South Africa: Investor's Handbook 2013/14

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Trade and Industry
REPUBLIC OF SOUTH AFRICA

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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 (see contact details on the left).

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

Deloitte
South Africa

Disclaimer

Unless otherwise stated, the information in this Handbook is based on conditions that existed in August 2013. 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.

Contents

Value proposition

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.

It has world-class infrastructure, exciting innovation, research and development capabilities and an established manufacturing base. 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 macro-economic 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 professional jobs, labour costs are less than half of the cost of European countries. For manufacturing jobs, labour costs are around one-third of the cost of Europe.

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's unrivalled scenic beauty and reputation for delivering value-for-money make it an attractive leisure and business travel destination.

Fast facts and quick stats about South Africa[1]

Political

- According to the Open Budget Index 2012, South Africa has the second most transparent budget in the world. In 2010, South Africa was ranked first. (*International Budget Partnership*)
- South Africa is the only African country that is a member of the Group of Twenty (G20) countries.
- South Africa ranks fifth overall on the 2013 Ibrahim Index, which measures the quality of African governance. Mauritius, Botswana, Cape Verde and Seychelles took the first four places out of 52. Nigeria was ranked 42. (*Mo Ibrahim Foundation*)
- South Africa ranks 28th out of 167 countries surveyed in the 2011 Democracy Index, compiled by the Economist Intelligence Unit (EIU), ahead of France, Italy, Greece and all of the other BRICS countries. WorldAudit.org ranks South Africa as the 44th most democratic country in 2012 (*43rd in 2011*).
- In the EIU's Survey of Democratic Freedom, South Africa ranks 31st out of 184 countries.
- WorldAudit.org ranks South Africa as the 53rd least corrupt nation out of 150 nations surveyed in 2012, ahead of Italy, Greece and all the other BRICS nations (47th in 2011). Transparency International ranks South Africa 69th out of 150 countries in its corruption perception index 2012 (43rd in 2007, 64th in 2011).
- South Africa ranks as the 62nd strongest State out of 177 countries in the Fund for Peace's Failed State Index 2012 (61st in 2011). The index measures State vulnerability based on 12 social, economic, political and military indicators.
- "Personal satisfaction" with the country's democracy rose from 49% in 2008 to 60% in 2011, according to the continent wide Afrobarometer Research Group.

[1] *South Africa – The Good News. www.sagoodnews.co.za. Retrieved August 2013.*

Economic

- South Africa ranked 53rd out of 148 countries in the World Economic Forum (WEF)'s Global Competitiveness Report 2013/14, down from 52nd in 2012/13.
- In 2012, at 5.5%, South African interest rates were at a 30-year low.
- South African tax revenue has increased from R100 billion in 1994 to R814.1 billion in 2012/13.
- South Africa's debt to GDP ratio is 32% (USA 100%, Japan 200% and UK 90%). The World Bank recommends a ratio of 60%.
- South Africa ranks 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 23 out of 155 countries included in the Logistics Performance Indicators (LPI). Its main competitor on the African continent, Nigeria, is ranked 121.
- The South African stock market rose 23% in 2012.
- South Africa ranks first out of 21 countries in the *Economist's* House Price index for the period 2001 to 2012.
- The South African Rand was the second best-performing currency against the US Dollar between 2007 and 2011. (*Bloomberg's Currency Scorecard*)
- South Africa ranked first in platinum output, second in palladium output, third in gold output, sixth in coal output and ninth in wool output. (*Economist*)

- South Africa is ranked first out of 185 countries for good practice in protecting both borrowers and lenders when obtaining credit for business. (World Bank *Doing Business Report 2013*)
- South Africa ranks seventh out of 45 countries in the Big Mac Index 2012. The price of a Big Mac is 42% less in South Africa than in the USA. In Switzerland and Norway, it is 62% more.
- South Africa is ranked 16th out of a total of 135 economies in the WEF's Global Gender Gap Report 2012, ahead of many developed nations, including, the UK (18th), United States (22), Canada (21), Australia (25) and France (57). (South Africa was ranked 14th in 2011.)
- South Africa ranked 15th in terms of "largest deficits" but as a percentage of GDP is not in the top 40 countries. (*Economist*)
- The Johannesburg Stock Exchange (JSE) ranks 16th in terms of "largest market capitalisation" and 19th in terms of largest gains. (*Economist*)
- South Africa ranks 24th out of 192 countries in the *Economist's* Largest Gold Reserves Index.
- South Africa ranks 32nd out of 165 countries in terms of the size of its US dollar reserves, ahead of Australia, Sweden and Chile. The USA rank 17th, the UK 23rd, China is ranked first. (*The Economist*)
- In a survey of 192 countries, South Africa's unemployment as a percentage of economically active population ranked 27th.
- South Africa ranks 41st out of 192 countries in the *Economist's* Biggest Exporters Index.
- South Africa ranks 54th in a comparison of the overall tax burden of 150 countries worldwide.
- South Africa ranks in the top 20 countries for agricultural output.
- According to a survey of 62 countries by the World Bank and the International Monetary Fund (IMF), South Africa has the 36th highest foreign debt, ahead of the US, Japan and all the European countries surveyed. The *Economist* ranks South Africa 29th out of 60.

- According to the Global Competitiveness Report 2013/14, South Africa ranks (out of 148 countries, 2012/13 rankings in [ ]):
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    - Country credit rating, 0–100 (best), 48 (59.9) [48 – 61.4].
    - General government debt, % GDP, 73 (42.3%) [68 – 38.8%].
    - Inflation, annual % change, 100 (5.7%) [76 – 5%].
    - Gross national savings, % GDP, 111 (13.2%) [87 – 16.5%].
    - Imports as a percentage of GDP, 97 (36.4%) [99 – 34.8%].

Business

- South Africa is ranked 10th out of 185 countries for good practice in protecting investors in business. (World Bank *Doing Business Report 2013*).
- 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 UN Conference on Trade and Development. (Unctad)
- MTN has been ranked Africa's most valuable brand in the Top 100 Most Valuable Global Brands 2013 survey. MTN is the first and only African brand to make the list, listed at number 79 in the world (88th in 2012).
- The number of mines in South Africa had increased from 993 in 2004 to almost 1 600 in 2011 (*Business Day*).
- Associated revenue generated from mining grew from R98 billion in 2004 to R370 billion by the end of 2011 (*Business Day*).
- South Africa is ranked 39th out of 185 countries for ease of doing business according to Doing Business 2013, a joint publication of the World Bank and the International Finance Corporation.
- South Africa is the winner of the National Outsourcing Association's (NOA's) Offshoring Destination of the Year Award 2012.
- The Intercontinental Hotel at O.R. Tambo International Airport was named as the winner of the prestigious 2012 World Luxury Airport Hotel award at the global tourism industry awards.
- Cape Town was named the top tourist destination in the world in the 2011 Traveler's Choice Destinations awards.
- The Cape Grace in the V&A Waterfront, Cape Town, has been named second Best Hotel in the World in the 2013. (*Tripadvisor Traveler's Choice Awards*)
- Table Mountain was inaugurated as one of the New Seven Wonders of Nature in 2012.
- Cape Town International is 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.
- 27 South African beaches were awarded Blue Flags, an international indicator of high environmental standards for recreational beaches in 2010.
- One of the economic powerhouses of the African continent, South Africa has been named FDi Magazine's African Country of the Future 2013/14
- South Africa's wine tourism has been rated the best-developed in the world by International Wine Review in 2012, one of the world's most influential opinion formers on wine.
- National carrier South African Airways (SAA) has won the Global Traveler's magazine "Airline of the Year" award for 2012, the highest honour awarded by the publication for global business travellers.

Sport

- South Africa was the first African country to host the FIFA Soccer World Cup in 2010. It is 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).
- Since the 1940s, South African golfers have won more golf majors than any other nation, apart from the US.
- According to the *Cricketer* magazine, Newlands in Cape Town was second-best Test match venue in the world in 2012. Lords was first.

Education

- South Africa has 25 826 ordinary public and independent schools. (Department of Basic Education)
- In 1994, only 12 000 schools had electricity. In 2012, approximately 23 000 have 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)
- The matric class of 2012 achieved a pass rate of 73.9%, a 3.7% improvement from 2011.
- 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.
- According to the 2012 school day statistics, the learner teacher ratio in 2012 was 1:29. This has improved from 1:50 in 1994. (Department of Basic Education)
- With the recent AACSB accreditation, the University of Cape Town's (UCT's) Graduate School of Business is now 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 Pretoria's Gordon Institute of Business Science (GIBS) is the highest ranked African business school and is ranked 42nd overall in the world. (*Financial Times Executive Education rankings 2013*)
- The UCT's Graduate School of Business is ranked 74th in the world for the quality of its MBA programmme, according to the *Financial Times* Global MBA rankings 2013.
- According to the *Times* Higher Education World University Rankings 2011/12, UCT is ranked the 103rd best university in the world. Stellenbosch is ranked 268 and Wits, 274.
- 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.
- 297 new ECD (Early Childhood Development) centres have been set up and registered in the first quarter of 2011.

Environmental

- 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. Countries including the US, Australia, Malta and Namibia followed suit later.
- Cape Town has the fifth best Blue Sky in the world, according to the UK's National Physical Laboratory.
- Johannesburg ranks second among countries from Asia/Pacific, Middle East and Africa in dealing with urbanisation and environmental challenges, in the MasterCard Insights Report on Urbanisation and Environmental Challenges.
- South Africa is the only country to house an entire floral kingdom (fynbos), one of only six on the planet.
- The Vredefort Dome (or Vredefort crater) in the Free State is the largest verified impact crater on Earth at between 250 and 300km in diameter and is estimated to be more than two billion years old.
- SA ranks 18th in terms of biggest emitters of CO^2, ninth as a proportion of GDP and 27th in terms of CO^2 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*).
- 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. This is a myth, often wrongfully perpetuated by e-mail footnotes. (*Paper Manufacturers Association of South Africa*)
- The proportion of the South African population using improved drinking water sources was 91% in 2010, up from 83% in 1990. (*WHO/UNICEF, March 2012*)
- South Africa has the distinction of being one of only 12 countries in the world where it is safe to drink our tap water. As at 2012, the quality of South African tap water is ranked as third best overall. (*Institute of Waste Management of Southern Africa*)

Social and infrastructure

- According to the 2011 Census, the total population of South Africa stands at 51 490 106, up from 44 819 778 in 2001.
- According to the 2011 Census, the distribution of the South African population by province is: Gauteng 23.7% (+15%), KwaZulu-Natal 19.8% (+0.1%), Eastern Cape 12.7% (+0.5%), Western Cape 11.3% (+10.3%), Limpopo 10.4% (+3.2%), Mpumalanga 7.8% (+10.9%), North West 6.8% (+14.9%), Free State 5.3% (-1%) and Northern Cape 2.2% (+8.3%). (Figures in brackets show the population change since 2007.)
- According to the 2011 Census, 79.2% of the population of South Africa was defined (or defined themselves) as black, 8.9% coloured, 2.5% Asian and 8.9% white, with 0.5% other.
- According to the 2011 Census, 30.3% of males are aged 14 and under (2001- 33.4%), 65.6% are aged 15-64 (62.8%) and 4.1% are aged 65 and over (3.8%). For females, 28.1% are aged 14 and under (30.8%), 65.4% are aged 15-64 (63.2%) and 6.5% are aged 65 and over (6%).
- South Africa's population is the 27th largest in the world (there are 230 countries, only 80 have a population in excess of 10 million).
- The current police to population ratio is approximately 1:308 (SAPS, April 2011). This ranks South Africa as the ninth best.
- The percentage of the South African population with access to clean drinking water has increased from 62% in 1994, to 93% in 2011. Access to electricity has increased from 34% in 1994, to 84% in 2011.
- In 2010, 13.5 million South Africans benefited from access to social grants, 8.5 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.

- South Africa is ranked number 21 in terms of language diversity out of 224 countries. (*Greenbergs Diversity Index. Ethnologue.com*)
- Two South African cities were voted among the world's top 100 Most Liveable Cities in the 2010 study conducted by Mercer Human Resource Consulting. Cape Town was ranked in 86th place and Johannesburg 90th.
- Johannesburg is ranked as the 87th largest city in the world. Tokyo is the largest with a population of 36 million. (*Economist*)
- South Africa ranked 34 out of 192 countries in terms of infrastructure and 12th for our rail network.
- South African media ranks 38th out of 178 countries in the Worldwide Press Freedom Index 2010, higher than France, Italy, Spain, Portugal and all of the other BRICS countries.
- South Africa has the 18th largest prisoner to population ratio. (The US is number one).
- In terms of total crimes recorded, South Africa ranked 10th, the US eighth and the UK sixth.
- Out of 230 cities surveyed around the world, Johannesburg ranks the 151st and Cape Town the 171st most expensive city for expatriates to live in, according to the 2010 Cost of Living Standards Survey from Mercer Human Resource Consulting, ahead of Tokyo (2), Moscow (4), Hong Kong (8), London (17), Paris (17), Sao Paulo (21), Sydney (24), New York (27), Dubai (55) and Auckland (149).
- South Africa has the 17th longest road network in the world and ranks 29th in terms of most used, but does not feature in terms of most crowded. (*Economist*)
- Ninety percent of the land re-distributed to emerging farmers (approx. 930 farms) is lying fallow and unproductive. (*Ministry of Rural Development and Reform*)
- South Africa has ranked 40th out of 105 countries in the Global Food Security Index, which has the US in the top spot and the Democratic Republic of Congo (DRC) at the bottom.
- South Africa's rail network is ranked 11th in terms of longest networks and ninth in terms of millions of tons per km transported. (*Economist*)

- South Africa ranks 24th in terms of "lowest divorce rate" per 100 000 of population. (*Economist*)
- South Africa is ranked 26th in the world for gross indoor exhibition space at 180 000 m^2, which is approximately 25% of all exhibition space available in Africa, according to the 2011 World Map of Exhibition Venues published by the UFI.
- With close to 107 000 new individual asylum claims registered in 2011 (one tenth of applications globally), South Africa was the world's largest recipient of individual applications for the fourth successive year. Between 2006 and 2011, South Africa registered more than 816 000 new asylum applications, making it by far the top destination for asylum-seekers for this six-year period. (*UNHCR Global Trends 2011*)

Miscellaneous

- South Africa has 11 official, state-wide languages, more than any other country.
- 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*)
- 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.
- South Africa houses one of the three largest telescopes in the world at Sutherland in the Karoo.
- South Africa is the first, and to date, the only country to build nuclear weapons and then voluntarily dismantle its entire nuclear weapons programme.

- South Africa has 45 million active cellphones (population 51 million), ranking in the top five globally in terms of cellphone coverage.
- Two Cape Town restaurants are in the top 50 restaurants in the world according to the S.Pellegrino World's 50 Best Restaurants list 2010. La Colombe restaurant in Constantia, Cape Town, was voted the 12th best and Le Quartier Francais in Franschhoek came in at 31.
- South Africa has 8.5 computers per 100 population (UK 80, Spain 40, South Korea 47 and the US 80). (*Economist*)

General information about South Africa

Introduction[2,3]

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 which 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 known for diversity in culture, languages and religious beliefs. According to Census 2011, the country's population stands at approximately 51.77 million people. Africans are in the majority making up 79.2% of the total population. The coloured population makes up approximately 8.9% of the total population, the white population 8.9%, and the Indian/Asian population 2.5% of the total population. Around 280 000 people classified themselves as "other". Females make up just over half (51.3%) of the population, and males 48.7%.

South Africa's black African ancestry is divided among a variety of ethnic groups speaking different languages, nine of which have official status. South Africa also contains the largest communities of European, Asian, and racially mixed ancestry in Africa.

[2] http://en.wikipedia.org/wiki/South_Africa.
[3] SouthAfrica.info. http://www.southafrica.info/about/facts.htm. Retrieved August 2013.

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.

Measures
Metric system.

Electricity current
220 / 230 Volts AC50HZ.

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 2013 / 2014[4]
1 May (Workers Day)

16 June (Youth Day)

17 June (Public Holiday)

9 August (National Women's Day)

24 September (Heritage Day)

16 December (Day of Reconciliation)

25 December (Christmas Day)

26 December (Day of Goodwill)

1 January 2014 (New Year's Day)

21 March 2014 (Human Rights' Day)

18 April 2014 (Good Friday)

21 April 2014 (Family Day)

27 April 2014 (Freedom Day)

28 April 2014 (Public Holiday)

[4] *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^2 (471 443 miles^2). 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 Saldahana 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, Seswati, 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.[5]

Population[6,7]
52.98 million (2013 mid-year estimate).

51.77 million (Oct 2011 Census).

44.80 million (Oct 2001 Census).

Country comparison to the world: 25.

Growth rate: 1.20% (2013 estimate).

(15.5% in the space of 10 years).

[5] *http://en.wikipedia.org/wiki/South_Africa.*
[6] *Statistics South Africa website.*
[7] *World Bank.Development Indicators Database. 2012*

Economy[8]
Mixed economy, upper middle-income, emerging market.

Ranked 24th in the world in terms of GDP (PPP) in 2012/2013 and considered a newly industrialised country.

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 the most actively traded emerging market currency in the world.

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

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[9]
South Africa moved up two spots to rank 39th out of 185 countries in the World Bank and International Finance Corporation's Doing Business 2013 Report, an annual survey that measures the time, cost and hassle for businesses to comply with legal and administrative requirements.

South Africa fell between developed countries such as France (34) and Spain (38), and above major developing economies such as Mexico (48), China (91), Russia (112), Brazil (130) and India (132).

The Report placed South Africa 10th for its protection of investors, the best of all African countries, and it recorded significant improvements in the areas of trading across borders and enforcing contracts.

All companies planning to do business with the South African Government and the general business community must comply with Broad-Based Black Economic Empowerment (B-BBEE) policies which are aimed at redressing economic imbalances among historically disadvantaged communities.

For the World Bank's 2013 results of Doing Business in South Africa refer to: ***Addendum 7: Doing Business in South Africa in 2013.***

[8] *http://en.wikipedia.org/wiki/South_Africa.*
[9] *http://www.southafrica.info/business/investing/open.htm#cost*

Infrastructure[10]

South Africa has a modern and well-developed transport infrastructure. The roads are world-class. The air and rail networks are 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, and the Government has unveiled plans to spend billions of Rands to improve the country's roads, railways and ports.

To help boost private investment in South Africa's transport industry, the Department of Transport and the Treasury intends creating a single economic regulator within the next few years. The new regulator would provide certainty by overseeing the pricing of all transport infrastructure, including road, rail, maritime and aviation infrastructure.

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 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. **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.**

Roads

South Africa's total road network is about 754 000 km, of which over 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. SANRAL is responsible for the country's network of national roads, which grew to over 20 000 km and an estimated value of over R40 billion in 2010.

[10] http://www.southafrica.info/business/economy/infrastructure/

Around 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 multi-billion Rand freeway improvement scheme has significantly eased congestion on the roads in Gauteng, the country's busiest province.

Railways

South Africa has an extensive rail network (ranked the 11th longest in the world in 2013)[11] connecting with networks in the Sub-Saharan region. The country's rail infrastructure, which connects the ports with the rest of South Africa, represents about 80% of Africa's total.

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.

South Africa has also opened the door to private rail operators, with Transnet calling for private sector companies to operate branch railway lines, or feeder lines, which comprise some 35% of the country's national rail network. In his 2011 National Budget Speech, Finance Minister Pravin Gordhan announced an 18-year R86 billion programme to upgrade the country's rail transport infrastructure.

The Government has 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. The Government 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.

[11] http://en.wikipedia.org/wiki/List_of_countries_by_rail_transport_network_size

Gautrain rapid rail link

The Gautrain is an 80 km rapid railway system in Gauteng, South Africa, which links Johannesburg, Pretoria and O.R. 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.[12]

The train offers international standards of public transport travelling at maximum speeds of 160 to 180 km per hour it will reach 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.

Airports and airlines

South Africa's main airport is O.R. Tambo (Johannesburg) International, and Cape Town International is the secondary airport. Other international airports – which do not handle intercontinental flights – include: King Shaka Airport (Durban), Kruger Mpumalanga International Airport and Mafikeng International.[13]

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 over 98% of the country's commercial air traffic.

[12] Business Report. 28 July 2011. http://www.iol.co.za/business/business-news/gautrain- joburg-to-pretoria-line-ready-1.1107888. Retrieved 28 July 2011.
[13] http://www.southafrica.org.za/south-africa-info-airport-infrastructure.html

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

South African Airways (SAA) is the largest air carrier in Africa, with connections to more than 20 cities across the continent. SAA also offers its customers 975 destinations in 162 countries and 18 100 flights daily.

World heritage sites

There are eight UNESCO World Heritage Sites in South Africa; namely:[14]

- 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.

Art, culture and sport

Art and culture[15,16]

The arts and culture of South Africa is as rich and diverse as the country itself. From music, dance, and literature to South African theatre, the country is more than a cultural hub. It is the abode of some of the most ancient and finest art in the world.

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 due to limited education. 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.

[14] *http://www.southafrica.net/sat/content/en/za/travel-tips-detail?oid=13515&sn=Detail&pid=156*
[15] *123independenceday.com.*
[16] *http://www.southafrica.info/about/arts/*

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. In the post-apartheid era, dance has attained the status of the primary means of artistic expressions. South African dance is characterised by its vitality and has gained much international acclaim. An increasing number of dance companies and choreographers are being invited overseas to perform at different festivals. Contemporary dance companies of South Africa include: Jazzart Dance Theatre (Cape Town), Free Flight Company (Johannesburg), Moving Into Dance (MID)- (Mophatong), the Soweto Dance Company, the Napac and Pact Dance Companies.

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 in Pretoria, Playhouse Company in Durban, ArtsCape in Cape Town, Market Theatre and Windybrow Theatre in Johannesburg.

