</b>	
	0 < 500 kWh	137.09
	501 < 1 000 kWh	150.50
	1001 < 2000 kWh	157.84
	2001 < 3000 kWh	163.61
	> 3001 kWh	168.93
Reactive energy for LPU (c/kVArh)		14.91
Non-profit organisations – service charge (R/m)	60A	93.85
	80A	93.85
Non-profit organisations – energy charge (c/kWh)	0 < 500 kWh	90.63
	501 < 1 000 kWh	104.01
	1001 < 2000 kWh	111.68
	2001 < 3000 kWh	117.83
	> 3001 kWh	123.61

### Durban<sup>119</sup>

#### Proposed schedule of electricity tariffs for 2014/15\*

\* All tariffs below are exclusive of VAT and effective from 1 July 2014.

#### Business tariffs

Commercial Time Of Use (CTOU)\*

\* This tariff is designed for business and industrial customers with a notified maximum demand of 100 kVA and below. (Prices are effective 1 July 2012 and exclude VAT).

Commercial Time of Use (CTOU)	High season (c/kWh)			Service charge (Rands)
	Peak	Std	Off-peak	
For customers with notified max demand less than 100kVA only	229.57			243.10
	114.86			
	55.95			
	243.10			
	Low season (c/kWh)			Service charge (Rands)
	Peak	Std	Off-peak	
	113.26			243.10
	91.11			
	53.00			
	243.10			

#### Business and general credit tariffs (Scale 1)

Typical customer	Commercial and industrial		
Service charge	The service charge is fixed and is payable per month to recover related costs.		
Service charge	Energy costs		
Service charge (R)	170.41	Energy charge (c/kWh)	130.23
VAT	23.86	VAT	18.23
Total	194.27	Total	148.46

<sup>119</sup> www.durban.gov.za/Tariffs

### Business and general prepayment - Scale 10 & 11

Typical customer	Commercial and industrial		
Service charge	The service charge is fixed		
Energy charge	This energy charge is a flat rate charge		
Energy charge (R)	144.60		
VAT	20.24		
Total	164.84		

#### Large power user tariffs

##### Industrial Time of Use (ITOU)

Note: This tariff is designed for customers with an notified maximum demand greater than 100kVA. Customers opting for this tariff benefit if they can shift their energy usage away from peak periods and towards standard/off-peak periods.

(Prices are effective 1 July 2014 and exclude VAT).

Industrial Time of Use (ITOU)		Amount
Peak	High demand season (June - August)	211.15 (c/kWh)
Standard		68.44 (c/kWh)
Off-peak		39.61 (c/kWh)
Peak	Low demand season (September - May)	72.80 ((c/kWh)
Standard		51.94 (c/kWh)
Off-peak		35.62 (c/kWh)
Network demand charge (R/kVA)		70.50 (based on actual demand)
Network access charge (R/kVA)		22.25 (based on notified max demand)
Service charge		R2 659.05
Voltage surcharge	Voltage	% Surcharge
	275 kV	0.00
	132 kV	2.25
	33 kV	3.00
	11 kV	10.50
	6.6 kV	12.75
	400 V	22.50

#### Residential tariffs

Residential Time of Use (RTOU)\* (Prices are effective 1 July 2014 and exclude VAT).

Residential Time of Use (RTOU)	Non-seasonal (c/kWh)		Service charge	
	Peak	Std	Off-peak	(Rands)
	169.01	84.43	62.54	91.03

\*This tariff allows residential customers; typically with consumption greater than 1 000 kWh per month, to benefit from lower energy costs should they be able to shift their loads away from peak periods and towards standard/off-peak periods.

Free Basic Electricity (FBE)* Energy Costs	
Energy charge (c/kWh)	82.58
VAT	11.56
Total	94.14
65 kWh free per month	

\* This tariff is currently available to indigent customers who consume less than 150 kWh per month. All customers on this tariff will be eligible to 65 kWh of free electricity on a monthly basis. An online monitoring system is currently in place that identifies customers who qualify for FBE based on their average electricity usage. Customers who consume more than an average of 150 kWh per month will not be eligible for FBE. FBE tokens must be collected on a monthly basis.

### 11.11. Addendum 11: Immigration – Permits and visas<sup>120</sup>

#### 1. Where to apply for a residence permit

Any foreigner who wants to enter South Africa must apply for the appropriate residence visa at:

- The South African diplomatic representative in his/her country of normal residence; or
- At a South African diplomatic representative in an adjoining or nearby foreign country if there is no South African diplomatic representation in the applicant's country of normal residence.

Applications for residence visas are processed and finalised at the foreign offices of the Department of Home Affairs. Arrangements to travel to South Africa must only be made once the temporary residence visa has been issued.