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.[17]

[17] *http://www.southafrica.info/about/arts/literature.htm#ixzz2aWKOPHMn*

Sport[18]

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. Rugby union is a popular sport among Afrikaners. 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.[19]

South Africa was absent from international sport for most of the apartheid era due to sanctions, but started competing globally after the country's white electorate voted in a referendum in favour of a negotiated settlement of the apartheid question. The South African Government and South African Sports Confederation and Olympic Committee (SASCOC) have been striving to improve the participation of the previously excluded majority in competitive sports.

[18] *http://en.wikipedia.or*
[19] *http://www.southafrica.info/about/sport/sportsa.htm*

Food and drink[20,21]

South Africa has a fantastic culinary tradition and its wines are famous throughout the world. The cuisine of South Africa is sometimes called "rainbow cuisine", as it has had a variety of multicultural sources and stages. 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 Dulce Cafe.

There is also a proliferation of fast food restaurants in South Africa. While there are some international players such as McDonald's and Kentucky Fried Chicken active in the country, they face stiff competition from local chains such as Nando's and Steers. Many of the restaurant chains originating from South Africa have also expanded successfully outside the borders of the country.

[20] *http://en.wikipedia.org/wiki/South_African_cuisine*
[21] *http://www.zuidafrika.nl/food-and-drink*

Typical South African foods and dishes include: Amasi, sour milk, mealie pap, biltong, biryani and bobotie, chutney, frikkadelle (meatballs), koeksisters (syrup-coated doughnut), milktart, pumpkin fritters, potjiekos (stew), rusks, tomato bredie, vetkoek (deep fried dough) and waterblommetjie bredie (water flower stew).

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, especially when eating outdoors or watching sport. Maheu, a sorghum-based beer, is widely drunk in shebeens and beer halls.

Education[22]

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 which 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 school year commences in January and ends in December.

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. University of South Africa (UNISA) offers correspondence courses world-wide.

[22] http://old.southafrica.co.za/coming_to_sa_37.html

Notable developments for 2013/14 include:

- Two new universities to open in the Northern Cape and Mpumalanga province (i.e. Sol Plaatje University and the University of Mpumalanga). South Africa currently has 23 universities which include six universities of technology, six comprehensive universities offering a combination of academic and 11 traditional universities.
- 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 this year.

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 which 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.

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 about 25% 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 or 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.

Immigration - Visas and permits[23,24]

South Africa's immigration system is regulated by the Immigration Act No. 13 of 2002, as amended. This Act ensures that access to foreigners is granted in order to promote economic growth, while at the same time ensuring that security considerations are fully satisfied. An amendment bill has been presented to amend the classes of work permits and a number of other administrative measures. It is important to consult the Department of Home Affair's website (www.dha.gov.za) or offices for the latest regulations.

Currently, the Act sets out the categories of permits available. There are three basic components to the South African system: visas, temporary residence permits and permanent residence permits.

In order to determine which would be the most suitable permit class to apply for, the applicant must approach a reputable immigration practitioner, the nearest South African Embassy or the Department of Home Affairs (Home Affairs) in South Africa.

[23] *Department of Home Affairs*
[24] *Chris Watters (Deputy Chair: Immigration Law Committee – Law Society of South Africa).*

Key principles

Key principles to understanding the current process to obtain a work permit, or any other permit, 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 the country, must have a permit endorsed into their passport which sets out the reason for being in the country and for what period/length of time.
- The permits that a person can apply for from Home Affairs are activity-based (i.e. to study, to transit the country or to work). There is no "general" or all-purpose permit that allows a foreign national to do whatever he/she wants and for however long he/she wants.
- The requirements for each category of permit are rigidly defined and passports must be valid.
- As a matter of policy, it is preferred that people enter South Africa on the correct category of permit. Other than in exceptional circumstances, people will not be allowed to change their visitor permits to longer term permits from inside the country.
- Where a person is coming to work in South Africa, he/she may bring their spouse and immediate dependant family with them. However, each person, no matter their age and/or what they intend doing in South Africa, must apply for and obtain the correct category of permit. These applications should be submitted simultaneously with that of the breadwinner.
- If a person's permit expires before he/she leaves South Africa, he/she is deemed to have "overstayed" and may face penalties between R1 000 and R3 000 depending on the length of the overstay. If found by the police/ immigration officials to be inside the country, such a person is likely to be detained pending deportation. "Legalisation" may be granted in certain cases, which in effect is permission to apply from within the country for a new permit. Where a person has obtained a false permit, he/she will be deemed to be a "prohibited" person and not allowed to enter the country or to obtain any category of residence permit.

Visas

Some countries are exempt from obtaining visas before coming to South Africa, others not. Nationals from countries that are exempt from visas can enter South Africa and obtain a visitor's temporary residence permit 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 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 the applicants confirm their visa exemption status on the official website of the Department of Home Affairs at: www.dha.gov.za/immigration services/non-exempt countries or alternatively, contact the nearest South African Embassy. A list for embassies is available at: www.dfa.gov.za/consular information.

Temporary residence permits

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

Aligned to the Immigration Act, the following categories of temporary residence permits can be applied for:

- Visitors permit.
- Study permit.
- Treaty permit.
- Business permit (to establish a business or to invest in an existing business venture).
- Medical treatment permit.
- Relatives permit.
- Work permits:
    - Quota work permit (where deemed to have a scarce skill).
    - General work permit (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)).
    - Exceptional skills work permit.
    - Intra-company transfer work permit (allows for employees to be temporarily transferred/deployed to a branch or subsidiary office in South Africa).
- Retired persons permit.
- Corporate permit (allows for bulk employment).
- Exchange permit.

Each of these categories has their own set of requirements. In order to obtain the relevant permit, these requirements must be met exactly as stipulated. In cases where some of the requirements mentioned in the regulations cannot be met, there is a mechanism that can be used to ask that these requirements be waived. To ascertain the list of requirements, it can be viewed at: www.dha.gov.za.

The Department of Home Affairs, a South African Embassy or High Commission or a reputable immigration practitioner can be approached for assistance with advice. There is a prescribed fee chargeable by the Government for the processing of these permit applications. The relevant fees are available at: www.dha.gov.za/immigration services/Price list.

Work permits

For individuals who wish to apply for a temporary residence work permit, the options available are:

An employer can apply for an **intra-company transfer work permit** if the employee is only required to work in South Africa for less than 24 months and is being transferred to a branch, subsidiary or affiliate abroad. It is important to note that this permit cannot be renewed and the employee needs to already be employed by the organization abroad. However, the Department of Home Affairs is currently looking at extending this two-year period up to four years. Another option is the **quota work permit** that can be applied for if an individual falls within one of the categories of permits as determined by the critical skills list. Alternatively, a **general work permit** can be applied for if the employer has advertised the position in the format prescribed by law and can prove that the foreign national is the most suitable person for the position. The last option for employment purposes is the **exceptional skills work permit** for those individuals whose qualifications or experience can be termed exceptional. Whether or not an individual is exceptionally skilled, is determined on a case-by-case basis and is subject to interpretation by the Department of Home Affairs.

It is important to note that as the work permit applications can take time, the necessary planning must be done up front in order to avoid complications and delays when mobilising staff to South Africa.

Permanent residence permits

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

The various classes of **permanent residence permits** are as follows:

1. Foreigner with five years continuous work permit status
This category applies to a foreigner who has been a holder of a work permit, including one issued under a corporate permit, for a period of five years and has proven to the satisfaction of the Director-General of Home Affairs that he or she has received an offer for employment.

2. 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.

3. 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.

4. 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.

5. Worker
A permanent residence permit may be issued to a foreigner of good and sound character that has received an offer for permanent employment.

6. Person possessing extra-ordinary skills or qualifications
A foreigner who has demonstrated to the Director-General's satisfaction that he or 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.

7. 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.

8. 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.

9. A retired person
This category is applicable to a foreigner that intends to retire in the Republic, 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 which 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.

10. 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 and has paid a prescribed amount to the Director-General.

11. 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.

A permanent residence application takes between one to two years to process.

An important point to note is that 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 viewed at: www.dha.gov.za/Immigration services/Permanent residence permits.

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

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[25]

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) 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.
- 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:	www.cipc.co.za
Email:	info@cipc.gco.za
Customer contact centre:	0861 002 472
International fax:	+27 12 394 1015
International tel:	+27 12 394 9973

[25] www.cipc.co.za

Opening a bank account in South Africa[26]

If you are a foreigner, opening a bank account in South Africa should not be a problem, as long as you are in possession of a valid work or residency permit. By law, South African banks are required to ask for proof of identity (you must be at least 18 years of age) and residential address. You will have to provide passport and proof of address (a utility bill usually suffices). You may also have to make an opening deposit of a significant amount.

The type of bank account that you will be able to open in South Africa depends on the type of permit that you have been issued with. 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 residents permit.

Opening an account for a business in South Africa should not be problematic if the company has been 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. However, these documents should be on hand after obtaining a business permit.

[26] 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 fairly common form of accepted payment or exchange, also 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 usually been capped at R2 000 (€218) with each withdrawal incurring a fee. This fee varies widely, depending on size of withdrawal and bank type.

A locally issued card is not required in order to draw cash. As long as the bank card is supported by VISA, MasterCard, American Express, Diners, VISA-Electron or Maestro, withdrawals of cash from local ATMs or directly from a local bank can be made. A maximum withdrawal amount of R2 000 per day has applied. Transaction fees will vary from bank to bank, and fluctuate with the currency exchange rate.

Applying for a business permit/ licence[27]

A business permit/licence may be required to establish a business or invest in South Africa. In fact, in certain instances trading without a valid licence may be 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.
  - 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.

> ***Note:***
>
> The cost of a business permit/ licence is approximately R1 520.

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).

Some useful tips include:[28]

- 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. Either way, you will be dealing with the licensing office or licensing department in that municipality or 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.
- Make sure that the licensing department issues you with proof of application and payment of fees before you leave their offices.

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[27] http://www.services.gov.za/services/content/Home/ServicesforForeignNationals/Permanentresidence/Applicationforabusinesspermit/en_ZA?pid=10&tid=331#contactinfo

[28] http://bizconnect.standardbank.co.za/start/registrations-legalities/a-licence-to-trade.aspx

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 which 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.
- 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 contact the Department of Home Affairs at: 0800 601 190 (within SA) +2712 406 2500 (abroad).

Buying property [29]

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 which residents are subject to, should the non-resident not wish to purchase property in his or 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 which would require exchange control approval. In most cases, however, property is registered in the name of the purchaser as an individual.

[29] http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44

Note:

A non-resident is even permitted to purchase South African property over the internet, without even 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 regards 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.

In order 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, which pertains to the non-resident's identification for money laundering purposes and involves production of certain documents such as passport and proof of residential address. In order for a non-resident to service repayments on a mortgage bond, he/she will need to open a non-resident account, which can be done from abroad or from within the country.

Other than the purchase price, the purchaser is usually liable for other costs including, for example, transfer duty (this is not payable if the seller is VAT registered), transfer fees, deeds office levies, pro-rata rates and taxes/sectional title levies, as well as the costs of obtaining a rates/levy clearance certificate.

If the property is not bonded, it will be in the purchaser's best interests to obtain insurance. This is compulsory if the property is bonded and normally arranged by that bank.

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 be also be subject to capital gains tax.

Health insurance[30,31]

It is recommended that immigrants take out medical/life insurance upon arrival in the country. Practically, this means securing your own private medical aid scheme, which depending upon the level of cover you select, will provide you with various options in the private healthcare sector. (It is strongly advised that when deciding on the type and extent of medical insurance, individuals should make sure that it covers all family present and future health requirements in South Africa.)

When buying private health insurance, South African, as well as international companies, should be considered.

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.

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

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.axappphealthcare.co.uk), BUPA International (www.bupa-intl.com), the Exeter Friendly Society (www.exeterfriendly.co.uk) and HealthCare International (www.healthcareinternational.com).

[30] *www.justlanded.com.*
[31] *http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44*

Note:

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, and comprehensive and "prestige".

Each level has a different limit on the total annual medical costs, the minimum usually being R2 million/€206 500 (although you're recommended to have much more cover, many companies provide cover of up to R7.5 million/€774 385 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.

South African business practices and etiquette

For a comprehensive overview of common business practices and etiquette in South Africa refer to: ***Addendum13: South African business practices and etiquette.***

How to apply for a police clearance certificate (PCC)

For practical guidelines on how to apply for a police clearance certificate in South Africa refer to: ***Addendum14: How to apply for a police clearance certificate (PCC).***

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.

Stock exchange

The JSE Ltd (JSE) is licenced as an exchange under the Securities Services Act, 2004, and is Africa's premier exchange. It has operated as a market place for the trading of financial products for nearly 120 years. In this time, the JSE 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. In everything it does, the JSE strives to be a responsible corporate citizen.

The JSE is 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, which includes a primary and secondary board; equity derivatives; agricultural derivatives; and interest rate instruments. The JSE holds a treasured position as one of the top 20 exchanges in the world in terms of market capitalisation (*JSE Brochure: JSE - Africa's premier exchange*).

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 Main Board is for established larger companies, and the AltX is for vigorous younger companies that are to become the powerhouses of the future.) 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.

The JSE is 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.

JSE securities exchange SA market capitalisation
(Rand billion at period end June 2013)

2005	2006	2007	2008	2009	2010	2011	2012	2013
3 586.1	5 041.5	5 696.8	4 541.9	5 929.1	6 698.7	6 908.5	7 354.1	8 568.0

Future JSE 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 introduction of tougher listing rules.
- The education and guiding of companies regarding the requirements of listing and the duties of a listed company.
- The introduction of free-float indices under the FTSE/JSE Africa Rand.
- The purchasing of the South African Futures Exchange.
- The demutualisation of the JSE and its listing.
- The creation of a financial reporting panel by the JSE Securities Exchange and the SA Institute of Chartered Accountants (SAICA), as advised by the Myburgh Commission.
- The creation of a pan-African exchange by initially enabling investors to trade in shares from Ghana, Namibia, Zimbabwe and Zambia. (Later to expand this across the rest of Africa).
- Working together with the BRICS member exchanges to develop new equity index related products representing the BRICS economies for cross-listing of derivatives and cash market product offerings with derivatives to be cross-listed and offered in the local currency and local trading hours of each of the exchanges.
- Further product development including additional asset classes and other additional services.

Key economic data

Interest rates

Prime rate (August 2013):	8.50%
Interbank rate (August 2013):	4.83%
Repo rate (August 2013):	5.00%

(Source: Reserve Bank; Trading Economics))

Currency

US$ = R9.93 (August 2013)
£ =R15.42 (August 2013)
€ = R13.20 (August 2013)

(Source: Reserve Bank; Trading Economics; Fin24)

Rate of inflation

CPI (August 2013):	5.5 % y/y
PPI (August 2013):	5.9% y/y

(Source: Statistics South Africa)

Market capitalisation

Market capitalisation (June 2013):	R8 568 billion

(Source: JSE)

Other

GDP growth rate (Average 2013):	3.23 %
GDP (yearly, August 2013):	US$384. 31 billion
Unemployment (2nd Quarter 2013):	25.60%

(Source: Statistics South Africa; Trading Economics)

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.
- 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.
- 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.
- 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: 2007/08 IPAP which reflected chiefly "easy-to-do" actions. The 2007/08 IPAP has largely been implemented. However, there has been a growing recognition that industrial policy needs to be scaled up from "easy-to-do" actions to interventions that we "need-to-do" to generate a structurally new path of industrialisation.

A process of intensive consultation and analysis (led by the Minister of Trade and Industry) has culminated in a revised IPAP for the 2012/13 to 2014/15 financial years. IPAP is over a three-year rolling period, updated annually and with a 10-year outlook on desired economic outcomes. The 2012/13 to 2014/15 IPAP represents a significant step forward in confidence building in our industrial policy efforts. As it is reviewed and updated annually, it will be continuously strengthened and up-scaled.

South Africa: An economic overview

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 contribute to the Gross Domestic Product (GDP) and keep the economic engine running are:*

- Agriculture: 2.2%
- Mining: 10%
- Manufacturing: 12.3%
- Electricity and water: 2.6%
- Construction: 3.9%
- Wholesale, retail and motor trade: 16.2%
- Transport, storage and communication: 9%
- Finance, real estate and business services: 21.2%
- Government services: 16.7%
- Personal services: 5.9%

*Percentages based on 2012 GDP data from Statistics SA.

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.[32]

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 ($2.5 trillion). 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.

[32] *www.southafrica.info*

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.

By the end of 2011, South Africa's mining industry was the largest contributor of economic transformation, with Broad-Based Black Economic Empowerment (B-BBEE) deals worth R150 billion completed.[33]

Mining remains an important foreign-exchange earner, with gold accounting for over 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 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.

Mining, according to the Chamber of Mines:

- Creates one million jobs (500 000 direct and 500 000 indirect).
- Accounts for about 18% of GDP (8.6% direct, 10% indirect and induced).
- Is a critical earner of foreign exchange at more than 50%.
- Accounts for 20% of investment (12% direct).
- Attracts significant foreign savings (R1.9 trillion or 43% of value of JSE).
- Accounts for 13.2% of corporate tax receipts (R17 billion in 2010) and R6 billion in royalties.
- Accounts for R441 billion in expenditures, R407 billion spent locally.
- Accounts for R78 billion spent in wages and salaries.
- Accounts for 50% of volume of Transnets rail and ports.
- Accounts for 94% of electricity generation via coal power plants.
- Takes 15% of electricity demand.

While holding the world's largest reserves of gold, 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.

[33] www.southafrica.info

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 is available for jewellery, including gold, platinum, diamonds, tiger's eye, and a variety of other semiprecious stones.

The Government has developed a minerals beneficiation strategy which seeks to fundamentally transform the industry from being largely resource based to knowledge based. It also compliments programmes of Government, such as the National Development Plan 2030, IPAP 2013/14 to 2015, energy security, skills development and others.[34]

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

[34] www.thedti.gov.za

the top three multiplier sectors in terms of value addition, job creation, export earnings and revenue generation for every R1 invested.[35]

Manufacturing is dominated by the following industries:

Agroprocessing industry
The agroprocessing 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.

Agriculture is the third largest contributor to GDP within the sector, after chemicals and metals (Statistics SA, 2012). The industry contributed R280 million to the GDP in 2011, which is 20% of the total amount generated by the manufacturing sector. The value of agricultural production in South Africa was R148 235 million in 2011, while its contribution to the GDP was approximately R63 billion.[36]

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.[37]

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 on the world's markets.

Automotive industry
The automotive industry accounts for about 10% of South Africa's manufacturing exports, making it a crucial part of the economy.

The sectors contribution to South Africa's GDP in 2011 amounted to 6.8%. A compounded annual growth rate of 20.5% in Rand value terms for completely built-up vehicles (CBU) and automotive components exports has been achieved since 1995, through to 2011.

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

[35] *South Africa's Greatest Opportunity for Job rich Economic Growth. Manufacturing Circle. www.manufacturingcircle.co.za*
[36] *Economic Review of the South African Agriculture 2011/2012. Department of Agriculture, Forestry and Fisheries.*
[37] *http://www.southafrica.info*

Chemicals industry
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, which is about 23% of total manufacturing sales (Statistics SA, 2012). It employs around 200 000 people.

The synthetic coal and natural gas-based liquid fuels and petrochemicals industry is prominent, with South Africa being 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 and fourth fastest growing cell phone market in the world.

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.[38]

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

South Africa was ranked the 21st largest crude steel producing country in the world by the World Steel Association in 2010. South Africa is also the largest steel producer in Africa, producing about 47% of the total crude steel production of the continent during 2010.[39]

[38] *http://www.southafrica.info/business/economy/sectors/manufacturing.htm*
[39] *www.saisi.co.za/index*

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.[40]

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

Since 1994, over US$1 billion has been spent on upgrading and modernising South Africa's textile, clothing and footwear industry, making it efficient and ready to compete internationally. The apparel industry has also undergone significant technological change and has benefited from the country's sophisticated transport and communications infrastructure.

South African market demand increasingly reflects the sophistication of developed markets, and the local textile and clothing industry has grown accordingly to offer the full range of services, from natural and synthetic fibre production to non-wovens, spinning, weaving, tufting, knitting, dyeing and finishing.[41] South Africa is the world's largest mohair producer and the fifth largest producer of wool.

With technological developments, local textile production has evolved into a capital-intensive industry, producing synthetic fibres in increasing proportions.

[40] http://www.mediaclubsouthafrica.com
[41] http://www.southafrica.info/business/economy/sectors/textiles-overview.htm

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 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 (WTTC) indicated that travel and tourism in South Africa directly employs more people than the mining, communication services, automotive manufacturing and chemicals manufacturing sectors. In South Africa, tourist arrivals went up by 10.5% during the first six months of 2012 compared to the same period in 2011. This represented an increase from 3 996 760 in 2011 to 4 416 373 in 2012. This local growth figure is double the global growth figure recorded for the same period.[42]

South Africa continues to focus on business tourism as an area with significant growth potential. 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.[43]

Tourism continues to be earmarked as a priority growth area in South Africa's economic growth policies.[44]

[42] http://www.info.gov.za
[43] SAinfo reporter
[44] International Congress and Convention Association, Stats SA, World Travel and Tourism Council and the dti.

Economic overview and outlook for 2013/14

Overview[45]

GDP growth

- The South African economy continued to grow driven largely by ***domestic consumption*** which is projected to grow at 2.7% in 2013, 3.5% in 2014 and 3.8% in 2015.
- Growth in ***real gross domestic*** product moderated to 2.4 % in 2012 from 3.8 % in 2011.

Inflation

- ***Consumer price inflation*** rose to 6.3% year-on-year in July 2013, breaching the inflation target's ceiling of 6%, set by the South African Reserve Bank for the first time since April 2012. The target band is 3% - 6%.
- ***Headline consumer price inflation*** accelerated from 5% in 2011 to 5.6% in 2012. This allowed the real remuneration per employee to continue rising by roughly 2% per annum. Nominal wage growth accelerated in both the public and private sectors, amounting to 7.9% and 7.3% respectively in 2012. In the private sector, average wage increases above the upper limit of the inflation target range were recorded in all but the non-gold mining sector.

Unemployment

- ***Employment growth*** has not been sufficient to offset growth in the labour force in recent years, resulting in South Africa's official unemployment rate fluctuating around the 25% level since 2010.
- The official ***unemployment rate*** was 25.2 % in the first quarter of 2013.

Real gross fixed capital formation

- ***Real gross fixed capital formation*** by private business enterprises, accounting for about 60% of total fixed investment activities, increased at a slower pace in 2012. Apart from real capital outlays by the mining and manufacturing sectors, capital investment remained lacklustre in most sectors.
- ***Capital spending*** by public corporations continued at a firm pace throughout 2012, dominated by the electricity supply investment programme, as well as capital expansion by the transport and communication sector. Eskom continued to invest heavily in its two large coal-fired power plants, namely Medupi and Kusile; its pumped storage scheme; and its return-to-service power stations.
- ***Real capital spending*** by Government increased robustly by 8.6% and 8.5% in 2011 and 2012 respectively. Of the three tiers of Government, provincial Government contributed the most capital expenditure. Capital expenditure in 2012 focused on both economic and social infrastructure.

Trade

- Compared to 2003 when base metals and articles were South Africa's ***largest export-earning*** category, in 2012 mineral products were the leading category constituting 29% of the overall composition of South Africa's merchandise exports. This variation is as a result of an increase in global demand for South African minerals and higher international prices.
- South African exports decreased to R70.6 billion in August 2013 from R75.6 billion in July 2013.
- ***Trade with BRIC*** (Brazil, Russia, India and China) reveals South Africa as a net importer. South Africa's trade with BRIC is dominated by China and India, whilst trade with Brazil and Russia is fairly limited.
- Both mining and manufacturing made a large contribution to the South African exports to BRIC economies over the past five quarters.
- A large proportion of South African exports from the manufacturing sector were destined to Brazil and Russia. Whereas an extensive amount of mining commodities were destined to Asia (China and India). China imported largely coal mining commodities whereas India imported a bulk of non-coal mining.
- Mining (excluding coal) was the leading export category to the BRIC countries and reached its highest export value of R19.7 billion in the second quarter of 2013.
- During the past five quarters, manufacturing was the second-leading exporting sector to BRICS countries, followed by coal mining.
- ***Trade with the Asian*** region increased notably in recent years as China became South Africa's largest trading partner in 2009 and India the sixth largest in 2010. Relative to total merchandise exports, the level of South African exports to China rose from 2.5% in 2003 to 11.6% in 2012.
- South Africa's ***trade with India*** expanded significantly, buoyed by increased demand for, among others, locally produced gold, jewellery and coal. The sustained recovery in the US economy

[45] *www.thedti.gov.za*

further boosted export proceeds in 2012 and the first half of 2013.

- South African ***trade with Europe*** increased considerably during the period 2003 to 2008 but thereafter remained muted due to sluggish economic growth in some European countries. Nonetheless, Germany and the UK continued to be important destinations for South African mining products such as platinum and base metals primarily used in the production of catalytic convertors. These countries also emerged as key consumers of domestically produced manufactured goods such as machinery and electrical equipment, as well as vehicles and transport equipment.

- In the second quarter of 2013, ***South Africa traded a surplus with Africa*** but in deficit with other continents. In Africa, the bulk of SA exports were to Mozambique, Zambia, Zimbabwe, DRC and Angola.

- The ***African continent*** emerged as an important export destination for South African mining and manufactured goods. Exports to the African region, comprising mainly mineral products and base metals and articles of base metals; machinery and electrical equipment; vehicles and transport equipment; as well as chemical products, are expected to remain buoyant throughout 2013, consistent with the anticipated firm economic growth in the region[46].

Exchange rates

- The resurgence of the financial crisis in the euro area and risk association with investment in emerging-market economies affected the exchange rate of the Rand in 2011. Alongside the impact of the banking sector crisis in Cyprus during the first half of 2013, unfavourable developments in the domestic economy added to the volatility of the domestic currency over the period. As a whole, since 2008, the volatility of the exchange rate of the Rand seems to be more pronounced during periods of domestic currency depreciation.

[46] *Annual Economic Report 2013 South African Reserve Bank*

- Movements in the exchange rate of the Rand to a large extent tracked that of the euro, especially after the global financial crisis. However, this relationship weakened during the second half of 2012 as domestic factors weighed on the Rand.

- The ***nominal effective exchange rate*** of the Rand reached four-year lows in May and June 2013 following the release of worse-than-expected domestic economic growth data, a decline in the international prices of gold and platinum, and labour turmoil which raised concerns about the export potential of the South African mining sector.

Total gross loan debt

- ***Total gross loan debt***, consisting of domestic and foreign debt, increased from R1 188 billion to R1 366 billion between March 2012 and March 2013.

- ***Domestic debt*** continued to account for about 90% (R1 241 billion) of total gross loan debt and foreign debt for only 10% (R116 billion). To a large extent this variance shielded Government from adverse exchange rate movements.

- ***Domestic debt*** increased from R1 070 billion to R1 241 billion between March 2012 and March 2013.

- In 2012 a sustained increase in South Africa's ***foreign debt*** levels gave rise to a steady upward trend in the country's ***debt ratios***. As a percentage of gross domestic product, external debt advanced from 34.2% at the end of September 2012 to 35.8% at the end of December 2012. Relative to export earnings, the ratio increased from 112.6% to 20.1% over the same period.

- South Africa's total outstanding ***foreign debt*** declined moderately from US$142.3 billion at the end of December 2012 to US$140.6 billion at the end of March 2013 - the first quarterly decline in the country's foreign debt since the third quarter of 2011. The decline could mainly be ascribed to a decrease in the foreign-currency denominated debt, as Rand-denominated debt increased marginally in the first quarter of 2013.

- ***Foreign debt ratios*** - Relative to the country's gross domestic product, the amount of outstanding debt simultaneously receded from 37% in the fourth quarter of 2012 to 36.6% in the first quarter of 2013.

Conclusion[47,48,49]

- South Africa is a middle-income, emerging market with an abundant supply of natural resources; well-developed financial, legal, communications, energy, and transport sectors; a stock exchange that is the 18th largest in the world; and modern infrastructure supporting a relatively efficient distribution of goods to major urban centers throughout the region.
- In its 2012 to 2013 *Global Competitiveness report*, the World Economic Forum ranked South Africa second in the world for the accountability of its private institutions, and third for its financial market development, indicating high confidence in South Africa's financial markets at a time when trust is returning only slowly in many other parts of the world.
- The overall investment environment remains encouraging. South Africa is considered a low-risk investment destination for investors looking for a foothold into Africa.

[47] balita.ph/2013/09/05/south-africa-no-longer-most-competitive-country-in-sub-saharan-africa-wef-gci/
[48] www.theodora.com/wfbcurrent/south_africa/south_africa_economy.html
[49] www.southafrica.info/business/economy/econoverview.htm

Forecast summary – monetary indicators [50]

(% unless otherwise indicated)

	2012[a]	2013[b]	2014[b]	2015[b]	2016[b]	2017[b]
Real GDP growth	2.5	2.1	3.4	4.0	4.8	5.0
Manufacturing production growth	2.5[c]	1.0	3.2	5.4	6.0	6.3
Gross agricultural production growth	2.3	2.6	3.0	3.3	3.5	3.0
Consumer price inflation (average)	5.7	5.6	4.4	4.8	5.1	5.7
Consumer price inflation (end-period)	5.7	5.0	4.1	5.1	5.6	5.8
Lending rate[d]	8.8	8.5	8.8	9.2	9.5	9.8
Government balance (% of GDP)[e]	-4.6	-4.8	-4.2	-3.1	-2.6	-1.9
Exports of goods fob (US$ bn)	93.5	91.7	93.4	94.1	94.9	95.1
Imports of goods fob (US$ bn)	102.6	100.3	100.4	101.3	102.5	103.9
Current-account balance (US$ bn)	-24.1	-23.7	-23.5	-23.1	-25.8	-29.1
Current-account balance (% of GDP)	-6.3	-6.7	-6.1	-5.6	-5.8	-6.0
External debt (end-period; US$ bn)	130.4[c]	138.4	141.6	144.9	147.5	147.5
Exchange rate R:US$ (average)	8.20	9.28	9.39	9.65	9.90	10.20
Exchange rate R:US$ (end-period)	8.48	9.18	9.59	9.70	10.05	10.70
Exchange rate R:¥100 (average)	10.28	9.44	9.20	9.37	9.71	10.10
Exchange rate R:€ (end-period)	11.11	11.76	12.08	12.22	12.66	13.54

[a] Actual. [b] Economist Intelligence Unit forecasts. [c] Economist Intelligence Unit estimates.
[d] End period. [e] Fiscal years beginning April 1st.

Forecast summary - business environment rankings[51]

Value of index[a]		Global rank[b]		Regional rank[c]	
2008-12	2013-17	2008-12	2013-17	2008-12	2013-17
5.97	6.29	49	54	7	7

[a] Out of 10.
[b] Out of 82 countries.
[c] Out of 17 countries: Algeria, Bahrain, Egypt, Iran, Israel, Jordan, Kuwait, Libya, Morocco, Qatar, Saudi Arabia, Tunisia, UAE, Angola, Kenya, Nigeria and South Africa.

[50] Economist Intelligence Unit – Country Report :Economic Outlook August 2013
[51] Economist Intelligence Unit – Country Forecast August 2012

Foreign trade

South Africa's trade agreements[52]

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).
- 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).

[52] www.thedti.gov.za

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. The SADC FTA has been fully implemented since 2012, with 92% of product lines traded at zero percent 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 co-operation 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. It is anticipated that these negotiations will be concluded by April 2014, with implementation of the T-FTA scheduled for 2015.

The T-FTA will form the basis for an Africa-wide 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. This envisaged Continental FTA (C-FTA) will therefore widen and build on the integration initiatives already underway.

EU-South Africa Trade, Development and Cooperation Agreement (TDCA)
The Trade, Development and Cooperation Agreement (TDCA) between South Africa and the European Union 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.

There is currently a review of the Agreement underway, which is aimed at broadening the scope of product coverage. This is taking place under the auspices of the Economic Partnership Agreement (EPA) negotiations between the SADC EPA configuration and the EC.

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 co-operative 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 around 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 underway for a preferential trade (or limited scope) agreement with India. The parties are currently defining an appropriate level of ambition for the Agreement and aim to conclude the negotiations by 2015.

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 principle" (MFN) 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, un-mandated 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.

Exchange controls

Overview

Exchange control is administered by the South African Reserve Bank (SARB) which has delegated powers to Authorised Dealers (banks licenced 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 000 000 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	12% 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 an auditor's report.

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 are freely remittable, provided the fee is not based on a percentage of sales, turnover, purchases etc. A detailed invoice specifying the services and the basis of the fee must be submitted to the entity's bankers when effecting payment.

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.

Recent developments in South Africa's exchange control environment include, amongst others, the withdrawal of the application process to make new outward foreign direct investments where the total cost of such investment does not exceed R50 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 proposed in 2011 included removing controls on emigrant blocked assets. South African emigrants are currently allowed to take R8 million offshore upon emigration. The rest of the assets are blocked and may only be released upon the payment of a 10% exit levy. Treasury proposed releasing these blocked assets without any exit levy. Furthermore, regarding individuals, the R4 million lifetime limit has increased to R4 million per calendar year, subject to compliance with all tax and financial integrity legislation. Investments above the proposed threshold would require the approval of the Financial Surveillance Department of the South African Reserve Bank. 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 (previously, R750 000 per year).[53]

Relaxation of exchange controls

Following two years in which very little was said in the Budget Speech about the relaxation of exchange controls, the Minister of Finance made some significant announcements on these issues in his 2013/14 Speech. Some of the key exchange control issues mentioned in the 2013/14 Budget Speech were as follows:

- The Minister announced that a number of measures are proposed to relax cross-border regulations on companies, banks and other financial institutions to invest and operate in other countries. This all forms part of the "Gateway to Africa" reforms and the main proposals are:
  - A special type of South African holding company which JSE-listed entities will be able to establish for holding African and offshore operations without it being subject to exchange control restrictions. Each JSE-listed entity will be entitled to establish one such subsidiary.

[53] *Moneyweb, October 2010*

- 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 R750 million per annum limit.
- 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.

• Further refinements to the International Headquarter company 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.

• A review will be undertaken of the current stance that intellectual property is deemed to be capital for exchange control purposes.

Importing and exporting

Overview [54]

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 substantially higher cumulative deficit of R94.2 billion. In the first three quarters of 2012, compare to the R18.2 billion deficit recorded over the corresponding period in 2011.

Total exports from South Africa to the rest of the world amounted to a cumulative R520.5 billion over the first three quarters of 2012, representing a 3.6% increase relative to the corresponding period in 2011. 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
2008	743 793.72	660 274.50
2009	541 038.43	521 910.37
2010	585 572.88	596 017.64
2011	725 125.13	703 577.95
2012	769 385.01	657 869.12

Source: SARS

[54] *http://www.idc.co.za/media-room/articles/233-statistical-update-on-south-africa-s-economic-sectors*

Top 10 imported and exported commodities - 2012 (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 cm³ 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 cm³ 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[55]

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. There is no fee applicable. Permits are valid for 12 months from 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), 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 (15% discount for non-ferrous; 7.5% for ferrous). If manufacturers turn down the offer, an export permit may be issued.

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.

[55] ***the dti*** *Investor's Handbook, 2009. www.thedti.go.za. Retrieved August 2012.*

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 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.

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. Use of a freight forwarder is strongly recommended.

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 need 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.

The 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.

There is better security and risk detection which will help SARS to protect South African businesses. The digital network will promote trade within Africa, and improve the competitiveness of the South African economy.

Deferment of payment scheme

A deferment scheme is available to qualified importers that allow 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.
- 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).

Manufacturing under rebate programme: 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 bill. 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.

The Department of Trade and Industry (**the dti**) has the legislation currently in Bill version (refer to: http://www.thedti.gov.za/parliament/SEZ_Bill_4June.pdf). The SEZs Bill 2013 was gazetted for public comment on 1 March 2013 and was introduced in Parliament on 5th March 2013.

The Bill 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.

These zones could be in the form of Industrial Development Zones, Free Trade Zones, Free Trade Ports and sector specific zones.

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) co-operate 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.
- 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 documents were released due to the fact that the actual application for accreditation (the DA186) was very vague and did not provide any guidance as to what was required in order to qualify for accreditation.

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.

The applicant needs to be aware that 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 which 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 within the next year. 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, amongst others:

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

SARS is also busy with an AEO benchmarking programme which will assist in the finalisation of the accreditation programme. The formal launch of the new accreditation programme, which includes the "preferred trader status", will coincide with legal and policy announcements in the coming year.

Re-write of the Customs Act

After nearly 10 years of behind the scenes planning, SARS on 30 October 2009 published the:

- Tax Administration Act of 2011.
- Customs Control Bill (CCB).
- Customs Duty Bill (CDB).

The main aim of the re-write is to modernise customs systems in order to facilitate legitimate trade. The new customs bills are in line with international trends and compliant with South Africa's commitments. The new bills 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. Given that clearing agents are already accredited with SARS and communicate with them electronically, we don't see this causing any problems at our ports.

- Period for goods to be stored in a Customs warehouse ("bond store") has been reduced from 24 to 12 months.
- Accredited status holders now have to renew this status every three years.
- In addition the benefits of accreditation have been more clearly defined.
- Companies registered with SARS will need to renew their registration every three years.
- 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.
- The provisions for the classification and valuation of goods have been expanded upon.

Note:
It is anticipated the draft Excise Bill, as well as rules and regulations to these new Bills, to be released for public comment during 2013 or early 2014.

Regulatory requirements in South Africa

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 new 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
Private companies under the new Act are prohibited to offer securities to the public and the transferability of their shares are also restricted. Private companies however, are no longer limited to 50 members as was the case under the former Companies Act.

Public Companies (Ltd)
The definition of a public company is largely unchanged. The only difference is that a public company under the new Act only requires one member for incorporation compared to the seven members under the former Companies Act.

Personal Liability Companies (Inc.)
The directors and past directors (where applicable) of such companies are jointly and severally liable together with the company for any debts and liabilities arising during their periods of office.

State-Owned Companies (SOC Ltd)
A state-owned company is either a company defined as a "state-owned enterprise" in the Public Finance Management Act 1 of 1999 or a company owned by a municipality. The majority of the provisions of a public company will apply to state-owned companies as well.

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 en "external company" with the 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 which 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 Companies and Intellectual Property Commission (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 twenty.

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 (previously CIPRO) 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.

Annual returns for local and external companies must be filed within 30 business days from the anniversary date of incorporation. If filing later that 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	R2000	R2500
R25 million or more	R3000	R4000

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 Memorandum of Incorporation 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 circumstance 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 directors' 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.

A person, acting in the capacity of director, must exercise his powers and perform his/her functions:
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 or 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.
- 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.

What's new in King III

Although the King III Report builds on the pertinent issues as raised in King I and King II, the promulgation of the Companies Act, as well as the focus on sustainability, necessitated the inclusion of or renewed emphasis on a number of issues. These 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 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.
- 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.
- 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.
- 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 (which 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.
- 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.

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 which 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 BA 002 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.
- 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.
    - 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.
- 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: www.reservebank.co.za

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 debtors' book. Normally, factoring gives a better rate than a normal bank cession over a debtors' 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: Is aimed at small and medium-sized mining and beneficiation activities and jewellery manufacturing activities.
- Financing for the development of the techno-industry: Is 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: Is aimed at commercial projects in the medium to large sectors of the tourism industry.
- Financing for the expansion of the manufacturing sector: Is 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.
- Project finance: Aimed at large projects in the Metals, Petro and Chemical Manufacturing, Agriculture, Minerals and Mining, and Energy market sectors.

Restrictions on borrowing by foreign companies[56]

The acceptance of loans from non-resident shareholders, and their subsequent repayments are, subject to prior South African Reserve Bank approval.

An "affected company'" is one where:

- 75% or more of a South African company'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 a foreign direct investment into South Africa, or for domestic working capital requirements.

Regulations formerly prohibited the granting of local financial assistance to "affected persons", as defined within certain defined limits. However, 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 that non-resident wholly owned South African subsidiaries may only borrow locally up to 100% of the total shareholder's investment in these two specific instances.

[56] *http://www.budget2011.co.za/fiscal-e-file/financial-surveillance/south-african-companies-with-foreign-ownership-or-control/*

Labour regulations[57]

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.
- 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.

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 one and one half times the employee's ordinary rate.
- If an employee, however, earns in excess of a certain threshold per annum (which is currently R183 008) 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.

[57] *South African Labour Employment Guide. www.labourguide.co.za. Retrieved 3 August 2013.*

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

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 microorganisms, 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 or 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[58]

Every employee has the right not to be unfairly dismissed. The Labour Relations Act (No. 66 of 1995) recognizes 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:

- There must always be a fair reason for the dismissal.
- 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.
- 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 affect.
- The severance pay proposed.
- Any assistance that the employer proposes to offer to the employees.

[58] http://www.labourguide.co.za

For further information on employee rights – dismissals, refer to: ***Addendum 17: Employee rights - Labour Relations Act Schedule 8: Code Of Good Practice: Dismissal.***

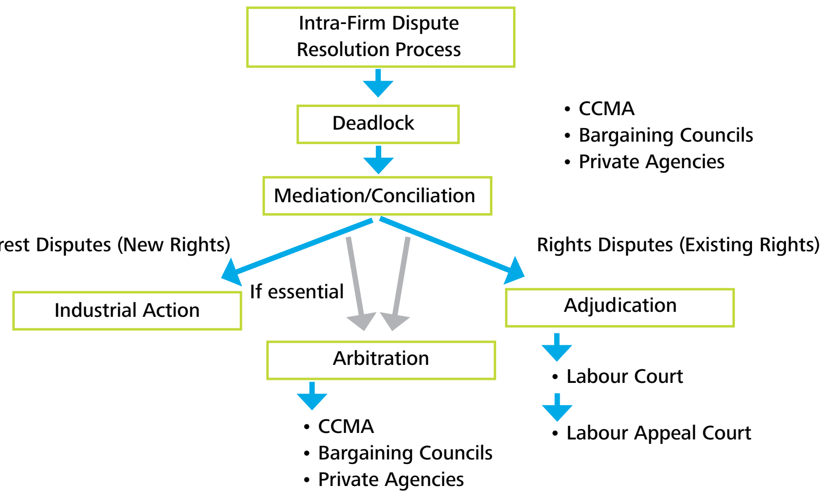
Dispute resolution[59]

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 licence private agencies and bargaining councils to perform any or all of its functions. This allows parties in 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 below 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.