The Immigration Act makes provision for a foreigner to apply to the Director-General in the prescribed manner and on the prescribed form to change his/her status or the conditions attached to his/her temporary residence visa, or both such status and conditions, as the case may be, while in the Republic.

Applications for permanent residence may be lodged at South African Mission abroad or through the VFS Global website (<http://www.vfsglobal.com/dha/southafrica>) inside the country provided that such an applicant is in possession of a valid temporary residence visa.

All applicants must:

- Have a valid passport. The passport must have two unused pages and be valid for a minimum of 30 days after the intended date of departure; and
- Ensure the temporary residence visa is valid at all times.

#### 2. Price list

##### Temporary residence

Visitor's visa	R425
Business visa	R1 520
Work visas	R1 520
Corporate visa	R1 520
Study visa	R425
Exchange visa	R425
Retired persons' visas	R425
Relatives' visa	R425
Medical treatment visa	R425

##### Permanent residence

Permanent residence permit	R1 520
----------------------------	--------

##### Note:

- Applications for spouses of South African citizens, dependent children, and recognised refugees, do not require payment of the processing fee.

### 3. Forms

BI-84 – Visa application
BI-1738 – Temporary residence application
BI-947 – Direct residency permits, residency-on-other-grounds permits
BI-1590 – Applying for refugee/asylum-seeker status
Other categories – Contact the Department of Home Affairs for the required form(s)



<sup>120</sup> Department of Home Affairs. [www.dha.gov.za](http://www.dha.gov.za)



#### 4. Passport holders who are exempt from visas for South Africa

*(Subject to change without notice)*

The citizen who is a holder of a national passport (diplomatic, official and ordinary) of the foreign countries / territories / international organisations listed below are not required to hold a visa when reporting to an immigration officer for an examination at a South African port of entry, subject to the terms and conditions set out in this list, including *inter alia* the intended period of stay in the Republic.

- The holder of a national South African passport, travel document and document for travel purposes.
- The citizen who is a holder of a national passport (diplomatic, official or ordinary) of the following countries / territories / international organisations is not required to hold a visa in respect of purposes for which a visitor's visa may be issued or by virtue of being a person contemplated in section 31(3) (b) (accredited in SA) for an intended stay of 90 days or less and when in transit:

African Union Laissez Passer	Italy	United Kingdom of Great Britain and Northern Ireland
Andorra	Jamaica	British Islands Bailiwick of Guernsey and Jersey, Isle of Man. British Overseas Territories namely:
Argentina	Japan	Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St Helena and Dependencies (Ascension Island, Gough Island and Tristan da Cunha), Pitcairn, Henderson, Ducie and Oeno Islands, the Sovereign Base Areas of Cyprus South Georgia and South Sandwich Islands and the Turks and Caicos Island.
Australia	Liechtenstein	Uruguay
Austria	Luxemburg	Venezuela
Belgium	Malta	United States of America (except in diplomatic staff due to assume duty at the Embassy and Consulates of the USA in SA)
Botswana	Monaco	Zimbabwe
Brazil	Namibia (only ordinary passport holders)	
Canada	Netherlands	
Chile	New Zealand	
Czech Republic	Norway	
Denmark	Paraguay	
Ecuador	Portugal	
Finland	San Marino	
France	Singapore	
Germany (except in diplomatic staff due to assume duty at the Embassy and Consulates of Germany in SA)	Spain	
Greece	St Vincent & the Grenadines	
Iceland	Sweden	
Ireland	Switzerland	
Israel	Tanzania (90 days per year)	
	Trinidad & Tobago (only ordinary passport holders)	
	Zambia (90 days per annum)	

- The citizen who is a holder of a national passport (diplomatic, official and ordinary) of the following countries /territories /international organisations is not required to hold a visa in respect of purposes for which a visitor's permit may be issued or by virtue of being a person contemplated in section 31(3)(b) (accredited in SA) for an intended stay of 30 days or less and when in transit:

Antigua and Barbuda	Hong Kong (only with regard to holders of Hong Kong British National Overseas passports and Hong Kong Special Administrative Region passports)	Maldives
Bahamas (only ordinary passport holders)	Hungary	Mauritius
Barbados	Jordan	Mozambique
Belize	Lesotho	Namibia
Benin	Macau (only with regard to holders of Macau Special Administrative Region passports [MSAR])	Peru
Bolivia	Malaysia	Poland
Cape Verde	Malawi	Seychelles
Costa Rica		Slovak Republic
Cyprus		South Korea
Gabon		Swaziland
Guyana		Thailand
		Turkey

- Agreements have also been concluded with the following countries for holders of diplomatic and official passport holders.