Figure 1: Structure of dispute resolution in South Africa



[59] https://www.labour.gov.za

Conciliation[60]

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 which 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

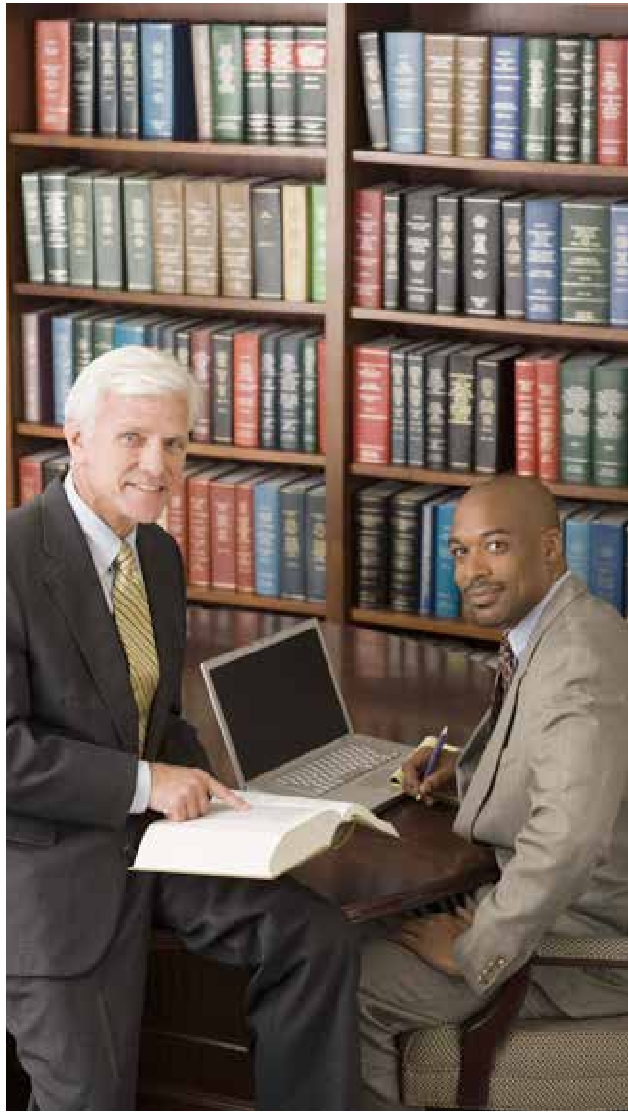
When conciliation fails, a party may request the CCMA to resolve the dispute by arbitration. At an arbitration hearing, a Commissioner gives both parties an opportunity to fully state their cases. The Commissioner then makes a decision on the issue in dispute. The decision, called the "arbitration award", 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.

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:*
>
> Pre-arbitration conference: 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.
> - Draw up and sign a minute of the pre-arbitration conference.

For more information on dispute resolution procedures in South Africa refer to: ***Addendum 18: Dispute resolution procedures in South Africa.***



[60] *http://www.ccma.org.za/Display.asp?L1=32&L2=13*

Industrial procurement[61]

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 which 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 which 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 maximize 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. Whilst the National Industrial Participation Programme (NIPP) is an instrument which obliges overseas companies which have won tenders worth more than US$10 million to provide "offset" obligations through investments in the domestic economy.

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.
- 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 have not been passed into law as yet.

The elements contained in the 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 co-operatives.

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.

[61] *www.thedti.gov.za*

Preferential procurement
The aim of this element is to measure spending on B-BBEE compliant spending. Spending on entities with turnover less than R35 million as well as entities w athat are more than 50% and more than 30% black owned are 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 which 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

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.
- Closer collaboration amongst 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 amended B-BBEE Codes include the generic scorecard consolidated 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
Total	**105 POINTS**

Of the five elements, the ***priority elements*** 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 codes, in the Enterprise and Supplier Development element, introduces an Empowering Supplier, which is a B-BBEE compliant entity which can demonstrate that its production and/or value adding activities take place in the country. Such activities must include job creation and skills transfer.

A 12 months transitional period (from October 2013) has been granted, during which the country is provided with opportunity to align and prepare for implementation of the revised codes.

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/scheme 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 **the dti** and multinationals wishing to participate in this programme must make applications to **the dti**.

The B-BBEE Amendment Bill 2012

As of the time of printing, Cabinet had adopted the Broad Based Black Economic Empowerment Amendment Bill, 2012. The Bill enhances and 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 proposed amendments to the B-BBEE Act intend to achieve key strategic objectives, amongst others, to align the B-BBEE Act with other legislations impacting on B-BBEE and with the Codes; establishment of the B-BBEE Commission; provide for the regulation of the verification industry by the Independent Regulatory Board of Auditors; and deal with non-compliance and circumvention by *inter alia* introducing offences and penalties.

B-BBEE Commission

The B-BBEE Commission which is proposed in the B-BBEE Amendment Bill will play a critical role including, but not limited to, oversee, supervise and promote adherence with the B-BBEE Act and Codes of Good Practice in the interest of the public. The Commission will strengthen and foster collaboration between the public and private sector in order to promote and safeguard the objectives of B-BBEE; promote advocacy, access to opportunities, and educational programmes and initiatives of B-BBEE; as well as, promote good governance and accountability by creating an effective and efficient environment for the promotion and implementation of B-BBEE.

Fronting

"Fronting" means a transaction arrangement or other act or conduct 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. 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 Bill introduces offences of the following acts of fronting , which include 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 Bill 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 of 10% of that enterprise's annual turnover.

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.

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 which is fair, equitable, transparent, competitive and cost effective.

The Preferential Procurement Framework Act, No. 5 of 1999 (PPPFA) was enacted as e 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 benchmarks against the lowest quote received and will be awarded points calculated out of 10 or 20 for his 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.
- 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.

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 otherwords, 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 range 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.

Intellectual property

Introduction

Intellectual Property (IP) is the term used to refer to creations by the human mind. 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 which 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.[62]

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.

[62] *www.wipo.int*

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 Co-operation Treaty.
- The Madrid Protocol. (SA 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.

There are various forms of IP that may be protected:

Filing patents
- In terms of the South African Patents Act, individuals may file their own provisional patent applications. It is however, advisable for applicants to seek the assistance of a patent attorney.
- If a provisional patent application is filed, the strength and scope of protection ultimately obtained will depend on the wording and content of the description of the invention. The Patent Office takes precautions to maintain confidentiality but cannot be held responsible for what occurs outside the office.
- South Africa is one of 142 countries that is a member of the Patent Co-operation 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.
- 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?
- Section 25 of the Patent Act, Act 57 of 1978 defines the scope of patentable inventions:

  "25. Patentable inventions:

  1. A patent may, subject to the provisions of this section, be granted for any new invention which involves an inventive step and which is capable of being used or applied in trade and industry or agriculture.

  2. The following shall not be an invention for the purposes of this Act:

  Anything which consists of:

  a. A discovery;

  b. A scientific theory;

  c. A mathematical method;

  d. A literary, dramatic, musical or artistic or any other aesthetic creation;

  e. A scheme, rule or method for performing a mental act, playing a game or doing business;

  f. A program for a computer; or

  g. The presentation of information shall not be an invention for the purposes of this Act.

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 5th year is R130, for the 6th 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.
- 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 proof that it is a well-known mark.
- Protection of well-known marks (whether registered of unregistered) is incorporated in the Act under the Paris Convention.
- Currently, the registration process in South Africa is about two years from the date of filing an application. Therefore, it is advisable that an availability search is conducted prior to filing an application to avoid wasting time and costs.

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.
  - 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.

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.
  - 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 programs.
  - Published editions e.g. first print by whatever process.
- 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:
  - Making photocopies for private use is not an infringement of copyright.
  - Copying a public speech or a lecture does not constitute infringement.
  - No infringement results if work is acknowledged when one is copying or citing from another author's work.
- 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, say a few sentences or a paragraph, and provided that an acknowledgement is made, permission is not needed.
  - If a "significant" section is reproduced, such as 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 literacy works lasts for 50 years after death of the author.
  - The copyright of computer programs lasts for 50 years after the first copies were made available to the public.
  - For sound recordings, the copyright lasts for 50 years from the day the work was first broadcast.
  - For films, 50 years from the date the film was shown.[63]

Plant Breeders' Rights

(Plant Breeders' Rights Act No. 15 of 1976)

- In terms of this Act, a Plant Breeders' Right (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.
- Plant breeder rights 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.
- 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, which 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 which 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.

[63] *http://www.cipc.co.za/Companies_AR.aspx*

- 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.

Consumer protection law

Application of the Consumer Protection Act (CPA)

The CPA, the ground-breaking legislation which 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 regarding the supply of goods and services in South Africa or the promotion (i.e. advertisement) of such goods and services concluded after 1 April 2011 between a supplier and a consumer. With respect to pre-existing contracts, where those must be renewed or extended, on renewal or extension, the CPA must be complied with. The CPA is designed, in part, to address an historical power imbalance between consumers and providers by strengthening consumers' rights in their dealings with providers.[64]

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, any banking services; related or similar 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.

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 certain exclusions related to goods or services supplied to the State, under 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 days' notice (effectively one month). The lessor must give 20 business day's notices to cancel for a "material failure to comply with the agreement" and must give 40 to 80 days' 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 term.[65]

[64] *http://jacobson.co.za/2012/03/does-the-consumer-protection-act-apply-to-residential-leases/*

[65] *http://www.eaab.org.za/article/how_the_consumer_protection_act_will_affect_lease_of_property_1*

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 which 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 credit agreement and its entering into) which is excluded; not the good supplied/sold.

Strict liability
Probably the most dramatic aspect of the CPA is the strict liability and warranty provisions which 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 which 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 where 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 liability or 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 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 will prescribe times during and

days on which marketing may not be sent to consumers. 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 days' 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 which 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.

Return of goods
The CPA makes provision for five instances in which goods may be returned:

- Direct marketing cooling-off period.
- Where goods have not been seen before the purchase.
- Where the goods not do fulfill their particular purpose.
- Where there is an implied warranty of quality of the goods.
- Where goods which are different to, or in excess of, a written agreement, are delivered.

Provision is made that 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", for which there are significant consequences.

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 unsolicited goods. This includes "demo" goods which 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 which appear to be contrary to the spirit 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 to10% 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 which an organisation could be liable for, could be considerable.

It will be imperative for organisations to take the first step to determine the extent to which the CPA applies to them so that the new business risks which the Act 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.

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.
- 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.[66]

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.
- 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[67]

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.

[66] *http://www.werksmans.co.za/21/competition-anti-trust/&Category_ID=21&competition/=*

[67] *Jason van Dijk is an associate at Norton Rose SA.*

Environmental law

Overview of South African environmental law

The right to an environment which 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 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 which may have a significant impact on the environment. The principles as set out in section 2 of NEMA, serve as general frameworks within which any implementation and environmental management must take. These general principles include:

- The concept of co-operative decision-making.
- The best practice principles of sustainable development and environmental management.
- Integrated environmental management.
- Community-based environmental decision-making.
- The precautionary principle.
- The "polluter pays" principle.

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.

The answer as to whether any specific activity triggers the need for an environmental authorisation is always a question of fact and will depend on various factors, including the size and nature of the operation, and whether any previous operations have been conducted on the site. 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 includes the so-called "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 applies, amongst others, to owners of land, persons in control of land or premises, or anyone who has the right to use the land or premises on which any listed activity may be performed or undertaken, which activity causes, has caused or is likely to cause significant pollution or degradation of the environment.

This duty of care has also given rise to the use of administrative tools, called directives, by environmental authorities. A directive is essentially an order from the responsible environmental authority to a person to do or cease from doing a specific activity or process which is having, has had or may have a significant negative impact on the environment. Should the person fail to comply with the conditions contained in the directive, the environmental authority is empowered to take any necessary remediation measures and then to claim the reasonable costs of such measures from the responsible person.

Environmental management inspectors, referred to as the "Green Scorpions", are tasked to carry out the policing of certain specific environmental legislation. The Green Scorpions have very wide powers of inspection, search and seizure, and arrest.

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, amongst 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 legislation discussed below is not exhaustive of all environmental legislation currently enacted in South Africa. Instead it serves to illustrate the diversity and extent of current legislation dealing with environmental -related matters.

The National Water Act No. 36 of 1998

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 fundamentally 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. Certain very small uses of water do not require a permit. These include the domestic use of water and watering of gardens.

In addition to regulating the use of water, the National Water Act regulates the pollution of water resources. The National Water Act also includes duty of care provisions, similar to those contained in NEMA.

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.
- 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 which 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 co-ordinated 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 co-ordination and promotion of the management of heritage resources at a national level.

A heritage resource is any place or object of cultural significance. A heritage object may include any movable property of cultural significance, including archaeological, palaeontological, rare geological specimens or meteorites. Heritage places include any area, site, building, open space or park.

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.

Climate change policy and regulations in South Africa[68]

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 which 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.

The Regulations of the Air Quality Act distinguish between two kinds of emissions monitoring, namely: (i) continuous emission monitoring; and (ii) 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.

[68] http://www.iclg.co.uk/practice-areas/environment-and-climate-change-law/environment-and-climate-change-law-2013/south-africa

In addition, South Africa has implemented a carbon emissions tax (CET). The tax (effective 1 September 2010) is levied at a rate of R90 for each gram per km of carbon dioxide produced over and above a set amount of 120g/km. The tax is paid only once, on the date of acquisition of a vehicle, and is also only payable in respect of new vehicles.

Note:

From 1 March 2011, the tax was extended to cover new motor vehicles for the transport of goods with carbon emissions in excess of 175g/km. Following public consultation, Government has revised its concept design for CET and an updated draft policy paper on carbon tax was published in March 2013. Proposed design features include: percentage-based rather than absolute emissions thresholds below which the tax will not be payable, a higher tax-free threshold for process emission, additional relief for trade-exposed sectors, the use of offsets by companies to reduce their carbon tax liability and phased implementation.

Interestingly, the JSE opened to trading in credit emission reductions during 2008.

Information, communication and technology law

Introduction

South Africa is fairly new to the world of Information, Communication and Technology (ICT) law; however, we are 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 Bill (PPIB)

The PPIB is the first privacy legislation of its kind in South Africa. The PPIB 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 PPIB 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 PPIB necessitates the creation of a regulator in charge of compliance with the principles outlined in the PPIB. Subsequent to this, organisations need to appoint an information officer to handle their compliance prerequisites in terms of the PPIB.

In addition, PPIB has an effect on direct marketing practices within South Africa. The PPIB requires an "opt-in" model for direct marketing, whereas the ECTA (mentioned above) merely required "opt-out" model with respect to direct marketing.

In terms of personal information that is be processed across borders, the PPIB 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.

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 governed by the Transfer Duty Act No.40 of 1949. Transfer duty is calculated based on the value of the property. If vacant land is transferred, transfer duty is calculated on the value of the land. If an existing home is transferred (i.e. land and buildings), transfer duty is calculated on the value of the land and the buildings. From 23 February 2011, no transfer duty is payable on properties with a value below R600 000 (previously, R500 000). For property values above R600 001, the rate of transfer duty is 3% up to R1 million. For properties costing more than R1 million the rate is R12 000 plus 5% on the value between R1 million and R1.5 million and for properties over R1.5 million the duty is R37 000 plus 8% above that figure.

In past years, transfer duty on acquisitions of properties by persons other than natural persons, was 8% of the value of the property but following the 2011 Budget amendments, the aforementioned taxing structure (i.e. rates in preceding paragraph above) also applies to CCs, companies and trusts.

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[69]

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.

[69] *South Africa: Investor's Handbook 2010 www.thedti.gov.za.*

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 ***Addendum 15: Site development procedures in South Africa.***

Building permits[70]

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[71]

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 which 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.

For a detailed overview of land acquisition processes in South Africa refer to ***Addendum 16: Land acquisition processes in South Africa.***

Environmental assessments

Depending on the nature of the activities, some applications for building permits may require an environmental impact assessment 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.

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[70] *South Africa: Investor's Handbook 2010 www.thedti.gov.za.*
[71] *http://www.info.gov.za*

South African taxation

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.
- 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 are taxed at a flat rate of 28%. From years of assessment commencing on or after 1 April 2012, branches of foreign companies which have their effective management outside South Africa are also taxed at a rate of 28% (prior to this date they were subject to taxation on South African-sourced profits at a rate of 33%.) 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:

- The inclusion rate for capital gains is 33.3% (25% prior to 1 March 2012,) in respect of individuals and special trusts, and 66.6% (50% prior to 1 March 2012) in respect of companies and other trusts. The maximum effective tax rate is therefore 13.3% (previously, 10%) for individuals, 18.6% (previously, 14%) 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 change of residence status is brought about, that person/company will need to establish the market value of their assets at the date they are deemed to become South African residents for tax purposes. 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 as a South African tax resident, may result in a deemed disposal for CGT.

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 central integral, occasional or approved business or trading activities:

- 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 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 government departments, municipalities and the like.

Secondary tax on companies (STC)

- Prior to 1 April 2012, in addition to the normal corporate income tax at a rate of 28% (as from 1 April 2008) (previously 29%) STC applied.
- However, STC was abolished on 1 April 2012 and replaced with a shareholder's dividend tax of 15%.
- This brings the taxation of dividends in line with international practice.
- Historically, STC was calculated on the net amount of dividends declared at a rate of 10% (as from 1 October 2007).

Dividend tax (DT)

- The new dividend withholding tax (which came into effect on 1 April 2012 and replaced STC) will be levied at a rate of 15% (initially proposed at a rate of 10%) on dividends declared by domestic companies and shares of non-resident companies that are listed on the JSE.
- The 15% rate may be reduced under an appropriate double tax agreement.
- Dividend payments to the government, provincial administrators or municipalities, domestic retirement funds, a rehabilitation company or trust, PBOs, various exempt bodies and domestic companies will be exempt, and foreign persons will be eligible for tax treaty relief. 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. The major implication is likely to be an administrative issue 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 proposed Value Extraction Tax (VET) which would have been a 15% charge on deemed dividends (or "value extractions"), *in lieu* of dividends tax has been withdrawn. Instead, the "dividend" definition has been broadened, which essentially means that value-transfers (understood as "deemed dividends") may still be taxed. The big difference will be that value-transfers will be subject to the normal withholding rules (as opposed to creating a tax cost for the company).
- 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.

Foreign dividends

- Foreign dividends are subject to income tax in the hands of South African residents.
- A foreign dividend means any dividend received or accrued from any company which is a "foreign company" (a company which is not a resident of South Africa) or a dividend paid or declared by a headquarter company. A resident means any company which is incorporated, established or formed, or has its place of effective management in South Africa, but excluding any company which is deemed to be exclusively a resident of another country for double tax treaty purposes.
- In certain cases, a foreign dividend is exempt from income tax in the hands of a South African resident. The exemptions currently have included, *inter alia*:
  - (a) Where the resident recipient (in the case of a company, together with any other company in the same group of companies) holds at least 10% (20% prior to 1 April 2012) of the total equity share capital and voting rights of the foreign company.

- (b) If the person 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) Foreign dividends distributed out of profits which have been or will be taxed in South Africa (unless the profits are exempt or taxed at a reduced rate as a result of the application of a double tax treaty) or out of profits which arose directly or indirectly from any dividends declared by a resident company (local dividends, foreign dividends) paid out of income which 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 on or after 1 April 2012 that are in respect of shares that are listed and does not consist of a distribution of an asset in specie.
- (e) It is proposed that any foreign dividend received by or accrued to a company on or after 1 January 2013 that is resident in respect of a listed share and consists of the distribution of an asset in specie. It is further proposed that paragraphs (a) and (b) must not apply to any foreign dividends received by or accrued to a person on or after 1 January 2014 if the foreign dividend is received or accrues in respect of a share other than an equity share.

- With effect from 1 April 2012, foreign dividends paid by any company other than a headquarter company become subject to the same 15% level of tax.
- A general blanket exemption of 25/40 for natural persons, 13/28 for companies and trusts and 15/30 for individual policy holder funds, applies for all otherwise taxable dividends and foreign dividends received by or accrued on or after 1 March 2012 to any person that is a natural person, deceased estate, insolvent estate or trust, and on or after 1 April 2012, to any person other than a natural person, deceased estate, insolvent estate or trust. The result is that the maximum effective tax rate is essentially limited to 15%. However, it is important to note that 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.
- Dividends retained by collective investment schemes (i.e. not distributed to unit holders within a period of 12 months) will be taxed as ordinary revenue, and will thus not be subject to dividends tax.

Tax losses

- A tax loss incurred by a company in any business activity may generally be carried forward and 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 (ring-fencing applies).

Withholding tax (WHT)

- Profits remitted by or branch of a foreign company are not subject to WHT.
- A new WHT on interest and services fees paid to non-residents is to be introduced with effect from 1 January 2015 and 1 January 2016 respectively.
- The new WHT will be levied at a rate of 15% and will be payable by the last day of the month following the month during which the interest and service fees are paid. Currently, the Income Tax Act provides for a near blanket exemption where non-residents earn South African interest.
- In respect of the WHT on interest, certain exemptions will apply, including government bonds, listed debt, debt owed by a local bank, local dealer and brokerage accounts and local collective investment schemes. Interest paid by headquarter companies will also be exempt. The WHT will not apply to non-residents who are currently not eligible for the interest exemption (i.e. individuals spending in excess of 183 days per year in South Africa and non-residents carrying on business through a South African Permanent Establishment (PE)).

- In respect of the WHT on service fees, certain exemptions will apply. The WHT will not apply if that foreign payee is a natural person 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 South African PE or if the service fees are paid in respect of services rendered by any person in his or her capacity as an employee.
- A 15% WHT applies in respect of gross payments made to non-resident entertainers and sportspersons performing in South Africa.
- A WHT is imposed on the proceeds of the sale of fixed property by non-residents where the proceeds exceed R2 million. 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.
  - Where the seller is a trust - 10% of the amount payable.
- A WHT of 12% applies to royalties. The WHT does not apply to amounts derived by non-resident companies from a branch or agency in South Africa, or to amounts relating to the use of certain copyrights in printed publications, or royalties paid to any controlled foreign company. This rate of 12% may be reduced in terms of the relevant double tax treaties as set out on the next page. It is proposed that the rate of 12% will increase to 15% and will apply to all royalties paid after 1 January 2015.

Reduced WHT rate once DTA is applied			
Recipient's country of residence	Reduced rate	Recipient's country of residence	Reduced rate
Algeria	10%	Lesotho	10%
Australia	10%	Luxembourg	0%
Austria	0%	Malaysia	5%
Belarus	5%[1]/10%	Malta	10%
Belgium	0%	Mauritius	0%
Mozambique	8%/15%	Mexico	5%/10%
Botswana	10%	Namibia	10%
Brazil	10%[2]	Netherlands	0%
Bulgaria	5%[8]/10%	New Zealand	10%
Canada	6%/10%[3]	Nigeria	7,5%
China	7%/10%[7]	Norway	0%
Croatia	5%	Oman	8%
Cyprus	0%	Pakistan	10%
Czech Republic	10%	Poland	10%
Denmark	0%	Russian Federation	0%
Egypt	15%	Rwanda	10%/15%
Ethiopia	10%	Romania	15%
DRC	10%	Portugal	10%/15%
Finland	0%	Seychelles	0%
France	0%[4]	Singapore	5%
Germany	0%[4]	Slovak Republic	10%
Ghana	10%	Spain	5%
Greece	5%/7%[5]	Swaziland	10%
Hungary	0%	Sweden	0%[4]
India	10%	Switzerland	0%
Indonesia	10%	Taiwan	10%
Iran	10%	Tanzania	10%
Ireland	0%	Tunisia	10%
Israel	0%[4]/4,2%[6]	Turkey	10%
Italy	6%	Uganda	10%
Japan	10%	Ukraine	10%
Korea	10%	United Kingdom	0%
Kuwait	10%	United States of America	0%

Notes:

1. The 5% rate applies to royalties paid for the use of industrial, commercial or scientific equipment or transport vehicles.
2. The reduced 10% rate only applies in relation to royalties arising other than from the use of, or the right to use trade marks.
3. The rate is reduced to 6% in respect of copyright royalties and other like payments in respect of any literary, dramatic, musical or other artistic work (but excluding royalties in respect of films or videos or other means of reproduction for use in television broadcasting), or royalties for the use of computer software, or for the use of any patent or any industrial, commercial or scientific information(excluding information in connection with rental/franchise agreements). In any other case, the rate is reduced to 10%.
4. Reduced rate only applies if the royalty is taxed in the recipient's country of residence.
5. The maximum rate is 5% on copyright royalties including films and television or radio media, and 7% for any patent, trade mark, design, model, plan, secret formula or process, and industrial, commercial or scientific equipment or information.
6. The rate is 4.2% (15% of the corporate tax rate) for royalties on cinematographic or television films.
7. The rate is reduced to 7% in respect of royalties for the use or right of use of any industrial, commercial or scientific equipment.
8. The 5% rate applies to copyrights for cultural, dramatic, musical and other artistic work (other than for use with television) and industrial, commercial or scientific equipment.
9. Generally, the above reduced rates do not apply where the recipient of the royalty trades through a PE in South Africa with which the right or property giving rise to the royalties is effectively connected.

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, these include:

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 they would 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.

Plant and machinery

New or unused plant and machinery acquired and used in a process of manufacture, can be depreciated for tax at the rate of 40% in the first year and 20% in the following three years. With regard to other capital assets, a wear-and-tear allowance may be claimed on fixed assets which are not structures or works of a permanent nature and do not qualify for other capital allowances. Write-off periods acceptable to SARS are detailed in terms of published Interpretation Notes (INs).

Transmission of electricity

An allowance equal to 5% (20-year straight-line basis) is permitted on the cost incurred by a taxpayer in respect of any assets for the transmission of electricity. The assets must be owned by the taxpayer and brought into use for the first time by the taxpayer and used directly by the taxpayer for the transmission of electricity.

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.

Urban Development Zone allowance
An allowance equal to 5% of the cost to the taxpayer of refurbishing an existing building in an Urban Development Zone 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 Urban Development Zone 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.

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 below will be deemed to be the cost incurred:

- 55% of the acquisition price, in the case of part of a building being acquired.
- 30% of the acquisition price, in the case of an improvement being acquired.

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.

Rolling stock
An allowance equal to 5% is permitted on the cost incurred by a taxpayer in respect of the acquisition or improvement of any rolling stock.

Research and development
A deduction of research and development (R&D) expenditure will be allowed at a rate of 150% of expenditure incurred on activities undertaken in South Africa directly for purposes of:

- Developing or creating any patent, design or computer programme; or
- Discovering applied scientific knowledge that is innovative in nature and mainly intended for the purpose of the sale to and for use by the general public; or
- Making a discovery that leads to the advancement of purely theoretical scientific knowledge or making a significant and innovative improvement to any invention, design, computer programme or knowledge.

A deduction in respect of any new and unused building, machinery, plant, implement, utensils or article or improvements thereto, brought into use for the first time by the taxpayer for R&D purposes, will be allowed at the rate of:

- 50% of the cost of the asset in the first year of assessment it is brought into use.
- 30% of the cost in the first succeeding year.
- 20% of the cost in the second succeeding year of assessment.

Note:

Section 11D of the Income Tax Act (for R&D expenditure) has been rewritten with the major change being the requirement that R&D projects be pre-approved in order to qualify for the additional allowances.

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. The learnership tax incentive is scheduled to expire in September 2016.

Transfer pricing and thin capitalisation

Transfer pricing issues in South Africa are regulated by section 31 of the Income tax Act.

South Africa follows the OECD (Organisation for Economic Co-operation and Development) guidelines on transfer pricing and uses the "arm's length" standard/ principle to test transactions between connected persons.

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 SA entity be considered from a transfer pricing perspective.

The entire transfer pricing provisions have been replaced. Although the revised provisions were to come into effect on 1 October 2011, the implementation has been delayed and slightly revised provisions came into effect on 1 April 2012 effecting years of assessment commencing on or after 1 April 2012.

The amendments have been made to align the provisions more closely with OECD guidelines. A draft Interpretation Note provides taxpayers with guidance on the application of the arm's length basis in the context of determining whether a taxpayer is thinly capitalised under section 31 and, if so, calculating taxable income without claiming a deduction for the expenditure incurred on the excessive portion of finance.

Furthermore, the new 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.

Annual disclosure and adjustments for arm's length prices will shift from SARS to the taxpayer.

Management fees

Authorised Dealers may effect payments in terms of agreements where the parties to the agreement are unrelated i.e. none of the parties have any direct/indirect interest or shareholding in each other. Where payments for management services are to be effected in terms of an agreement and the agreement is between two related parties, an application will have to be submitted to the Financial Surveillance Department of the Reserve Bank for approval.

If the fee is calculated as a percentage of turnover, profits, sales, expenses etc. it requires exchange control approval and whilst it will not normally be permitted, consideration will be given to it and approval may be forthcoming provided the application is supported by documentation stating that the payments will be in compliance with South African transfer pricing rules. In the case of minimum payments or upfront payments it may be more difficult to obtain approval.

Only in the case where an agreement relates to the local manufacture under licence, will it be necessary to refer such a matter to **the dti** who will then consider it in terms of their policy.

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.

The rules cover the following transactions:

- Asset-for-share transactions.
- 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 STC in certain circumstances. 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 have been introduced that may deny the deduction of interest incurred on borrowings arising from a transaction in terms of the corporate rules in certain circumstances, unless a directive has been obtained from SARS that the provisions will not apply. It is proposed that directives will no longer be issued to transactions entered into after 30 June 2013.

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, 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 to the participation rights held by the resident will be included in the income of the resident where the resident has participation or voting rights of 10% or more. The income is grossed up and the tax paid in the foreign country may be offset against the South African tax payable. The income of the CFC is to be determined as if the South African Income Tax Act applied to such entity.

There are rules in respect of interest, royalties and rental paid to other CFCs of the resident. These exclusions are as follows:

- Where the net income of the CFC is attributable to a business establishment in a foreign country provided that the business establishment effectively operates at arm's length (subject to certain restrictions).

- Where the net income of the CFC is included in its SA 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.
- 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.

South African shareholders in relation to CFCs may make the following elections:

- South African shareholders who, together with any connected persons, hold an interest of at least 10% but not 20% or more in a CFC, may elect (on a year-by-year basis) to have their pro rata share of the CFCs income taxed, eventhough this income may be otherwise excluded. Foreign tax credits for underlying taxes paid may be claimed against this income but no excess credits may be generated.
- South African shareholders with an interest of at least 10% but not 20% or more in a foreign company which is not a CFC, may elect (on a year-by-year basis) to treat their interest as a CFC interest. The South African shareholder will be taxed on the foreign income and will be entitled to claim foreign tax credits. Any subsequent distribution of profits will not be taxed.

- In 2011, there were substantial revisions to the taxable versus tax-free nature of the activities associated with a CFC. The revised rules eliminate the current transfer pricing penalty but more explicitly require an arm's length analysis when determining whether income is attributable to exempt active business activities. The anti-avoidance rules have also been revised to better target the tainted activities of concern and eliminate the use of discretionary trusts (and other forms of de facto ownership) employed to undermine the CFC regime.
- In recent years, it was announced that cell companies would be the target of anti-avoidance legislation. The Act has been amended to achieve this result by treating each cell of an offshore cell company as a separate company for purposes of the CFC regime. The net result of this segregated treatment is to ensure that CFC status is measured on a cell-by-cell basis, thereby triggering a greater likelihood of CFC treatment.

Hybrid Equity Instruments, Hybrid Debt Instruments an Third Party Backed Shares

Public debate on section 45 of the Act, and private equity acquisitions, has highlighted the need to improve the classification of corporate financing. The main problem is the erroneous classification of certain instruments as "debt" to generate interest deductions for the debtor, when such instruments more accurately represent equity financing.

Similarly, in some private equity transactions, where creditors receive exempt interest income, the deductibility of interest payments deprives the fiscus of revenue.

Excessive debt can also give rise to excessively risky transactions that may represent "credit risk" for the domestic market. To address these concerns, Government will enact a revised set of reclassification rules deeming certain debt to be equivalent to shares.

The Draft Taxation Amendment Bill, 2013, sets out various proposals to the sections dealing with hybrid debt instruments, hybrid equity instruments and third party backed shares. These sections are anti-avoidance sections and are consistently being amended to ensure that the instruments are correctly classified as debt or equity, that South African companies remain internationally competitive in terms of funding and that these anti avoidance sections do not impact negatively on commercial transactions.

Draft legislation to limit excessive interest deductions

Under draft proposals, new provisions will be inserted into the Income Tax Act which limits the deductibility of interest in respect of acquisition and reorganisation indebtedness, connected person debt, and interest in respect of a debt owed to a person that is not subject to tax in South Africa. Under the draft proposals, it is proposed that this legislation will come into effect on 1 July 2013.

Headquarter company regime

The headquarter company 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 headquarter companies 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 headquarter companies (or their shareholders where applicable):

- Foreign subsidiaries of headquarter companies will not be treated as CFCs under the normal rules and, therefore, no "net income" of any CFC can be imputed to a headquarter company.
- Dividends declared by the headquarter company will be exempt dividends tax i.e. dividends received from a headquarter company will be taxable or exempt in the same way as foreign dividends.
- Headquarter companies engaged in financial assistance, will enjoy relief from the transfer pricing provisions to a certain extent (however, note that a new section is introduced, dealing with the ring-fencing of interest incurred by headquarter companies for the purposes of claiming a tax deduction).
- Interest paid or owed by a headquarter company to a foreign person, to the extent that it relates to back-to-back lending arrangements, will be exempt from the WHT on interest.
- A headquarter company 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 headquarter company.

- A resident company will qualify as a headquarter company if the following criteria are met:
  - If, during the relevant year and all prior years, 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
  - 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.
- A headquarter company 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

Cross-border WHT interest
A WHT on interest paid to a foreign person that is not a CFC will be introduced with effect from 1 January 2015 at a rate of 15% (initially proposed at a rate of 10%). Certain exemptions will apply (e.g. to interest received or accrued from headquarter companies and any interest received or accrued to a non-resident from another non-resident subject to certain requirements etc).

Cross-border WHT service fees
A WHT on services fees paid to a foreign person that will be introduced with effect from 1 January 2016 at a rate of 15%. Certain exemptions will apply (e.g. to service fees paid to a natural person who is physically present in the Republic for more than 183 days and in cases where the service fees paid are effectively connected to a PE of that foreign person).

Regional gateway initiatives
The Act removes the potential for double taxation by South African multinationals operating abroad through a variety of legislative measures, such as the use of a revised source system and through

the addition of special tax credits in the case of foreign WHTs imposed on South African sourced management fees.

Functional currency rules
With effect from years of assessment commencing on or after 1 January 2011, certain entities, including branches, CFCs and headquarter companies (where South African Rand is not their functional currency), will be allowed to rely on their "functional currency" (i.e. the currency of the "primary economic environment in which the business operations are conducted") for tax purposes.

Partnerships
Partnerships are not treated as separate taxable entities. Each partner is taxed only on his or her share of the partnership's taxable income.

Mining, insurance and farming
Special rules apply to mining and insurance companies and to farming activities.

Government Islamic bonds
The 2011 Budget introduced a proposed tax framework to be enacted that will allow for Government to issue Islamic bonds (i.e. Sikuks). The regime will essentially allow for asset-based financing with the yield giving rise to tax that is equivalent to interest. These bonds will serve as the standard for risk-free Islamic financing within South Africa.

Incentives

Government has revised a number of pre-existing tax incentives: Firstly, the requirements associated with venture capital company incentive, will be greatly eased to encourage pooling of investments for junior mining and small business. Secondly, the industrial policy incentive will be enhanced for projects located within industrial development zones (IDZs) to support the objectives of the Industrial Policy Action Plan (IPAP) and the New Growth Path. Thirdly, the R&D incentive now requires a pre-approval system to curtail avoidance while providing enhanced certainty for legitimate projects. Lastly, the film allowance for film owners has been converted into an exemption so as to encourage film profit (as opposed to the current emphasis on costs).

Calculating taxable income

Gross income	• Receipts/accruals of a South African resident.
	• Receipts/accruals sourced or deemed to be sourced in South Africa accruing to a non-resident.
Less: Exempt income	• E.g. Dividends**.
Less: Allowable deductions	• All non-capital expenses incurred in South Africa in the production of income.
Less: Other tax allowances	• Refer to the summary of tax incentives.
	• Other capital allowances on:
	- Plant and machinery.
	- Buildings and improvements to buildings etc.
Plus: Taxable capital gain*	
Equals: Taxable income	

* Capital gains are taxed with effect from 1 October 2001.

** "Foreign" dividends (those derived from profits generated from non-South African sources) accruing or paid after 23 February 2000 are, subject to certain exceptions, no longer exempt from South African tax. "Local" dividends will continue to be exempt from tax.

Current rates of taxation

Current central taxes	Government	Rates
• Company tax (non-mining)		28%
• Dividend tax		15%
• Micro-businesses rate for entities with an annual turnover of </= R1 million (elective provision and conditions apply	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
• Small business corporation rate for entities with an annual turnover of </= R14 million	R0 – R67 111	0%
	R67 112 – R365 000	7%
	R365 001 – R550 000 R550 000 +	21% 28%
• Branch profit tax 28%	As from 1 April 2012	previously 33%
• Maximum individual tax rate for taxable income of R638 600: R185 205 + 40% of the amount above R638 600		

<table>
<tr><th>Current central taxes</th><th>Government</th><th>Rates</th></tr>
<tr><td>VAT</td><td>On goods and services (exemptions apply)</td><td>14%</td></tr>
<tr><td>Other taxes:</td><td colspan="2">

Capital Gains Tax (from 1 October 2001)
Customs and excise
Donations tax (20%)
Estate duty/tax (20%)
Transfer duty on real estate transactions not subject to VAT:

The transfer duty exemption threshold is R600 000
For properties acquired under purchase agreements concluded on or after 23 February 2011, the transfer duty rates applicable are as follows:

First R600 000 consideration 0%
R600 001 to R1 000 000 3%
R1 000 000 to R1 500 000 5%
Excess over R1 500 000 8%
These rates apply to both natural and legal persons (CCs, companies and trusts).

Fuel levies
Motor vehicle licence
Electricity levies
Plastic bag levies
Incandescent light bulb levies
Municipal taxes on owners of real estate
Skills development levy
Airport taxes
Environmental levy
Road accident fund levy
</td></tr>
</table>

Provisional tax

A first provisional tax payment 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. With effect from the year of assessment ending on or after 1 March 2009, 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.

With effect from the years of assessment ending on or after 1 March 2009:

- 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 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 or 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[72]

Any company or any CC which 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 IT77(C) form. A registered taxpayer is required to complete and submit the annual returns of income in a prescribed form within the stipulated period.

The following entities are required to register as taxpayers for corporate income tax (CIT) purposes:

- Listed public companies.
- Unlisted public companies.
- Private company.
- Close corporations.
- Cooperatives.
- Other - small business corporations (an entity with an annual turnover of less than R14 million).

Companies, including CCs, cooperatives and body corporates, are taxed at a rate as announced in the Budget Speech in February of each year and are required to submit a Return of Income: Companies and Close Corporations (ITR14) within 12 months from the date on which their financial year-end. Small business corporations benefit from a staggered tax rate, and can write off the cost of certain manufacturing assets in the year in which it is brought into use for the first time, or alternatively can register for turnover tax for micro-businesses.

For the current tax rates for companies, CCs and small business corporations refer to the tax tables above. For guidelines on how to complete your company tax return (IT14), visit the SARS website at: www.sars.go.za./home.asp?pid=4150&tid=658.s=pubs.

Tax year

The tax year is the same as the corporation's accounting year.

Filing requirements

Companies are required to file their income tax returns 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

[72] http://www.sars.gov.za

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.

New corporate income tax return processes and procedures[73]

SARS is seeking to enhance tax compliance by companies and CCs through the verification and reconciliation of the various declarations made to SARS. An aspect of this includes the introduction of the Supplementary Declaration for Companies and Close Corporations (IT14SD).

The IT14SD is a structured Adobe form (in both PDF and Flex formats) and is intended to reconcile your 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. The IT14SD will be pre-populated with the following fields: income tax reference number, year of assessment and case number.

The IT14SD can be submitted through one of the following channels: eFiling, SARS branches, drop boxes at SARS branches and/or by post. SARS encourages corporate taxpayers to complete and submit their IT14SD electronically via eFiling (to register, go to SARS website at: www.sarsefiling.co.za).

> ***Note:***
>
> Taxpayers who choose to submit a revised ITR14 might be required to submit an IT14SD should the revised return be identified for audit. Taxpayers who opt to submit the IT14SD will not be allowed to submit revised ITR14.

Penalties

Penalties and interest are imposed for failure to comply.

Voluntary disclosure

An interim Voluntary Disclosure Programme (VDP) provided taxpayers with an opportunity to identify any existing tax exposures and to regularise their tax affairs without fear of interest and penalties. The interim VDP ran from 1 November 2010 to 31 October 2011, and was aimed at all taxes administered by SARS. 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. It seeks to encourage taxpayers to come forward and avoid the future imposition of understatement penalties, other administrative penalties and interest.

[73] http://www.sars.gov.za

Double taxation agreements (DTAs)

Existing comprehensive agreements		
Algeria	Indonesia	Portugal
Australia	Iran	Romania
Australia Protocol (2008)	Ireland Protocol (February 2012)	Russian Federation
Austria Protocol (March 2012)	Israel	Rwanda
Belarus	Italy	Saudi Arabia
Belgium	Japan	Seychelles
Botswana	Korea	Seychelles Protocol (May 2012)
Brazil	Kuwait	Singapore
Bulgaria	Lesotho	Slovak Republic
Canada	Luxembourg	Spain
China (People's Republic of)	Malawi	Swaziland
Croatia	Malaysia Protocol (March 2012)	Sweden Protocol (March 2012)
Cyprus	Malta	Switzerland (New treaty - entry into force 27 January 2009)
Czech Republic	Mauritius	Taiwan
DRC (July 2012)	Mexico	Tanzania
Denmark	Mozambique	Thailand
Egypt	Namibia	Tunisia
Ethiopia	Netherlands	Turkey
Finland	Netherlands Protocol (2008)	Uganda
France	Poland	Ukraine
Germany	New Zealand	United Kingdom* United Kingdom Protocol (October 2011)
Ghana	Nigeria	United States of America
Greece	Norway	Zambia
Hungary	Oman	Zimbabwe
India	Pakistan	

* The United Kingdom treaty was extended to Grenada and Sierra Leone. * United Kingdom agreement includes Granada and Sierra Leone at a rate of 12% withholding tax for royalties. For non-treaty countries the withholding tax rate in respect of royalties and know-how payments is currently 12%. This will increase to 15% with effect from 1 January 2015.

Ratified by South Africa but not by treaty partner
Gabon, Germany (renegotiated) Kenya and Sudan.

Treaties signed but not ratified
Botswana (Protocol), Chile, India (Protocol), Malta (Protocol), Mauritius (renegotiated) Norway (Protocol), Oman (Protocol).

Customs Agreements on Mutual Administrative Assistance in force
Algeria, Brazil, Canada, China (People's Republic of), DRC, France, India, Iran, Japan, Mozambique, Netherlands, Norway, United Kingdom and United States of America.

VAT Agreements on Mutual Administrative Assistance in the process of negotiation, or finalised but not yet signed
Botswana, Lesotho, Malawi, Namibia, Swaziland, Zambia, and Zimbabwe.

Tax Information Exchange Agreements in process of negotiation, or finalised but not yet signed
Argentina, Barbados, Belize, British Virgin Island, Brunei Darussalam, Costa Rica, Dominica, Isle of Man, Jamaica, Lichtenstein, Macao SAR, Marshal Islands, Multilateral Southern African Development Community Agreement on Assistance in Tax Matters, Multilateral Convention on Mutual Administrative Assistance on Tax Matters (as amended by the Protocol), Multilateral Southern African Development Community Agreement on Assistance in Tax Matters, Liberia, Liechtenstein, Monaco, Samoa,Sint Maartin, Saint Kitts and Nevis, Turks and Caicos Islands, United States of America Model 1 FATCA and Uruguay.