Citizens who are holders of diplomatic, official and service passports of the following countries do not require visas in respect of purposes for which a visitor's permit may be issued or by virtue of being a person contemplated in section 31(3)(b) (accredited in SA) for the period indicated and transit:

Albania (120 days)	Egypt (30 days)	Paraguay (120 days)
Algeria (30 days)	Ghana (90 days)	Poland (90 days)
Angola (90 days)	Guinea (90 days)	Romania (90 days)
Belarus (90 days)	Hungary (120 days)	Russian Federation (90 days)
Bulgaria (90 days)	India (90 days)	Rwanda (30 days)
China (PROC) (30 days) (only diplomatic passport holders)	Ivory Coast (Cote d'Ivoire) (30 days)	Slovak (90 days)
Cyprus (90 days)	Kenya (30 days)	Slovenia (120 days)
Comoros (90 days)	Mexico (90 days)	Thailand (90 days)
Croatia (90 days)	Madagascar (30 days)	Tunisia (90 days)
Cuba (90 days) (diplomatic, official & service)	Morocco (30 days)	Vietnam (90 days)
	Mozambique (90 days)	
	Namibia (30 days)	

- Notwithstanding this Schedule, a foreigner whose visa exemption has been withdrawn shall comply with the visa requirements until notified by the Department that his/her visa exemption has been re-instated by the Department on petition or of its own accord.
- Visas are not required by passport holders of Lesotho, Swaziland, Botswana, Namibia, Zambia and Malawi who are entering the Republic as commercial heavy-duty vehicle drivers provide their visits do not exceed 15 days and on condition that they can produce a letter confirming their employment with a transport company on entry.  
  
The same principle applies to Zimbabwean commercial heavy-duty vehicle drivers, except that their sojourn may not exceed 30 days at a time. The aforementioned does not apply to commercial heavy-duty vehicle drivers who transport goods for a South African transport company. Such drivers must be in possession of a valid work visa.
- Staff members of the Southern African Development Community (SADC) who travel on SADC laissez-passers are exempt from visa requirements for bona fide official business visits up to 90 days and transit.

- The following categories of the UN, as well as their spouses, dependent relatives and other members of the households are exempt from visa requirements when visiting the Republic for periods not exceeding 90 days for purposes for which a visitor's visa may be issued, and for official business purposes and transits and when accredited for placement at a UN mission in the Republic for the duration of their accreditation, provided they are in possession of the relevant letters or identification documents to identify themselves at ports of entry as personnel of an UN agency:
  - Holders of UN Laissez-passers
  - Volunteers attached to the UN
  - Persons involved in any UN agency
  - Persons performing services on behalf of the UN
- Members of military forces attending any military related matters with the South African National Defence Force (SANDF) are exempt from visa and study visa requirements; irrespective of their duration of stay provided they are in possession of letters of invitation from the SANDF, as well as letters of consent from the military force of which they are members.

### 5. Frequently Asked Questions (FAQs)

Questions	Answers
Can the capital requirements for a business visa be reduced or waived?	The capital requirements above may be reduced or waived in respect of the following types of industries/businesses: <ul style="list-style-type: none"> <li>• Information and communication technology</li> <li>• Clothing and textile manufacturing</li> <li>• Chemicals and bio-technology</li> <li>• Agro-processing</li> <li>• Metals and minerals refinement</li> <li>• Automotive manufacturing</li> <li>• Tourism</li> <li>• Crafts</li> </ul>
What must I do if my qualifications are in a foreign language?	If the qualifications are in a foreign language, you must have the documents translated into one of the official languages by a sworn translator (and provide proof of registration of the translator).
What are the specifications for an advertisement?	The original advertisement of the post/position as it appeared in the national printed media. The advertisement must comply with regulation 16(5) as follows: <ul style="list-style-type: none"> <li>• Reflect the full particulars of the relevant newspaper or magazine as well as date on which the advertisement was published;</li> <li>• Stipulate the minimum qualifications and experience required to fill the position;</li> <li>• Clearly define the position and the duties to be performed;</li> <li>• Measure at least 60mm by 60mm;</li> <li>• State the closing date for applications; and</li> <li>• Should not be older than three months at the time of application for a work visa. This period is calculated from the closing date of advert.</li> </ul>

## 11.12. Addendum 12: Customs and excise regulations – Guidelines for immigrants and travellers<sup>121</sup>

### Note:

- Whether arriving in South Africa by air, sea or land, all travellers (including immigrants) will have to pass through customs control. If found with undeclared, restricted or prohibited goods; you could be fined or even face prosecution. Below is a guide to bringing goods in and out of the country.

### 1. Duty-free goods

You can bring the following goods into South Africa without paying customs duty or VAT:

#### Consumable goods in accompanied baggage

- Cigarettes - up to 200 per person
- Cigars - up to 20 per person
- Cigarette or pipe tobacco - up to 250g per person
- Perfume - up to 50ml per person
- Eau de toilette (scented liquid lighter than cologne) - up to 250ml per person
- Wine - up to 2 litres per person
- Spirits and other alcoholic beverages - up to 1 litre in total per person

People under 18, can claim this duty-free allowance on consumable goods (with the exception of alcohol and tobacco products) provided the goods are for their personal use.

### Medicines

You are allowed to bring in one month's supply of pharmaceutical drugs or medicines for your personal use. Any other pharmaceutical drugs or medicines must be accompanied by a letter or certified prescription from a registered physician, and have to be declared.

### Personal effects, sport and recreational equipment

You can bring in personal effects, sport and recreational equipment, either as accompanied or unaccompanied baggage, for your own use during your visit. In the case of very expensive articles, you may be required to lodge a cash deposit to cover the potential duty/ tax on their re-export. The deposit will be refunded on departure after a customs officer has inspected the items and verified that they are being re-exported. You should notify the customs office at which the deposit was lodged at least two days before departure to ensure that the refund is ready.

If you are departing from a different port, the inspection report will be forwarded to the office where the deposit was lodged, and a cheque will be posted to the address you provided.

### Additional goods

In addition to the personal effects and consumables duty-free allowances, you are allowed to bring in new or used goods in accompanied baggage to the value of R3 000. (This is valid only once per person per 30-day period.)

### 2. Once over duty-free limit

Once the above limits are exceeded, all goods brought into South Africa are subject to the payment of customs duty and VAT (including goods bought duty-free on aircraft or ships or in duty-free shops):

- For goods of up to R12 000 in value, you will have the option of paying customs duty at a flat rate of 20%. Flat-rated goods are also exempt from payment of VAT. This is valid only once per person per 30-day period;
- People under 18 can opt for the flat rate assessment, provided the goods are for their personal use;
- Once you're over the additional R12 000 limit - or if you waive the flat rate option - then duty will be assessed and paid on each individual item you're carrying, and an additional 14% VAT will be charged; and
- Goods that do not qualify for the flat rate assessment include:\*
  - Firearms
  - Goods for commercial purposes
  - Consumable goods in excess of the quantities detailed above
  - Goods or gifts carried on behalf of other people

\* Not only are these subject to duties and taxes, but they may also require an import permit.

### 3. Goods that have to be declared

Certain goods are restricted, and may only be brought into South Africa if you have the necessary authority or permit, and these must be declared on arrival. They include any firearms, as well as:

- Currency - South African bank notes in excess of R5 000, gold coins, coin and stamp collections, and unprocessed gold;
- Endangered plants and animals - Species of plants or animals that are listed as endangered, whether they are alive or dead, as well as any parts of or articles made from them;
- Food, plants, animals and biological goods - All plants and plant products, such as seeds, flowers, fruit, honey, margarine and vegetable oils. Also animals, birds, poultry and products thereof, such as dairy products, butter and eggs; and
- Medicines - You are allowed to bring in one month's supply of pharmaceutical drugs or medicines for your personal use. Any other pharmaceutical drugs or medicines must be accompanied by a letter or certified prescription from a registered physician, and have to be declared.

<sup>121</sup> www.southafrica.net/sat/content/en/za/travel-tips-detail?oid=18161&sn=Detail&pid=17563

#### 4. Goods prohibited

It is illegal to bring the following goods into South Africa:

- Narcotics - Any narcotic or psychotropic substances, including drugs such as cannabis, heroin, cocaine, mandrax or ecstasy; or any paraphernalia relating to their use;
- Any fully automatic, military or unnumbered weapons, as well as explosives, fireworks or weapons of mass destruction;
- Any poison and other toxic substance;
- Cigarettes with a mass of more than 2kg per 1 000;
- Any goods to which a trade description or trade mark is applied in contravention of any law (e.g. counterfeit goods);
- Unlawful reproductions of any works subject to copyright; and
- Any prison or penitentiary made goods.

#### 5. Which channel to choose through South African customs control: red or green

##### **Green channel**

Choose the green channel if:

- You have nothing to declare;
- Your goods qualify for the duty-free allowances detailed above;
- You are not carrying goods or gifts on behalf of others;
- You are not carrying restricted or prohibited goods; and
- You are not carrying commercial goods (goods brought in for trade purposes).

##### **Red channel**

If you can't tick all the above, then choose the red channel. If you are in any doubt, still choose the red channel and ask the customs officer for assistance.

##### **Note:**

- Where the red/green channel system is not in operation, report directly to a customs officer and declare all the goods in your possession.

#### 6. To be on the safe side

- Always declare all goods in your possession.
- Produce receipts for goods purchased abroad (including goods bought duty-free on aircraft or ships or in duty-free shops).
- If you are unsure of the value of goods, which you should declare, ask for assistance from the customs officer on duty.