Note:

- In addition to the above agreements, in force is IBSA (India/Brazil/South Africa) Tax Cooperation Agreement (date of entry into force is October 2007).
- The rates provided are merely a guide, and some DTA's provide for alternative rates to be applied in specific circumstances.
- With effect from 1 January 2015, Government proposes to coordinate and streamline the procedures, rates, and times for all WHTs, including the adoption of a uniform rate of 15%.

Treaties in the process of negotiation or finalised but not signed		
Angola	Latvia	Norway**
Austria**	Lesotho*	Oman**
Bangladesh	Lithuania	Qatar
Belgium**	Luxembourg**	Senegal
Botswana**	Malawi*	Serbia
Brazil**	Malaysia**	Singapore*
Cameroon	Madagascar	Sri Lanka
Chile	Malawi*	Swaziland**
Cuba	Malta**	Switzerland**
Cyprus**	Mauritius*	Syria
Czech Republic*	Morocco	Turkey**
Estonia	Netherlands	United Arab Emirates
Germany**	Mozambique**	Vietnam
India**	Namibia*	Zambia*
Indonesia**	Hong Kong	Zimbabwe*
Kuwait**	Isle of Man	

* Indicates that a Treaty is already in existence which is currently under negotiation to be renewed or updated. The existing agreements remain effective until the new agreements enter into force.

** Protocol still to be finalised.

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. Payment in full must accompany the return.

Transfer duty

For properties acquired under purchase agreements concluded on or after 23 February 2011, the transfer duty rates applicable will be as follows:

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%

* These rates will be applicable to both natural and legal persons (CCs, 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, member's interest in a CC, or a contingent right in a discretionary trust is subject to transfer duty. Subject to amending legislation, companies (and trusts) will now be subject to the same progressive rate of transfer duty as natural persons. As part of this change, taxpayers engaged in asset-for-share rollovers (e.g. upon formation of a company) will now additionally obtain relief from transfer duty. Where a company, CC, or trust owns residential property and the shares, members' interest, 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 CC or 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 which does not result in the change in beneficial ownership; the issue of a security; and cancellation, or redemption where the corporate existence is being terminated.

Note:

The "broker-member exemption" was temporarily expanded to provide relief for all broker-members acting in their capacity as principal. This amendment applied from 1 January 2011 until the close of 31 December 2012. The purpose of this temporary adjustment was to review current commercial practices on the JSE afterwhich the broker-exemption will be explicitly revised so as to apply solely to situations where STT would otherwise inhibit JSE liquidity.

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 which 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).
- 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 which 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).
- 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 R100 000 per annum (R10 000 in the case of donors other than 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 resident in South Africa or is a "private company" (for tax purposes) which is either incorporated in, or managed and controlled in 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. They include:

- Donations between spouses.
- Donations cancelled within six months from the date they took effect.
- Donations made by public companies.
- 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.
- Donations of property situated outside the Republic provided certain conditions are present.

A "deemed donation" is any disposal of property for a consideration which 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

*Taxes on fuel**

	Fuel levy	Excise duty	Total
Petrol	212.50c per litre	4c per litre	216.50c per litre
Diesel	197.50c per litre	4c per litre	201.50c per litre

* With effect from 2 April 2013.

The Road Accident Fund Levy increased by 8c per litre from 88.0c to 96.0 c per litre on petrol and diesel (effective 3 April 2013). A diesel refund system provides for a refund of fuel and road accident fund levies paid on diesel used in certain qualifying industries. The qualifying industries are: coastal shipping (conveyance of goods by ship between the coastal ports of South Africa or the common customs area), commercial fishing, farming, forestry, and mining, the National Sea Rescue Institute, offshore mining and rail. The diesel refund system is also available to offshore vessels conducting research in support of the marine industry, coastal patrol vessels and vessels employed to service fibre-optic telecommunication cables along the coastline of Southern Africa. Bioethanol remains outside the fuel tax net but is still subject to VAT at the standard rate.

Electricity levy
An electricity levy has been increased to a rate of 3.5c/kWh on the sale of electricity generated from non-renewable sources. The levy is collected at source by the producers or generators of electricity. The current electricity levy will be phased out when the carbon tax becomes effective.

Carbon emissions tax (CET)
The tax (effective 1 September 2010) is levied at a rate of R90 for each gram per kilometer of carbon dioxide produced over and above a set amount of 120g/km. The tax is paid only once, on the date of acquisition of a vehicle, and is also only payable in respect of new vehicles. From 1 March 2011, the tax was extended to cover new motor vehicles for the transport of goods with carbon emissions in excess of 175g/km. Following public consultation, Government has revised its concept design for CET and an updated draft policy paper on carbon tax was published in March 2013. Proposed design features include: percentage-based rather than absolute emissions thresholds below which the tax will not be payable, a higher tax-free threshold for process emission, additional relief for trade-exposed sectors, the use of offsets by companies to reduce their carbon tax liability and phased implementation.

Energy efficiency incentive
The incentive allows taxpayers to claim an allowance for energy saving achieved in production of income. An energy savings certificate from SANEDI is required to claim the allowance and calculated based on a basic formula, as follows:

Savings in kwh x applied rate /2 (or a denominator determined by the Minister).

The rules for savings are set by the Department of Energy Regulation and the applied rate represents the lowest feed-in-tariff set by National Energy Regulator guidelines. Savings is largely measured by comparing baselines from the start versus end of the year. The allowance will come into effect on a date announced by the Minister.

Gambling taxes
The 2011 Budget proposed a gambling tax (to be introduced with effect from 1 April 2012), whereby gambling winnings which exceed R25 000 will be subject to a 15% final WHT. However, following broad consultation, this proposed WHT (now effective from 1 April 2013) based on gross gambling revenue will take the form of an additional 1% national levy on a uniform provincial gambling tax base. It is proposed that this legislation will be implemented by close of 2013. A similar tax base will be used to tax the National Lottery.

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.

At present, interest from a South African-source paid to a non-resident will not be taxable in South Africa if the person is outside South Africa for more than 183 days in the tax year and does not conduct a business in South Africa.

An individual is resident if he/she is "ordinarily resident" in South Africa, or 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 the aggregate in the preceding five tax years.

Tax registration[74]

Where individuals fall into any of the following categories (below), for the 2013 tax season submission of a personal income tax return (ITR12) will be required:

- If you are under 65 years of age and received an income of more than R63 556 (this amount will increase to R67 111 during the year of assessment 1 March 2013 to 28 February 2014 i.e. for the 2014 tax season) from one or more sources or received more than R250 000 from a single source of employment, during the year of assessment 1 March 2012 to 28 February 2013.
- If you are between 65 and 75 years of age and received an income of more than R99 056 (R104 611 for the 2014 tax season) from one or more sources or received more than R250 000 from a single source of employment, during the year of assessment 1 March 2012 to 28 February 2013.
- If you are over 75 years of age and received more than R110 889 (R117 111 for the 2014 tax season) from one or more sources or received more than R250 000 from a single source of employment, during the year of assessment 1 March 2012 to 28 February 2013.
- If you conducted any trade in South Africa.
- Received an allowance such as a travel, subsistence or Office Bearer Allowance (check section 8(1)(a) of the Income Tax Act if unsure).
- Received interest in excess of R22 800 under age 65 (and in excess of R33 000 over age 65)
- Have a local capital gain/loss exceeding R30 000.

[74] www.sars.gov.za

- Received any income or capital gain in a foreign currency.
- Held any rights in a CFC.
- Received an income tax return or you were requested 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; namely:

- eFiling which is the most convenient and quickest way.
- Filing electronically at a branch where SARS staff will help.
- Completing the return(s) in writing and posting it to us or dropping it off in a SARS drop box.

For further information regarding how to submit a PIT return, refer to ***Addendum 19: How to submit your PIT return***. Alternatively, this document can be accessed on SARS website at: www.sars.gov.za/Tools/Documents/ DocumentDownload.asp?FileID.

A more comprehensive guide on how to complete and submit an ITR12 return is available on the SARS website at: www.sars.gov.za (under Tax Types>Income Tax>Tax Season 2013).

The tax deadlines for individuals for the 2013 tax season (i.e. for years of assessment from 1 March 2012 to 28 February 2013) are as follows:

- The deadline for all taxpayers who submit their tax return manually, by posting it or dropping it off in a SARS drop box, is 27 September 2013.
- The deadline for all taxpayers who submit their returns electronically at a SARS branch is 22 November 2013.
- Non-provisional taxpayers who submit their returns via eFiling have until 22 November 2013.
- Provisional taxpayers who submit their returns via eFiling have until 31 January 2014.

> ***Note:***
> The deadlines for the 2014 tax season (i.e. 1 March 2013 to 28 February 2014) have not yet been published.

Tax rates and rebates

Tax rates and rebates (2013/14)		
Individuals, estates, special trusts (years of assessment commencing 1 March 2013)		
Taxable income as exceeds	But does not exceed	Tax payable
R	R	R
0	165 600	18%
165 601	258 750	29 808+ 25%
258 750	358 110	53 096+ 30%
358 111	500 940	82 904+ 35%
500 941	638 600	132 894+ 38%
638 601+		185 205 + 40%
Other trusts:		40%

Tax rates and rebates (2013/14)	
Rebates - Natural persons (years of assessment commencing 1 March 2013)	
Primary rebate - All individuals	R12 080
Age rebate*	
Secondary rebate (65 years and older)	R6 750
Third rebate (75 years and older)	R2 250

* Additional to primary rebate.

Note:

- Rates are progressive to 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 the below mentioned 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 is R67 111 for individuals below 65 years of age, and R104 611 for individuals aged between 65 years, and 75 years of age and R117 111 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, CCs 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 was 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.

Deductions and allowances

Subject to certain restrictions, deductions are granted for medical expenses, contributions to pension and retirement annuity funds, certain donations, travel and motor vehicle expenses and certain other qualifying expenses.

Exemptions

Interest and foreign dividends

Interest and foreign dividends earned by individuals who are under 65 years of age are exempt from income tax up to a maximum of R23 800 per annum. The exemption for individuals 65 years and older is R34 500 per annum. Interest earned by non-residents from South African investments is generally exempt from income tax in South Africa. In addition, there is currently no WHT in respect of interest paid to non-residents. With effect from 1 January 2015, interest paid to non-residents may be subject to WHT at a rate of 15%.

> *Note:*
>
> This exemption will not apply with regards to dividend tax as from 1 April 2012. Also, generally foreign dividends received by individuals from foreign companies (where the shareholding is less than 10% in the foreign company) are as from 1 April 2012, taxable at a maximum effective rate of 15%. No deductions are allowed for expenses incurred to produce the foreign dividends).

Interest is exempt where earned by a non-resident who is physically absent from South Africa for 183 days or more per annum, and that person is not carrying on business in South Africa. For years of assessment commencing on or after 1 January 2010, amounts received by or accrued to a portfolio of a collective investment scheme, or distributed from amounts received or accrued by a collective investment scheme will be included and will retain its character in the hands of the unit holder.

Dividends

- Residents: Dividends other than foreign dividends are exempt from income tax in the hands of South African residents.
- Non-residents: Dividends are exempt from income tax and not subject to any WHT.

> *Note:*
>
> A dividend WHT replaced STC on 1 April 2012. Under the new dividend tax regime resident individuals will be taxed at 15% on dividends declared by domestic companies. Dividend payments to domestic companies, retirement funds and PBOs will be exempt. The tax has a mechanism under which the paying company (or intermediary) withholds the tax and provides for transitional STC credits. The period within which a company may use its tax credits is three years. Non-resident persons are eligible for tax treaty benefits.

Retirement savings

Certain retirement lump sum savings payments made to employees, or holders of an office, are taxed in terms of a special formula and may qualify for a R315 000 exemption. The special dispensation applies mainly where such lump sum payments are made upon death or retirement. Given circumstances where lump sums are paid out after retirement (e.g. the conversion of a post-retirement annuity into a lump sum), such lump sum payouts are now subject to the same treatment. In addition, where retirement savings from a deceased are converted from an annuity to a lump sum after death for the benefit of another party, the special tax treatment will apply to such secondary succession of retirement lump sums.

Retrenchment packages

The past R30 000 exemption was repealed from 1 March 2011. It is proposed that retrenchment lump sum payments be treated in the same manner as retirement payments, but the legislation giving effect to this proposal has not yet been passed.

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.

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.

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

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 a capital nature.
- The expense must be expended for the purposes of trade.

Specific deductions

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 include the following:

Medical expenses

The Act converts expenditures associated with medical aid contributions into tax credits. The proposed credit is R242 per member and R242 per the first dependant and R162 for each additional dependant thereafter. For individuals aged over 65 years, or under 65 years of age where the taxpayer, spouse or child is physically or mentally handicapped: all expenses are deductible.

Note:

- Previously, for individuals aged under 65 years, medical expenses (including medical aid contributions which exceed the capped amounts detailed below) were deductible to the extent that they exceed 7.5% of taxable income (before the medical deduction). In addition, a capped tax deduction for medical aid contributions was allowed on a monthly basis.
- Medical contributions: All employer contributions are treated as a fringe benefit with the employee being eligible for deductions to the extent of their medical scheme contributions up to the capped amounts.
- From 1 March 2014, additional medical deductions will be converted into tax credits at a rate of 25% for taxpayers aged below 65 years. Employer contributions to medical schemes on behalf of ex-employees will be deemed a taxable fringe benefit. Taxpayers 65 years and older and those with qualifying disabilities or disabled dependents will be able to convert all medical scheme contributions in excess of three times total allowable tax credits plus additional expenses into a tax credit of 33%.
- National Health Insurance is to be phased in over a period of 14 years. 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.

Donations to PBOs

Donations to certain approved PBOs qualify for a tax deduction. These organisations include those involved in specified welfare, humanitarian, health care, education and development, conservation, environment and animal welfare, and certain low income housing and land reform activities. The tax deduction is limited to 10% of taxable income (before the deduction of donations and medical expenses).

Pension fund contributions

- Current: Maximum deduction is the greater of:
  - R1 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.

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.

Note:

Proposed changes to the taxation of retirement fund contributions (to take effect from 1 March 2015) include the following:

- A taxable fringe benefit will now arise in the hands of the employee in relation to an employer's contribution to a retirement fund. Currently, this contribution on behalf of an employee is made without tax consequences to the employee.
- Individuals will then 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).
- A maximum annual deduction threshold will be capped at R350 000.

Income continuation premiums
Premiums on income protection insurance policies are deductible. A pro-rata deduction (in relation to the extent that the amounts payable constitute income) may be claimed for any portion of a single insurance premium that relates to income protection.

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.
- Loss of income caused by illness, injury, disability or unemployment.
- Premium paid of an insurance policy which covers against.
- Wear-and-tear allowances on equipment.

Other tax features

Retirement fund lump sum benefits
The tax scale brackets applicable to retirement fund lump sum benefits derived on retirement, death or retrenchment (and now also to severance benefits from the employer) have been improved from 1 March 2011, with the maximum nil tax rate moving from R300 000 to R315 000.

> ***Note:***
>
> On the commencement of years of assessment commencing on or after 1 January 2012, tax-free transfers of retrenchment benefits to preservation funds are allowed. Retirement and pre-retirement lump sums are taxed on a cumulative basis.

Long-term insurance
From 1 March 2012, employer-paid premiums in respect of employer group income protection policies, will be 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 will ensure that the employee can claim a monthly deduction for Pay-As-You-Earn (PAYE).

Severance benefits
Severance benefits (e.g. retrenchment benefits paid by an employer) must (with effect from 1 March 2011) be aggregated with lump sum benefits from retirement funds and be taxed according to the appropriate scale.

Ring-fencing of losses from certain trades
Losses from certain trades conducted by individual taxpayers who are subject to the maximum marginal tax rate (i.e. annual taxable income exceeding R638 600, 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 which has generated losses for at least three tax years out of the previous five years (only losses incurred from 1 March 2004 onwards will be taken into account); 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 (only losses incurred from 1 March 2004 onwards will be taken into account).

Capital gains tax (CGT)
Tax residents are subject to CGT in South Africa on the disposal of their worldwide assets. Non-residents are 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% (25% prior to 1 March 2012) of the gain is included in the individual's taxable income and taxed at the applicable marginal tax rate. The general annual capital gains exclusion for individuals and special trusts is R30 000 (was R20 000 prior to 1 March 2012). The exclusion on death is R300 000 (was R200 000 prior to 1 March 2012) and disposal of primary residence exclusion is R2 million of gain or loss on disposal (R1.5 million of gain; or R2 million of

proceeds prior to 1 March 2012). The exclusion amount on disposal of small business (when person is over 55 and the market value of assets does not exceed R10 million) is R1.8 million (R1.5 million prior to 1 March 2013).

Married persons

Married individuals are generally taxed as separate taxpayers, except for:

- Where income is received by or accrued to a spouse in consequence of a donation, settlement, or disposition by the other spouse which will be deemed to be income of the spouse who made the donation, settlement, or disposition where done for purpose of avoiding tax;
- Where income is derived by one spouse from the other spouse, a partnership, private company where the other spouse is a connected person, or derived from a trade that is connected to the trade carried on by the other spouse, will be taxed in the hands of the other spouse to the extent of the amount of income is excessive; and
- Where the persons are married in community of property, the net rental income from property, or interest income by both persons is deemed to accrue in equal portions to each spouse. Any other income that does not fall within the joint estate is taxed in the hands of the spouse entitled thereto.

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 are also payable to SARS monthly and are 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.

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 be regarded as an "employer" for South African employment tax purposes:

- A foreign holding company and/or any branch/PE it may establish in South Africa.
- Any South African subsidiary company of the above foreign holding company and/or any branch/PE it may establish in South Africa.
- Any South African resident sub-contractor.
- Any non-South African resident sub-contractor who has established a PE in South Africa.
- Any non-SA resident sub-contractor 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 would therefore be 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 SA resident or non-SA resident and an individual or a corporate entity. If the person qualifies for tax relief, no employees' tax needs to be withheld from payments made to 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.

Note:

- The employers listed above will be required to register for employees' tax, SDL, and UIF, and submit monthly employment tax returns and payments to SARS.
- All persons (individuals and corporate entities, SA residents and non-SA residents) who are liable for income tax in South Africa, would also be required register as taxpayers and must, where required, submit annual income tax returns. As a general rule, all the individuals rendering services on projects in South Africa for more than 183 days would be required to register for income tax.
- Various fringe benefits and allowances may be provided to the employees as part of their remuneration packages on a tax efficient basis if certain conditions are met.
- Temporary employees ("non-standard employees") are not taxed based on standard tax rates for employees' tax purposes. Employers must deduct employees' tax at a rate of 25% from the taxable remuneration paid to temporary employees. No tax is deducted if the temporary employee works at least five hours on a specific day and the daily rate of pay is less than the equivalent of the annual tax threshold.
- Failure by an employer to comply with its employment tax obligations may result in significant penalties and interest being imposed by SARS.

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.

Unemployment Insurance Fund (UIF)

Every employer will be liable to pay a monthly contribution to UIF, which is based on a monthly gross remuneration paid to employees up to a limit of R14 872. The employer will contribute 1%, and the employee will (by means of a deduction from salary) contribute 1% of remuneration up to the limit. Remuneration for purposes of calculating UIF excludes the following:

- 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.
- Payments made to juristic persons (such as companies).
- Payments to independent contractors.

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.
- Learners under contract (in terms of Skills Development Act).

Skills Development Levy (SDL)

The employer is liable to monthly pay a 1% levy against the total amount of remuneration paid by that employee, 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.
- Remuneration of learners under contract.

Incentives and industrial financing

Overview[75]

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.
- Competitiveness Enhancement Incentives (ECA): These are investments which facilitate increased competitiveness, sustainable economic growth and development in a specific sector.

Note:

The three categories generally mirror the stages involved in project development.

[75] *Source: Information provided by the dti, Industrial Development Corporation (IDC) and Economic Development Department. Website: www.investmentincentives.co.za. Retrieved August 2012.*

Investment and enterprise development incentives

(ECA) Critical Infrastructure Programme (CIP) *(Managed by **the dti**)*	
Objective:	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.
Applicability:	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.
Benefit:	Cash grant incentive that covers between 10% and 30% of the infrastructure development costs.
(ECA) National electrification programme (municipal) *(Managed by the Department of Energy)*	
Objective:	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.
Applicability:	All metro, district and local municipalities in South Africa.
Benefit:	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.

(ECA) Municipal Infrastructure Grant (MIG) *(Managed by the Department of Provincial and Local Government)*	
Objective:	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.
Applicability:	All metro, district and local municipalities in South Africa.
Benefit:	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.
(ECA) Neighbourhood Development Partnership Grant (NDPG) *(Managed by National Treasury)*	
Objective:	To create enabling economic infrastructure in dormitory townships across South Africa that will attract private sector investment.
Applicability:	All metro, district, and local municipalities in South Africa.
Benefit:	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.
(ECA) Local Economic Development (LED) programme *(Managed by the Department of Provincial and Local Government)*	
Objective:	Creating an enabling environment for investment into the area and encouraging the development of the market to facilitate linkages between established and emerging sectors.
Applicability:	Local government, private sector enterprises, enterprises forming partnerships with government agencies, donors and other enterprises aiming to develop clusters to strengthen their sector.
Benefit:	Up to 70% grant-based funding available for certain identified areas.