##### **Note:**

- If in any doubt as to whether the goods you intend to bring into South Africa are restricted, contact your nearest South African embassy or High Commission abroad.

#### 7. Travellers in transit

- Travellers in transit to countries outside the SACU do not have to comply with customs formalities in South Africa. This applies only if you have been booked from an airport outside the SACU, and you are not travelling to your final destination by road.
- These passengers may not leave the transit area of the airport between flights. Their baggage will automatically be transferred from their international flight.

##### **Note:**

- Customs officials may still search travellers in transit and their baggage for any illegal drugs or counterfeit goods. Anyone found with such goods will be detained and handed over to the SAPS for prosecution.

#### 8. VAT refunds for tourists

- VAT at a rate of 14% is levied on the purchase of most goods in South Africa. However, as a foreign visitor you may apply for a refund of the VAT you pay while in the country – provided you apply before you depart.
- To apply, make sure you get tax invoices for your purchases, which you can present to VAT Refund Administrators at your point of departure. If he/she is not available, present your goods to a customs officer, who will inspect the goods, stamp your invoices and deliver them to the VAT Refund Administrator, who will correspond with you on the matter.

For full information on how and where to apply for VAT refunds, visit: [www.taxrefunds.co.za](http://www.taxrefunds.co.za).

### 9. How much money can be brought in/ taken out?

- As a foreign visitor, you can bring in up to R5 000 in South African currency (Rands), plus an unlimited amount in foreign currencies and traveller's cheques, provided you declare this on arrival.
- On departure, you can also take out R5 000 in South African currency (Rands), and up to the amount in foreign currencies and traveller's cheques that you declared when you arrived (provided you didn't stay more than 12 months).

### 10. Duty-free temporary imports

- South Africa acceded to the ATA Convention in 1975. Foreign visitors (companies and individuals) can therefore approach their local chambers of commerce for advice regarding the issuing of an ATA Carnet for the temporary import of certain goods in a simplified method, for example, in the case of broadcasters or sponsors of international sporting events taking place.



### 11.13. Addendum 13: How to apply for an energy connection<sup>i22</sup>

Procedure	Agency	Time to complete	Associated costs
<p>1. Submit an application for electricity connection to Eskom and await an estimate of connection fees.</p> <p>Applications can be done online through Customer Service Online system or by fax. Certified copies of an ID, as well as guarantee payment are submitted to the servicing Walk-In-Centre on signing of the original contract by the customer. Budget quotes are issued, based on actual costs, whereby the applicant can respond.</p> <p>When the customer accepts the budget quote, the customer submits the acceptance letter (usually attached to the quote) together with the necessary payment or proof thereof to the Customer Executive dealing with the application.</p>	Eskom	60 days	No charge
<p>2. Receive external inspection by Eskom.*</p> <p>An external site inspection is carried out by Eskom to confirm the site layout and to compare it with the drawing for costing purposes.</p>	Eskom	1 day	No charge
<p>3. Await completion of the external connection works by Eskom.</p>	Eskom	165 days	R456 625

<sup>i22</sup> <http://www.doingbusiness.org/data/exploreeconomies/south-africa/getting-electricity>

Procedure	Agency	Time to complete	Associated costs
<p>4. The client obtains and submits a Certificate of Internal Wiring Compliance to Eskom.*</p> <p>An electrician issues a Compliance Certificate regarding the internal wiring to Eskom. The internal wiring is not Eskom's responsibility. An electrician does the inspection, issue Compliance Certificate and submit it to Eskom.</p> <p>Eskom will require a Certificate of Compliance signed by a registered Electrical Contractor. The applicant's electrician has to be licensed/accredited by the Electrician Contractors Association of South Africa (ECASA). All electricians doing work with Eskom have to be accredited by ECASA.</p>	Eskom	1 day	No charge
<p>5. Sign a supply contract with Eskom and obtain a final connection.</p> <p>The supply contract can be signed just before the external connection works are ready so the power is turned on the next day after the external connection works are over. Eskom only provides final connection after Compliance Certificate was received.</p>	Eskom	1 day	No charge

\* This procedure can be done simultaneously with previous ones.

### 11.14. Addendum 14: How to apply for a water connection<sup>23</sup>

Applications for a water (and wastewater) connection must be made through local government suppliers/departments/municipalities (e.g. Cape Town - City-of Cape Town, Durban - eThekweni Municipality and Johannesburg - Johannesburg Water / Department of Water Affairs). Each applicant will need to complete a New Water Connection Application Form and sign a Service Agreement with the relevant supplier/department/municipality.

The procedure for obtaining a water connection is typically as follows:

- Contact your local water supplier/department/municipality;
- Fill in and submit a New Water Connection Application Form. (Supporting documents required may include e.g. ID, deed of sale, offer to purchase, company documents, VAT registration number, LG map/ stand map, proxy if owner cannot come in to sign the Service Agreement, etc.);
- Sign a Service Agreement with the supplier/department/municipality;
- Lodge an inspection. (An investigation must be lodged before the meter can be installed);
- Receive an inspection of water drainage systems from the municipality. (There is no charge for this and it usually takes one day);

- Submit Certificate of Compliance of e.g. plumbing and sewerage. (This must be provided by the municipality, as well as a registered plumber. A registered plumber must confirm that the plumbing work has been completed according to the applicable legislation and standards. This is separate from the inspection done by the municipality);
- Pay the applicable meter cost and deposit after investigation has been completed; and
- Receive water connection. (This usually takes seven working days after all the necessary documentations have been submitted, Service Agreement signed, investigation completed and the necessary fees have been paid. If a bulk meter is required, it could take 14 working days).

Useful contacts include:

- City of Cape Town (Water & Sanitation)  
Telephone: 0860 103 089/SMS: 31373  
Fax: +27 (021) 957 4726  
E-mail: watertoc@capetown.gov.za  
Website: www.capetown.gov.za/en/water; and
- eThekweni Municipality  
Website: www.ethekweni.co.za  
Johannesburg Water  
Telephone: +27 (011) 688 1400 \ SMS:082 653 2143

<sup>23</sup> <http://www.durban.gov.za/Pages/default.aspx>; <http://www.doingbusiness.org/data/exploreeconomies/south-africa/dealing-with-construction-permits>, [www.capetown.gov.za/en/Services/Pages/default.aspx](http://www.capetown.gov.za/en/Services/Pages/default.aspx).

### 11.15. Addendum 15: How to apply for an environmental impact assessment (EIA)<sup>124</sup>

Questions	Answers
What activities require Environmental Authorisation?	Activities that are listed either in Listing 1 or in Listing 2 ( <a href="http://www.eiatoolkit.ewt.org.za">www.eiatoolkit.ewt.org.za</a> ) require Environmental Authorisation before commencement.
How and where is an Environmental Authorisation obtained?	Application for authorisation to commence with a listed activity must be made to the Competent Authority, which decides whether to grant authorisation or to refuse it. Depending on the type of activity, the Application for authorisation must either be subjected to a Basic Assessment or the more thorough Scoping and EIA. Provision is also made for an Applicant to apply to the Competent Authority and request to be exempted from any provision of the Environmental Impact Assessment Regulations.
Who is involved in an Application for Environmental Authorisation?	The Applicant/Developer; the Competent Authority; the Environmental Assessment Practitioner/Consultant and Interested and Affected Parties.
What are the roles and responsibilities of the Applicant/Developer?	<ul style="list-style-type: none"> <li>• Must appoint an Environmental Assessment Practitioner to manage the Application;</li> <li>• Must provide the Environmental Assessment Practitioner and Competent Authority with access to all available information relevant to the Application;</li> <li>• Must provide the Environmental Assessment Practitioner and Competent Authority with access to all the relevant information;</li> <li>• Must provide the Environmental Assessment Practitioner with truthful information relevant to the proposed identified activity; and</li> <li>• Must pay any costs or fees applicable to the Application.</li> </ul>

What are the roles and responsibilities of the Competent Authority?	<ul style="list-style-type: none"> <li>• Must make decisions on Applications for Environmental Authorisations in accordance with the Regulations;</li> <li>• Notify Applicant/Developer of decision, conditions and Appeal provisions;</li> <li>• Must comply with the specified timeframes;</li> <li>• Must give access to information that may be relevant to the Application;</li> <li>• Must give written reasons for decisions;</li> <li>• Must enter into written agreements with organs of state with jurisdiction;</li> <li>• Must, if applicable, consider and respond to Appeals;</li> <li>• May pass national and/or provincial guidelines;</li> <li>• May adopt an Environmental Management Framework;</li> <li>• May withdraw, amend or suspend an Environmental Authorisation;</li> <li>• Must make decisions in an open and transparent manner;</li> <li>• Must request additional information or that further studies be conducted if necessary;</li> <li>• Must give reasons for the decision to the Applicant; and</li> <li>• Must give reasonable assistance to a person who is unable to participate as a result of illiteracy, disability or any other disadvantage.</li> </ul>
The Applicant/Developer is undertaking two or more activities as part of the same development. Does he need two or more Applications?	No. The Applicant/Developer can submit a single Application on one Application form that contains information about all activities.
The Applicant/Developer intends to build the same development at several locations. Can she submit one Application for all the projects?	In general separate Applications must be submitted for each location even if they are to be undertaken in the same province. However, the Competent Authority may, at written request of the Applicant/Developer, grant permission for the submission of a single Application on one Application form. If this permission is granted, the process may be consolidated but the potential of the environmental impacts of each activity must be considered in terms of each separate location.