(ECA) Business Process Services (BPS) incentive *(Managed by **the dti**)*	
Objective:	To attract investment in the BPS sector that creates employment opportunities through off shore activities.
Applicability:	Local and foreign investors (new and expanding projects) that create jobs in South Africa to serve offshore clients.
Benefit:	A total grant of up to R112 000 per offshore job created claimable against operational expenditure. The grant will be payable over a period of three years. Additional bonus structures will be applicable for projects creating more than 400 or 800 offshore jobs respectively.

(CEI) Tourism support programme *(Managed by the Department of Tourism)*	
Objective:	To stimulate growth within the tourism industry.
Applicability:	The establishment of new or the expansion of existing tourism facilities.
Benefits:	Details regarding this will only be available from 1 April 2014.

(CEI) Enterprise Investment Programme (EIP): Aquaculture Development and Enhancement Programme (ADEP) *(Managed by the Department of Tourism)*	
Objective:	Investment in the aquaculture sector.
Applicability:	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).
Benefit:	20% - 45% grant for investment in land, and buildings, machinery and equipment, commercial vehicles and work boats and bulk infrastructure.

Section 12I tax allowance

*(Managed by **the dti**)*

The tax incentive is intended to promote local and foreign direct investment in industrial policy projects in South Africa and is legislated in terms of section 12I of the Income Tax Act (the Act).

R20 billion has been allocated for additional tax deductions under this new incentive, with a focus on large industrial projects.

Manufacturing assets must be used in South Africa and qualify for a deduction in terms of section 12C(1)(a), 13 or 13 quat which covers plant or machinery that will be brought into use for the first time by the taxpayer and will be used in a process of manufacture and the cost for the construction or refurbishment of buildings if certain conditions are met.

A project will be allocated points based on the following criteria if:

1. It upgrades an industry within the Republic by:
   - i. Utilising innovative processes; or
   - ii. Utilising new technology that result in improved environmental protection as a result of:
     - a) Improved energy efficiency.
     - b) Cleaner production technology.
2. Generates general business linkages by acquiring goods or services from small, medium and micro-enterprises.
3. Creates direct employment.
4. Provides skills development in the Republic; or
5. Is located in an IDZ.

Benefit:	Additional tax allowance of 55% of the cost of any manufacturing asset used in a qualifying industrial policy project determined to have preferred status; or 35% of the cost of any manufacturing asset used in any other qualifying industrial policy project limited to: • R900 million in the case of any Greenfield project with preferred status. • R550 million in the case of any other Greenfield project. • R550 million in the case of any Brownfield project with preferred status. • R350 million in the case of any other Brownfield project. • Cost of training provided to employees in the furtherance of the Industrial Policy Project. The training allowance may not exceed R36 000 per employee and R20 million in the case of projects with qualifying status or R30 million in the case of projects with preferred status.
Minimum investment required to qualify for this incentive:	• R200 million in the instance of a Greenfield project. • The higher of R30 million or 25% of the value of the manufacturing assets in the case of Brownfield projects.
(CEI) Automotive Investment Scheme (AIS) *(Managed by **the dti**)*	
Objective:	To grow and develop the automotive sector by increasing plant production volumes and strengthening the automotive value chain.
Applicability:	Light motor vehicle and automotive component manufacturers.
Benefits:	A taxable grant of between 20% and 30% of the value of the qualifying investment in productive assets.

(ECA) Location film and television production incentive *(Managed by **the dti**)*	
Objective:	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.
Applicability:	Foreign-owned qualifying productions with Qualifying South African Production Expenditure (QSAPE) of R12 million and above.
Benefit:	Rebate of 15% of the QSAPE to qualifying productions and the benefit is capped at R10 million.
(ECA) South African film and television production and co-production incentive *(Managed by **the dti**)*	
Objective:	To support the local film industry and to contribute towards employment opportunities in South Africa.
Applicability:	Local productions and official treaty co-productions with a total production budget of R2.5 million and above.
Benefit:	Rebate of 35% for the first R6 million, and 25% for the remainder of the qualifying production expenditure capped at a maximum rebate of R10 million.

(ECA) PSOM business incentive: Dutch programme for cooperation with emerging markets *(Funded by Ministry of Foreign Affairs, Development Cooperation)*	
Objective:	To provide opportunities for Dutch companies to expand investments and trade relations with South Africa.
Applicability:	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.
Benefit:	Grants contributing up to 50% of total project costs up to a maximum of €1.5 million.

(CEI) Isivande Women's Fund (IWF) *(Managed by **the dti**)*	
Isivande Women's Fund (IWF) is an exclusive women's fund established by the **the dti** 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.	
Objective:	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.
Applicability:	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 co-operatives on a case-by-case basis. The fund pursues deals involving start-up funding, business expansions, business rehabilitation and turnaround franchises and bridging finance.
Benefit:	Loan range from R30 000 - R2 million and the loan repayment period is maximum five years.

Competitive enhancement incentives

(ECA) Black Business Supplier Development Programme (BBSDP) *(Managed by **the dti**)*	
Objective:	To improve the sustainability of black-owned enterprises by providing funding to increase the competitiveness of the businesses.
Applicability:	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.
Benefit:	The programme provides grants up to a maximum of R1 million in total which 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.

(ECA) The Co-operative Incentive Scheme (CIS) *(Managed by **the dti**)*	
Objective:	To promote co-operatives by improving the viability and competitiveness of the co-operative enterprises by lowering the cost of doing business.
Applicability:	Any entity incorporated and registered in South Africa in terms of the Co-operatives Act.
Benefits:	Cost sharing grant of 90% paid by **the dti** 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.

(ECA) Clothing and Textile Competitiveness Programme (CTCP) - Production Incentive (PI) *(Managed by the Industrial Development Corporation (IDC))*	
Objective:	To structurally change the clothing and textile industry by providing funding assistance for enterprises to invest in competitiveness improvement interventions.
Applicability:	Clothing manufacturers, textiles manufacturers, Cut, Make and Trim (CMT) operators, footwear manufacturers, leather goods manufacturers and leather processors.
Benefit:	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.

(ECA) The Clothing and Textile Competitiveness Improvement Programme (CTCIP) *(Managed by the IDC)*	
Objective:	To stimulate the competitiveness of the South African clothing and textile manufacturing sector by encouraging world-class manufacturing initiatives aimed at improving people, processes and products.
Applicability:	Competitiveness improvement projects undertaken on an individual company level or on a cluster level.
Benefit:	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.

(ECA) Jobs fund *(Managed by the Development Bank of Southern Africa)*	
Objective:	To co-finance public and private sector projects that will significantly contribute to job creation.
Applicability:	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.
Benefit:	Matching grant funding determined as follows: • Private sector enterprise development initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R5 million, implying a minimum overall project size of R10 million. • Public sector enterprise development initiatives: Applicant to provide matching funding on a 0.2:1 ratio. The minimum grant size will be R5 million, implying a minimum overall project size of R6 million. • Infrastructure Initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R10 million, implying a minimum overall project size of R20 million. • Private sector support for work-seekers initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R3 million, implying a minimum overall project size of R6 million. • Public sector support for work-seekers initiatives: Applicant to provide matching funding on a 0.2:1 ratio. The minimum grant size will be R3 million, implying a minimum overall project size of R3.6 million.

Export incentives - Non-industry specific

(ECA) Export Marketing and Investment Assistance (EMIA) scheme *(Managed by **the dti**)*	
Objective:	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 Pavilions, Individual Participation in Exhibitions, Outward Investment and Selling Missions, Inward Buying And Investment Missions, Individual Inward Missions, Foreign Direct Investment and Primary Market Research.
Applicability:	Available to all enterprises registered with the Commissioner of Customs and Excise with special terms for SMMEs.
Benefit:	A portion of specified costs relating to: • Travel (economy class). • Daily subsistence. • Transportation of samples for specific events. • Development of marketing materials for specific events. • Exhibition costs relating to stand rental, stand design and set up costs. • Costs of brochures.

(ECA) Sector specific assistance scheme *(Managed by **the dti**)*	
Objective:	Develop new export markets, broaden the specific industry export base, increase participation of B-BBEE and SMME companies in the export process.
Applicability:	Approved export councils, registered industry associations and joint actions groups.
Benefit:	A matching grant of between 50% and 80% of the cost to support the development of the partnerships.

(ECA) Capital projects feasibility programme (previously SA capital goods feasibility study fund) *(Managed by **the dti**)*	
Objective:	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.
Applicability:	South African-registered companies.
Benefit:	An advance up to a maximum of 50% of study costs for projects outside Africa and 55% for projects in Africa.

(ECA) Steel rebate *(Funded by South African Iron and Steel Institute)*	
Objective:	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.
Applicability:	Exporters (situated in SACU) of fabricated steel products where 20% value has been added.
Benefit:	Rebates based on the value of exports, currently at R135 per ton of net steel content (VAT exclusive) provided by steel suppliers.

(ECA) Customs rebate and drawback provisions *(Managed by the International Trade Administration Commission of South Africa (**the dti**))*	
Objective:	Promote manufacturing and exporting of South African goods.
Applicability:	Importers, exporters and manufacturers.
Benefit:	Rebate or drawback of customs duties on imported goods, raw materials and components used in manufacturing or processing of goods for export.

(ECA) Industrial Development Zones (IDZs) *(Managed by **the dti**)*	
Objective:	To promote manufacturing and increase the competitiveness of South African exports.
Applicability:	All manufacturers and exporters located in the Customs Controlled Area (CCA) designated zones of IDZs.
Benefit:	Rebate of customs duties, exemption of VAT on imported goods, raw materials and components used in manufacturing and processing goods for export and exemption of VAT on services provided in CCAs.
Developments:	To support the objectives of the Industrial Policy Action Plan and the New Growth Path, businesses making Greenfield and Brownfield investments qualify for tax relief subject to approval being granted by **the dti**. Greenfield investments in IDZs qualify for additional relief. Government will be considering expanding incentives for labour intensive projects in IDZs.
(ECA) Value Added Tax (VAT) - Export incentives *(Managed by the South African Revenue Service)*	
Objective:	To encourage exports from and investment in South Africa.
Applicability:	Exporters, registered as VAT vendors in South Africa.
Benefit:	A vendor may supply movable goods at the zero rate, where the vendor consigns or delivers the goods to an address outside South Africa. 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.

(ECA) Value Added Tax (VAT) - Industrial Development Zones (IDZs) *(Managed by **the dti**)*	
IDZs are purpose-built industrial sites in South Africa which have been specifically designated to be developed and operated by the private sector.	
Objective:	To encourage industrial development and investment in South Africa and to stimulate trade and job creation.
Benefit:	The South African VAT Act allows a vendor to charge VAT at the zero rate on various types of supplies of goods or services to a Customs Controlled Area (CCA) enterprise or an IDZ operator. VAT Interpretation Note 40, which was released by SARS, clarifies the VAT treatment of the supply of goods and/or services to and/from a CCA enterprise or IDZ operator in an IDZ.
(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.	
Objective:	To limit the VAT registration and administrative burden for non-residents in South Africa.
Benefit:	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.

Export incentives - Industry specific

(ECA) Clothing and Textile Competitiveness Improvement Programme (CTCIP) *(Managed by the IDC)*	
Objective:	To build capacity in manufactures and in other areas of the apparel value chain in South Africa to effectively supply to the major retailers, as well as to grow South African based clothing and textile manufacturers to be globally competitive.
Applicability:	Small and large to medium-sized companies in clothing and textile manufacturing or support, supplier and/or customer organisations to these entities. The effective date for receipt of applications under this programme is 1 April 2009, for a period of five years, ending in 2014.
Benefit:	Investment support to both local- and foreign-owned entities: • A matching grant incentive of 75% of project cost on cluster projects and 65% of project cost for company-level projects. • Excludes costs in machinery, equipment, commercial vehicles, land and buildings in an existing clothing and textile production facility. • The extent of the incentive for projects on company level will be 65% of eligible project cost up to a maximum of R2.5 million over five years. • The cluster grant will support the development of such clusters through the provision of 75:25 matching grants: 75% from the CTCIP grant and 25% from the cluster participants. • Grant support for each approved partnership will be limited to a cumulative ceiling of R25 million. • Grants made by the programme will be made exclusive of VAT.

(ECA) Automotive Production and Development Programme (APDP) *(Managed by **the dti**)*	
Background:	On 1 January 2013, the APDP will replace the existing MIDP. The APDP objectives include the following: • Stimulate expansion of automotive vehicle production to 1.2 million vehicles per annum by 2020 with associated deepening of the components industry. • Achieve better balance between domestic and export sales to supply growing domestic demand. • Expand value-added investment, employment and net government revenue (directly and via multiplier effect). • Make a large positive contribution to the balance of payments.
Benefits:	The following benefits will be available under APDP: • AIS: 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. • Production Incentive (PI): Incentive available to final manufacturers based in the Southern African Customs Union (SACU) and will be based on value added in the production process of qualifying automotive components. • Local Assembly Allowance (LAA): The LAA will be replacing the Duty-Free Allowance (DFA). This incentive will cover all vehicles assembled within South Africa irrespective of their market focus.

(CEI) Automotive Investment Scheme (AIS): Valid from 1 July 2009 *(Managed by **the dti**)*	
Objective:	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.
Applicability:	Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.
Benefit:	20% taxable cash grant of the value of the investment in productive assets, approved by **the dti**, 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 **the dti**.

(ECA) Production Incentive (PI) with effect from 1 January 2013 *(Managed by the IDC)*	
The PI is an incentive available to final manufacturers based in the SACU and will be based on value added in the production process of qualifying automotive components. The PI will basically be 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 will be deemed to have a local content.	
Applicability:	Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.
Benefit:	55% and 60% of the production incentive calculated to non-vulnerable and vulnerable industries reducing by 1% annually.
(ECA) Local Assembly Allowance (LAA) *(Managed by **the dti**)*	
The LAA will be replacing the Duty-free Allowance (DFA). This incentive will cover all vehicles assembled within South Africa irrespective of their market focus.	
Applicability:	Exclusive to motor vehicle assemblers on production of motor vehicles for the domestic market.
Benefit:	The incentive will commence with 20% in 2013, reducing by 1% each year until 2015, at which it will remain at 18% until 2020.

Industrial financing

(ECA) Food, beverage and agro industries *(Managed by the IDC)*	
Objective:	Promote the establishment of permanent infrastructure in the agricultural and aquaculture sectors and establish new or expand existing undertakings in the food and beverages sector.
Applicability:	Focus areas are:
	• Horticulture primary agricultural sector.
	• Food processing sector.
	• Agro-industrial sector.
	• Beverage sector.
	• Fishing and aquaculture sectors.
Minimum finance requirement:	More than R1 million in debt and/or more than R5 million in equity.
Benefit:	Competitive, risk-related interest rates are based on the prime bank overdraft rate.
(ECA) Chemicals, textiles and allied industries *(Managed by **the dti** and IDC)*	
Objective:	To stimulate development and sustainable global competitiveness.
Applicability:	Focus areas are: • Upstream and basic chemicals. • Ceramic, concrete and stone products. • Cosmetics and detergents. • Fine and speciality chemicals. • Glass products. • Recycling. • Rubber products. • Plastic products.
Minimum investment requirements:	• For chemicals and allied industries a minimum loan size of R1 million at a prime linked interest rate; and • Minimum equity amount is R5 million at a minimum of 8% real after-tax IRR.
Benefit:	Competitive, risk-related interest rates are based on the prime bank overdraft rate.

(ECA) Mining and beneficiation *(Managed by the IDC)*	
Objective:	Assistance for small and medium-sized mining and beneficiation activities and jewellery manufacturing.
Applicability:	Focus areas are: • Financial and technical assistance for the development of mining, beneficiation and metals projects in South Africa and the rest of the continent. • Financial assistance for junior and emerging mining houses and mining-related activities such as contract mining. • Facilitating the acquisition of mining assets by historically disadvantaged persons (HDPs). • Developing the South African jewellery manufacturing industry and optimising value-addition beneficiation opportunities.
Benefit:	Competitive risk-related interest rates based on the prime bank overdraft rate.

(ECA) Wood and paper industries *(Managed by the IDC)*	
Objective:	To be the key player in the generation of a balanced, integrated and internationally competitive forest products sector within the Southern African region.
Applicability:	Focus areas are projects and investments in the following industries: • Forestry. • Pulp and paper. • Furniture. • Saw milling, board production, etc. • Renewable energy.
Benefit:	Competitive risk-related interest rates based on the prime bank overdraft rate.

(ECA) Healthcare *(Managed by the IDC)*	
Objective:	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.
Applicability:	Focus areas are: • Manufacturing of medical equipment. • Medical schemes administration and medical schemes management. • Medical and dental practice activities. • Clinics and related services. • Hospital services. • Human health services. • Management services of the above businesses. • Buy-ins or take-overs by B-BBEE partners of the above existing businesses.
Note: Preference is given to Greenfield projects, expansions and rehabilitations; projects exhibiting economic merit in terms of profitability and sustainability; projects which 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.	
Minimum requirements:	• Minimum loan amount is R1 million at a prime linked interest rate. • Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion. • Compliance with international environmental standards. • Shareholders/owners are expected to make a significant financial contribution.
Benefit:	Competitive, risk-related interest rates based on the prime bank overdraft rate.

(ECA) Metal, transport and machinery products *(Managed by the IDC)*	
Objective:	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.
Applicability:	Focus areas are: • Basic iron, steel and non-ferrous fabricated metal products. • Plant, machinery and equipment. • Motor vehicles, components and accessories. • Diverse transport products such as boats, planes and trains.
Note: Preference is given to financing of fixed assets and the fixed portion of growth in working capital requirements and projects/businesses which have a significant developmental impact (e.g. rural development, empowerment, job creation).	
Minimum investment requirements:	• Minimum loan amount is R1 million at a prime linked interest rate. • Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion. • Shareholders/owners are expected to make a significant financial contribution.
Benefit:	Competitive, risk-related interest rates based on the prime bank overdraft rate.

(ECA) Technology industry *(Managed by the IDC)*	
Objective:	Development and expansion of technology intensive businesses in information technology (IT), telecommunication, electronic and electrical industries.
Applicability:	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.
Minimum investment requirements:	• Minimum loan amount is R1 million at a prime linked interest rate. • Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion. • Shareholders/owners are expected to make a significant financial contribution.
Benefit:	Competitive risk-related interest rates based on the prime bank overdraft rate.
(ECA) Tourism finance *(Managed by the IDC)*	
Objective:	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.
Applicability:	Focus on asset-based finance, with the bulk of the portfolio invested in the accommodation sector.
Preference is given to:	• Projects that show profitability and sustainable commercial viability. • Financing of fixed assets and capital expenditure. • A product or facility for which there is an identifiable demand from a quantifiable market. • Projects which have a significant developmental impact (i.e. job creation, empowerment and rural development).
Minimum financing requirement:	R1 million.
Benefit:	Competitive risk-related interest rates based on the prime bank overdraft rate.

(ECA) Transportation *(Managed by the IDC)*	
Objective:	Focuses on proactively identifying and developing market opportunities that result in the promotion of entrepreneurship, facilitation of transport links and access to financial services.
Applicability:	Focus areas are: • Transport services (road, freight, logistics, maritime, aviation and bus sector). • Financial services (retail banking, acquisitions and commercial micro-finance). • Other (security services, listed retail acquisitions and catering services).
Preference is given to:	Emerging or established entrepreneurs wishing to raise finance for: • A minimum loan of R1 million. • A minimum of R500 000 for bridging facilities for specific contracts. • A minimum of R5 million for equity related transactions.
Benefit:	Competitive risk-related interest rates based on the prime bank overdraft rate.
(CRD) Venture capital *(Managed by the IDC)*	
Objective:	To facilitate the development and commercialisation of technology-rich South African Intellectual Property (IP) that is unique from a global perspective.
Applicability:	• IP owned by the company. • Development of IP done in-house. • IP that is patentable (if not patentable, should provide some form of sustainable competitive advantage). • Management teams must include people with all the required key competencies. • Key founding shareholders should be involved in the business on a full-time basis. • Business should display good prospects of being economically viable.
Benefit:	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).

Industrial participation

Note: 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 **the dti**, DST and the IDC. Another key component of this project is creating world-class procurement practices in the SOE, through training and certification.	
The ultimate goals of the CSDP are:	• To contribute to the AsgiSA aims of increasing economic growth, employment creation, skills development and B-BBEE. • To develop local industries to supply participating SOEs with high quality, globally competitive goods and services. • 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. • To improve the competitiveness of the SOEs as a result of savings resulting from their sourcing from innovative, responsive and more competitive suppliers.
(ECA) Defence Industrial Participation Programme (DIP) *(Managed by **the dti**)*	
Objective:	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.
Applicability:	Mandatory on all foreign defence purchases above US$2 million.
Requirements (defence purchases):	• Exceeding US$2 million but less than US$10 million: Require a DIP obligation of up to 50%. • Exceeding US$10 million: Require a DIP obligation of at least 50% and a National Industrial Participation obligation of at least 30%.

Social responsibility

(ECA) DANIDA business-to-business programme *(Managed by Small Enterprise Finance Agency (SEFA))*	
Objective:	To develop and strengthen business opportunities and create jobs for eligible entrepreneurs from previously disadvantaged communities.
Applicability:	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.
Benefit:	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.
(ECA) DEG Public Private Partnership (PPP)	
Objective:	Provides co-financing for private sector activities in developing countries that positively affect sustainable development and social upliftment.
Applicability:	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 European Union, Norway and Switzerland.
Benefit:	Up to a maximum of 50% of the costs of an individual activity not exceeding €200 000 per project.