<sup>124</sup> <http://www.eiatoolkit.ewt.org.za/faq/index.html>

Last year an Applicant/ Developer was denied permission to build a project and now he is resubmitting the essentially same proposal. Can he do that?	Maybe. An Applicant/Developer is not permitted to submit an Application that is substantially similar to a previous Application by the Applicant/Developer, which has been refused, unless the Application contains new or material information not previously submitted. The Applicant/Developer can however submit the same Application after a period of three years has elapsed.
When should an activity be subjected to the Basic Assessment process?	If an activity is listed in Listing 1. In addition, the Minister may also identify further activities for which Environmental Authorisation is required in terms of Section 24 D of the National Environmental Management Act, 107 of 1998, by issuing a notice. The notice will specify which process (Basic Assessment or Scoping and EIA) must be applied in order to obtain the Environmental Authorisation for a specific activity.
What is the first thing the Applicant/Developer must do when conducting a Basic Assessment?	Before submitting an Application to the Competent Authority the Environmental Assessment Practitioner/Consultant managing the Application must: <ul style="list-style-type: none"> <li>• Conduct at least a public participation process;</li> <li>• Give notice, in writing, of the proposed Application to - <ol style="list-style-type: none"> <li>1. The Competent Authority; and</li> <li>2. Any organ of state, which has jurisdiction in respect of any aspect of the activity;</li> </ol> </li> <li>• Open and maintain a register of all Interested and Affected Parties in;</li> <li>• Consider all objections and representations received from Interested and Affected Parties following the public participation process conducted, and subject the proposed Application to Basic Assessment by assessing - <ol style="list-style-type: none"> <li>1. The potential impacts of the activity on the environment;</li> <li>2. Whether and to what extent those impacts can be mitigated; and</li> <li>3. Whether there are any significant issues and impacts that require further investigation;</li> </ol> </li> <li>• Prepare a Basic Assessment Report; and</li> <li>• Give all registered Interested and Affected Parties an opportunity to comment on the Basic Assessment Report.</li> </ul>

What information has to be contained in a Basic Assessment Report?	<p>The Basic Assessment Report must contain all the information necessary for the Competent Authority to consider the Application and make a decision. The Basic Assessment Report must include:</p> <ul style="list-style-type: none"> <li>• Details of - <ol style="list-style-type: none"> <li>1. The Environmental Assessment Practitioner/Consultant who prepared the report; and</li> <li>2. The expertise of the Environmental Assessment Practitioner/Consultant to carry out Basic Assessment procedures;</li> </ol> </li> <li>• A description of the proposed activity;</li> <li>• A description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is - <ol style="list-style-type: none"> <li>1. A linear activity, a description of the route of the activity; or</li> <li>2. An ocean-based activity, the coordinates within which the activity is to be undertaken;</li> </ol> </li> <li>• A description of the environment that may be affected by the proposed activity and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;</li> <li>• An identification of all legislation and guidelines that have been considered in the preparation of the Basic Assessment Report;</li> <li>• Details of the public participation process conducted in connection with the Application, including - <ol style="list-style-type: none"> <li>1. The steps that were taken to notify potentially Interested and Affected Parties of the proposed Application;</li> <li>2. Proof that notice boards, advertisements and notices notifying potentially Interested and Affected Parties of the proposed Application have been displayed, placed or given;</li> </ol> </li> <li>• A list of all persons, organisations and organs of state that were registered as Interested and Affected Parties in relation to the Application; and</li> <li>• A summary of the issues raised by Interested and Affected Parties, the date of receipt of and the response of the Environmental Assessment Practitioner/ Consultant to those issues;</li> </ul>
--	---