(ECA) Woman Economic Empowerment Financial Assistance (Incentives) Bavumile (Bavumile) *(Managed by **the dti**)*	
South African women are gifted and talented in both designing and crafting fashionable products for both the local and the international markets, mainly promoting South African "Culture and Heritage". However, one of their greatest challenges is to produce quality products that can easily occupy the shelves of many local and international retail shops, boutiques thus catching the eye of the buyer. Responding to the above, and further implementing the objectives of interventions proposed by two strategies (being the Engendering AsgiSA and the draft Strategic Framework on Gender and Women's Economic Empowerment), "Bavumile" is being introduced. Bavumile will ensure the quality production of cultural products that are commercially viable and produced by women. By imparting relevant skills and expertise, various products will be identified; prototypes developed, with the manufacturing processes placed in the most efficient order and product developed, thus made ready to different retail shops for consumption.	
Objective:	The primary objective is to upgrade the basic skills of woman with home-based enterprises to produce quality, commercially viable, crafts and other culturally-based products.
Applicability:	Find and recruit woman currently involved in creative, clothing and textile industries, with skills in embroidery, weaving, netting, sewing and beading.
Benefit:	Provide specialist skills training and additional training in packaging, customer service, basic bookkeeping and establishing an enterprise or co-operative.

Tax incentives

Preferential corporate tax rate for small business *(Managed by the South African Revenue Service)(ECA)*	
Objective:	To encourage small/medium business development in South Africa.
Applicability:	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).
Benefit (taxable income):	• R0 – R63 556 = 0%. • R63 557 - R350 000 = 7%. • Over R350 001 = R20 051 + 28% of amount greater than R350 000.
(CRD) Research and development *(Managed by the South African Revenue Service and the Department of Science and Technology)*	
Objective:	To stimulate scientific or technological research and development.
Applicability:	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.
Benefit:	Deduction increased to 150% for expenditure incurred on or after 2 November 2006. Accelerated allowance on research and development assets.

(CEI) Depreciation *(Managed by the South African Revenue Service)*	
Objective:	To stimulate investment in capital assets.
Applicability:	• Plant and machinery. • Manufacturing or similar process (new or unused). • Hotel equipment. • Farming. • Buildings: - Industrial (manufacturing or similar process). - Hotels. - Hotel refurbishments.
Benefit:	• New or unused (Plant and Machinery): - 40% per annum - 1st year. - 20% per annum - 2nd to 4th years. • Used (Plant and Machinery): - 20 % per annum. • Hotel equipment: - 20% per annum. • Farming and production of renewable energy: - 50% - 1st year. - 30% - 2nd year. - 20% - 3rd year. • Hotel refurbishment: - 5% per annum for external refurbishments. - 20% per annum for internal refurbishments.
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.	

(ECA) Urban development allowances *(Managed by the South African Revenue Service)*	
Objective:	To counter decay and stimulate urban regeneration.
Applicability:	All taxpayers refurbishing a building within a designated urban development zone or taxpayers constructing a new commercial or residential building in such a zone.
Benefit:	The following allowances are available: • 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. • 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.

(ECA) Infrastructural development *(Managed by the South African Revenue Service)*	
Objective:	To encourage investment in infrastructure.
Applicability:	Taxpayers involved in the erection of pipelines, transmission lines and railway lines.
Benefit:	A tax deduction is granted in respect of any new or unused affected assets owned by the taxpayer. The allowances are as follows: • Pipelines used to transport natural oil: 10% of the cost per annum. • All other affected assets.
(ECA) Public private partnerships *(Managed by National Treasury)*	
Objective:	Encouragement of the private sector to invest in infrastructure in partnership with the public sector.
Applicability:	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.
Benefit:	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. The allowances are as follows: • 25 years; or • Spread over the period of the lease, whichever is shorter.
(ECA) Rolling stock depreciation *(Managed by the South African Revenue Service)*	
Objective:	Encouragement of infrastructural development of rail transportation.
Applicability:	Rolling stock, this is understood to mean trains, carriages and the like.
Benefit:	Deduction of 20% per annum of the cost incurred in respect of rolling stock brought into use on or after 1 January 2008.

(ECA) Environmental expenditure deductions *(Managed by the South African Revenue Service)*	
Objective:	Provide relief for the depreciation of environmental expenditure.
Applicability:	Environmental treatment and recycling assets and environmental waste disposal assets ancillary to a manufacturing process.
Benefit:	• Environmental treatment and recycling assets: - 40% per annum 1st year. - 20% per annum 2nd to 4th year. • Environmental waste disposal assets: - 5% per annum.
(ECA) Commercial buildings depreciation *(Managed by the South African Revenue Service)*	
Objective:	Provide relief in respect of commercial buildings.
Applicability:	Buildings (and improvements) used wholly or mainly in the production of income, where building is owned by the taxpayer.
Benefit:	• 5% depreciation per annum on new or unused buildings (and improvements). • Specifically excludes buildings used in the provision of residential accommodation.
(ECA) Carbon-reducing charges *(Managed by the South African Revenue Service)*	
Objective:	To take advantage of the Clean Development Mechanism (CDM) opportunities of the Kyoto Protocol.
Applicability:	Companies that receive revenue from Certified Emission Reductions (CERs).
Benefit:	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.

(ECA) Energy expenditure allowances *(Managed by the Department of Energy)*	
Objective:	To provide relief for the depreciation of energy efficient equipment.
Applicability:	Energy efficient equipment.
Benefit:	Energy efficient equipment to be given an additional allowance of up to 15%, subject to conditions. Effective date still not determined.
(ECA) Oil and gas income tax incentives *(Managed by the South African Revenue Service)*	
Objective:	To provide tax incentives to oil and gas companies involved in incidental trades in South Africa.
Applicability:	Oil and gas companies.
Benefit:	Tax incentives to be provided to oil and gas companies that are involved in incidental trades inside South Africa.
(ECA) Underwater telecommunication cable allowances *(Managed by the South African Revenue Service)*	
Objective:	To provide relief for the depreciation of underwater telecommunication cables.
Applicability:	Underwater telecommunication cables.
Benefit:	5% depreciation allowance over 20 years.
(ECA) Film rebate subsidies *(Managed by **the dti**)*	
Objective:	To provide tax exemptions to investor-owner film producers.
Applicability:	Investor-owner film producers.
Benefit:	Tax exemptions to be granted to investor-owner film producers.

(CRD) Support Programme for Industrial Innovation (SPII) *(Managed by the IDC)*	
Objective:	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.
(CRD) SPII matching scheme *(Managed by the IDC)*	
Applicability:	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. A large company is as defined in the Small Business Act of 2003.
Benefit:	• 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 <25% black shareholding - the grant amount is 50%, for enterprises with >25% ≤50% black shareholding or women/physically challenged shareholding - the grant amount is 65%, and for enterprises with black shareholding >50% - the grant amount is 75%. • 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.

(CRD) SPII - Partnership scheme *(Managed by the IDC)*	
Applicability:	All private sector enterprises engaged in a manufacturing or an IT-related project.
Benefit:	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.
(CRD) SPII - Product process development scheme *(Managed by the IDC)*	
Applicability:	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.
Benefit:	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%.

(CRD) Technology and Human Resources for Industry Programme (THRIP) *(Managed by the National Research Foundation and **the dti**)*	
Objective:	To boost South African industry by supporting research and technology development, and by enhancing the quality and quantity of appropriately skilled people.
Applicability:	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.
Benefit:	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) *(Funded by the Department of Science and Technology)*	
• **Advancement Programme (TAP):** Invests in research and development 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. • **Missions in Technology Programme (MiTech):** A public-private partnership programme for the development of technology platforms. • **Seed Fund:** Invests in early commercialisation/start-up activities to take a technology that is at proof-of-concept / prototype to the market. • **Patent Support Fund for SMEs:** To assist in absorbing the cost of protecting their intellectual property through patent registration. • **Patent Support Fund-Technopreneur:** 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. • **Patent Support Fund for Research Institutions:** Provides subsidy to publicly funded institutions (higher education institutions and science councils) for costs incurred in filing and prosecuting patent applications, and maintaining patents. • **Patent Incentive Scheme:** 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.	
Benefit:	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) *(Managed by the Department of Trade and Industry (**the dti**))*	
Objective:	The Manufacturing Competitiveness Enhancement Programme (MCEP) which is one of the key action programmes of the Industrial Policy Action Plan (IPAP) 2012/13 – 2014/15 will provide 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.
Applicability:	Providing assistance for participants in the manufacturing and engineering sector, including conformity assessment agencies. Please note that 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.
Benefit:	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: 1. Production Incentive: • Capital Investment. • Green Technology and Resource Efficiency Improvement. • Enterprise Level Competitiveness Improvement. • Feasibility Studies. • Cluster Competitiveness Improvement. 2. Industrial Financing Loan Facilities: • Pre- and Post-dispatch Working Capital Facility. • Industrial Policy Niche Projects Fund. 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:

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 R50 million per component.	

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Industrial Development Corporation (IDC)

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Small Enterprise Financie Agency (SEFA)

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Banking[76]

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3.	Banco BPI, SA	+27 11 622 4376/86	
4.	Banco Espirito Santo e Comercial de Lisboa	+27 11 616 5382/9	
5.	Banco Santander Totta S.A.	+27 11 656 3156	
6.	Bank Leumi Le-Israel BM	+27 11 328 1700	
7.	Bank of America, National Association	+27 11 305 5555	
8.	Bank of Cyprus Group	+27 11 784 3941	
9.	Commerzbank AG Johannesburg	+27 11 486 0724/ +27 11 486 0565	
10.	Credit Suisse AG	+27 11 012 8000	www.credit-suisse.com
11.	Ecobank	+27 11 783 6197	
12.	Export-Import Bank of India	+27 11 326 5103	www.eximbankindia.com
13.	Fairbairn Private Bank (Isle of Man) Limited	+27 11 295 8193	
14.	Fairbairn Private Bank (Jersey) Limited	+27 11 295 8193	
15.	First Bank of Nigeria	+27 11 784 9922/ +27 11 784 9925	
16.	First City Monument Bank Plc	+27 11 881 5520	
17.	Hellenic Bank Public Company Limited	+27 11 783 0155	www.hellenicbank.com
18.	HSBC Bank International Limited	+27 11 676 4216	
19.	Icici Bank Limited	+27 11 676 7801	
20.	Industrial and Commercial Bank of China African Representative Office	+27 21 2008 005	
21.	KfW Ipex-Bank GmbH	+27 11 507 2511	
22.	Lloyds TSB Offshore Limited	+27 11 783 4350	
23.	Millenium BCP	+27 11 622 0847/0857	

[76] *www.reservebank.co.za*

24.	National Bank of Egypt	+27 11 268 0500/501	
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26.	Royal Bank of Scotland International Limited	+27 11 303 5993	www.rbsint.com
27.	Société Générale Representative Office for Southern Africa	+27 11 778 4381	www.socgen.com
28.	Sumitomo Mitsui Banking Corporation	+27 11 502 1780	www.smbcgroup.com
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30.	The Bank of Tokyo-Mitsubishi UFJ, Ltd	+27 11 884 4721	
31.	The Mauritius Commercial Bank Limited	+27 11 880 8472	
32.	The Rep. Off. for Southern and Eastern Africa of The Export-Import Bank of China	+27 11 783 0767	
33.	The Royal Bank of Scotland N.V.	+27 11 505 7300	
34.	UBS AG	+27 11 322 7990	www.ubs.com
36.	Unicredit Bank AG	+27 11 560 9900	www.hvbgroup.com
37.	Union Bank of Nigeria Plc	+27 11 883 3313/2915	www.unionbankng.com
38.	Vnesheconombank	+27 11 783 3425	
39.	Wells Fargo Bank, National Association	+27 11 447 5373	
40.	Zenith Bank Plc	+27 11 783 5826 or +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 8347441	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.	First National Bank	087 575 9404	www.fnb.co.za
6.	Grindrod Bank Limited	+27 31 333 6600	www.grindrodbank.co.za
7.	Investec Bank Limited	+27 11 286 7000	www.investec.com
8.	Nedbank Limited	+27 11 294 4444	www.nedbank.co.za
9.	Sasfin Bank Limited	+27 11 809 7500	www.sasfin.co.za
10	The Standard Bank of South Africa Limited	+27 11 636 9111	www.standardbank.co.za
11.	UBANK Limited	+27 11 518 5000	www.ubank.co.za

Mutual banks

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1.	Finbond Mutual Bank	+27 12 460 7288	www.finbondmutualbank.co.za
2.	GBS Mutual Bank	+27 46 6227109	http://www.gbsbank.co.za
3.	VBS Mutual Bank	+27 15 516 3542/4410	www.vbsmutualbank.co.za

Banks in liquidation

Institution		Telephone
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

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National African Federation of Chambers of Commerce (NAFCOC)

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South African Chamber of Commerce and Industry (SACCI)

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Business Unity South Africa (BUSA)

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Free State Development Corporation (FDC)

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Investment North West

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Trade and Investment KZN (TIK)

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Trade and Investment Limpopo

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Department of International Relations and Cooperation

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International Trade Administration Commission of South Africa (ITAC)

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Import and Export Control Call Centre: 0861 112 369
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www.itac.org.za

Companies and Intellectual Property Commission (CIPC)

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Fax Number: 086 517 7224
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The Commissioner of South African Revenue Services (SARS)

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The South African Reserve Bank (SARB) (Exchange Control and Securities)

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Acronyms and abbreviations

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
ANC	African National Congress
APDP	Automotive Production and Development Programme
AsgiSA	Accelerated and Shared Growth - South Africa
ATM	Autoteller Machine
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
BPO&O	Business Process Outsourcing and Offshoring
BRICS	Brazil, Russia, India, China and South Africa (Developing Country Grouping)
BUSA	Business Unity South Africa

CC	Close Corporation
CCA	Customs Controlled Area
CCMA	Commission for Conciliation, Mediation and Arbitration
CDM	Clean Development Mechanism
CEI	Capital Expenditure Incentives
CEO	Chief Executive Officer
CERs	Certified Emission Reductions/carbon credits
CET	Carbon Emissions Tax
CFA	Commission for Africa
CFC	Controlled Foreign Company
CGT	Capital Gains Tax
CIP	Critical Infrastructure Programme
CIPC	Companies and Intellectual Property Commission
CIS	Cooperation Incentive Scheme
CITES	Convention on International Trade in Endangered Species
CMA	Common Monetary Area
CRD	Concept and Research and Development Incentives
CSDP	Competitive Supplier Development Programme
COP15	UN Conference of the Parties in Copenhagen
COP17	Conference of the Parties
COSATU	Congress of South African Trade Unions
CP	Cost Plus
CPA	Consumer Protection Act
CPT	Consumer Protection Tribunal
Corp	Corporation
CPI	Consumer Price Index
CPIX	Consumer Price Index Excluding Mortgage Interest Payments
CTCIP	Clothing and Textile Competitiveness Improvement Programme
CUP	Comparable Uncontrolled Price

DANIDA	Danish South African Business to Business Programme
DBSA	Development Bank of Southern Africa
DEA	Department of Environmental Affairs
DEG -	Deutsche Investitions- und Entwicklungsgesellschaft mbH.
DEPP	Developmental Electricity Pricing Programme
DFA	Duty-free Allowance
DFIs	Development Finance Institutions
DIPA	Durban Investment Promotion Agency
DIPP	Defence Industrial Participation Programme
DNA	Designated National Authority
DPE	Department of Public Enterprises
DRC	Democratic Republic of Congo
DSL	Digital Subscriber Line
DT	Dividend Tax
the dti	The Department of Trade and Industry
DTT	Deloitte Touche Tohmatsu
ECA	Competitiveness Enhancement Incentives
ECD	Early Childhood Development
ECDC	Eastern Cape Development Corporation
ED	Estate Duty
EEA	Employment Equity Act
EEC	Equity Equivalent Contributions
EFTA	European Free Trade Area
e.g.	For example
EIA	Environmental Impact Assessment
EIU	Economic Intelligence Unit
EMIA	Export Marketing and Investment Assistance
et al.	et alii (and others)
EU-ETS	European Emissions Trading System
EU / SA FTA	European Union / South African Free Trade Agreement

FABCOS	Foundation for African Business and Consumer Services
FAX/fax	Facsimile
FBE	Free Basic Electricity
FDC	Free State Development Corporation
FEDUSA	The Federation of Unions of South Africa
FDI	Foreign Direct Investment
FICA	The Financial Intelligence Centre Act No. 38 of 2001
FIFA	International Federation of Football Association/ Fédération Internationale de Football Association
FIG	Foreign Investment Grant
FMCG	Fast Moving Consumer Goods
FTA	Free Trade Agreement
FTSE	"Footsie" Share Index
GAAP	Generally Accepted Accounting Practice
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GEAR	Growth Employment and Redistribution Strategy
GEDA	Gauteng Economic Development Agency
GES	Global Employment Services
GHG	Greenhouse Gas
GNI	Gross National Income
GMT	Greenwich Mean Time
GSP	General System of Preferences
G7	Group of Seven Industrialised Nations (France, Germany, Italy, Japan, United Kingdom, United States and Canada)
G8	Group of Eight (formerly the G6 or Group of Six)

G8+5	Group of Eight plus Five (Group of leaders consists of the heads of government from the G8 nations (Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States), plus the heads of government of the five leading emerging economies (Brazil, China, India, Mexico and South Africa)
G20	Group of Twenty Finance Ministers and Central Bank Governors (Argentina, Australia Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Republic of Korea, Turkey, United Kingdom, United States and European Central Bank)
HDEs	Historically Disadvantaged Entities / Entrepreneurs
HDI	Historically Disadvantaged Individuals
HDPs	Historically Disadvantaged Persons
HR	Human Resources
hr	hour(s)
IAS	International Accounting Standards
ICT	Information and Communication Technology
IDC	Industrial Development Corporation of South Africa Limited
IDZs	Industrial Development Zones
i.e.	id est (that is)
IF	Innovation Fund
IFRS	International Financial Reporting Standards
IHQ	International Headquarter Company
IIA	Industrial Investment Allowance
IOR-ARC	Indian Ocean Rim Association for Regional Cooperation
IMF	International Monetary Fund
IPAP	Industrial Policy Action Plan

IPCC	Intergovernmental Panel on Climate Change
IPPs	Independent Power Producers
ISO	International Organisation for Standardisation
IRBA	Independent Regulatory Board of Auditors
IRCCs	Import Rebate Credit Certificates
IRR	Internal Rate of Return
IT	Information Technology
ITAC	International Trade Administration Commission
ITED	International Trade and Economic Development Division
IRCC	Import Rebate Credit Certificate
IWF	Isivande Women's Fund
JI	Joint Implementation
JHB	Johannesburg/Joburg
JSE	Johannesburg Securities Exchange SA
km	Kilometres
LAA	Local Assembly Allowance
LED	Local Economic Development
LRA	Labour Relations Act
LSE	London Stock Exchange
LSU	Legal Services Unit
MBA	Master of Business Administration Programme/Degree
MDGs	Millennium Development Goals
MEIBC	Metal and Engineering Industry Bargaining Council

MFN	Most Favoured Nation principle
MiTech	Missions in Technology Programme
MIDP	Motor Industry Development Programme
MIG	Municipal Infrastructure Grant
MIGA	Multilateral Investment Guarantee Agency
MIP	Manufacturing Investment Programme
NAFCOC	National African Federation of Chambers of Commerce
NAM	Non-Aligned Movement
NACTU	National Council of Trade Unions
NDPG	Neighbourhood Development Partnership Grant
NEF	National Empowerment Fund
NEPAD	New Partnership for Africa's Development
NIP	The National Industrial Participation
NIPF	National Industrial Policy Framework
NIPP	National Industrial Participation Programme
OECD	Organisation for Economic Cooperation and Development
PAA	Productive Asset Allowance
PAYE	Pay-As-You-Earn
PBO	Public Benefit Organisation
PBRs	Plant Breeders Rights
PI	Production Incentive
PII	Partnership for Industrial Innovation
PN 2	Practice Note No.2
PN 7	Practice Note No.7
Pop.	Population

POCA	Protection of Organised Crime Act No. 121 of 1998
PPP	Purchasing Power Parity
PPPFA	Preferential Procurement Policy Framework Act
Prasa	Passenger Rail Agency of South Africa
PS	Profit Split
PSOM	Programme for Cooperation with Emerging Markets
PTI	Preferred Trader Initiative
PTIF	Public Transport Infrastructure
QSAPE	Qualifying South African Production Expenditure
RAND	South African Rand Currency
R&D	Research and Development
REFIT/REBID	Department of Energy's Renewable Energy Feed in Tariff
RFI	Retail Financial Intermediaries
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
SACOB	South African Chamber of Business
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAICA	South African Institute of Chartered Accountants
SANRAL	South African National Roads Agency
SAP	Systems Application Protocol

SAPS	South African Police Service
SARB	South African Reserve Bank
SARS	South African Revenue Service
SACP	South African Communist Party
SDL	Skills Development Levy
SDP	Supplier Development Programme
SEDA	Small Enterprise Development Agency
SEFA	Small Enterprise Finance Agency
SET	Science Engineering and Technology
SFFP	Staple Food Fortification Incentive Scheme
SIP	Strategic Investment Programme
SITE	Standard Income Tax on Employees
SMEDP	Small Medium Enterprise Development Programme
SMEs	Small Medium Enterprises
SMME	Small, Medium and Micro Enterprises
SOCs	State-Owned Companies
SOE	State-Owned Enterprises
SPII	Support Programme for Industrial Innovation
SPS	Phyto-sanitary measures
SSAS	Sector-Specific Assistance Scheme
SSP	Skills Support Programme
STC	Secondary Tax on Companies
STT	Securities Transfer Tax
TAP	Advancement Programme
TAX/tax	Taxation
TBT	Technical Barriers to Trade
TCIDP	Textile and Clothing Industry Development Programme
TD	Transfer Duty
TDCA	EU-South Africa Trade, Development and Cooperation Agreement

TEP	Tourism Enterprise Support Programme
TEL/tel	Telephone
T-FTA	SADC-EAC-COMESA Tripartite FTA
THRIP	Technology and