	<ul style="list-style-type: none"> <li>• A description of the need and desirability of the proposed activity and any identified alternatives to the proposed activity that are feasible and reasonable, including the advantages and disadvantages that the proposed activity or alternatives will have on the environment and on the community that may be affected by the activity;</li> <li>• A description and assessment of the significance of any environmental impacts, including cumulative impacts, that may occur as a result of the undertaking of the activity or identified alternatives or as a result of any construction, erection or decommissioning associated with the undertaking of the activity;</li> <li>• Any environmental management and mitigation measures proposed by the Environmental Assessment Practitioner/Consultant;</li> <li>• Any inputs made by specialists to the extent that may be necessary; and</li> <li>• Any specific information required by the Competent Authority.</li> </ul> <p>Please consult the DEAT Basic Assessment document for further information.</p>
<p>What documents must be submitted with the Application form requesting Environmental Authorisation for an activity listed in Listing 1 and therefore has to be subjected to the Basic Assessment process?</p>	<p>The completed Application form has to be submitted together with:</p> <ul style="list-style-type: none"> <li>• Ahe Basic Assessment Report;</li> <li>• Copies of any representations, objections and comments received in connection with the Application or the basic;</li> <li>• Assessment report;</li> <li>• Copies of the minutes of any meetings held by the Environmental Assessment Practitioner/Consultant with Interested and Affected Parties and other role players which record the views of the participants;</li> <li>• Any responses by the Environmental Assessment Practitioner/Consultant to those representations, objections, comments and views;</li> <li>• A declaration of interest by the Environmental Assessment Practitioner/Consultant on a form provided by the Competent Authority; and</li> <li>• The prescribed Application fee, if any, and the written permission of the landowner (if the Applicant/Developer is not the owner of the property), or proof of notification to relevant landowners if Application is for a linear activity.</li> </ul>

<p>What criteria does the Competent Authority take into account when deciding whether to approve or deny an Application for Environmental Authorisation (whether it is for an Application to authorise an activity listed in listing 1 or 2)?</p>	<p>When considering an Application, the Competent Authority must:</p> <ol style="list-style-type: none"> <li>1. Ensure that it complies with the Act, Regulations, and all applicable legislation;</li> <li>2. Take into account relevant factors, including:             <ol style="list-style-type: none"> <li>i. Any pollution, environmental impacts or environmental degradation likely to be caused if the Application is approved or refused;</li> <li>ii. The impact of the environment of the activity and associated operations;</li> <li>iii. Measures that can be taken to protect the environment from harm and to prevent or mitigate any pollution or other environmental impacts;</li> <li>iv. The ability of the Applicant/Developer to implement mitigation measures and to comply with any conditions imposed on the project;</li> <li>v. Any feasible and reasonable modifications to the activity that may minimise environmental harm;</li> <li>vi. Any information or maps compiled pursuant to NEMA, including any environmental management frameworks relevant to the Application;</li> <li>vii. Information contained in the Application form, reports, comments, and other documents submitted to the Competent Authority;</li> <li>viii. Any comments from state organs with jurisdiction over any aspect of the activity; and</li> <li>ix. Any guidelines that are relevant to the Application.</li> </ol> </li> </ol>
<p>Will I get a copy of the Environmental Authorisation? How and when?</p>	<p>Once a final decision is made and the Competent Authority has informed the Applicant/Developer of that decision, the Applicant/Developer must provide written notification of the outcome, the reasons for the decision, as well as the fact that an Appeal may be lodged to the decision, to Interested and Affected Parties. The timeframe within which the Applicant/Developer has to provide Interested and Affected Parties with this information will be specified by the Competent Authority in the Environmental Authorisation.</p>

## 11.16. Addendum 16: How to obtain a mining permit/right<sup>125/26</sup>

### Basic requirements

If you want a mining permit/right, you need permission from the Department of Mineral Resources to mine minerals within a certain area.

A mining permit/right may not exceed a period of 30 years.

A mining permit/right is granted if:

- The mineral can be mined optimally;
- You have the funds and expertise to conduct the proposed mining operation optimally;
- The financing plan is compatible with the intended mining operation and for the duration thereof;
- No unacceptable pollution or damage to the environment will occur as a result of the mining operation;
- You have made financial and other provisions for the prescribed social and labour plan;
- You are not contravening the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) (MPRDA); and
- The operation is in line with the Mining Charter.

### What you should do

- Apply online at: [www.portal.samradonline.co.za](http://www.portal.samradonline.co.za);
- Pay the non-refundable application fee online;

- If the system accepts the application, you will be notified to submit an environmental management programme for approval; and
- Notify and consult all interested and affected parties within 180 days from the date of the notice.

### How long does it take?

If your application meets all the requirements, the regional manager will notify you in writing within 14 days of receipt of the application if it has been accepted. The regional manager will instruct you to consult with the landowner, the occupier of the land and all other affected parties.

If the application is not successful, the regional manager will return the application to you within 14 days.

If the Minister refuses to grant a mining right, you will be informed in writing, within 30 days, stating the reasons for the refusal.

### How much does it cost?

Contact the Department of Mineral Resources for the costs.

### Forms to complete

Applications should be submitted online at: [www.portal.samradonline.co.za](http://www.portal.samradonline.co.za)

### Who to contact

Department of Mineral Resources at: [www.dmr.gov.za](http://www.dmr.gov.za)

<sup>125</sup> <http://www.gov.za/services/mining-and-water/application-mining-right>

<sup>126</sup> <http://www.dmr.gov.za/contact-us.html>

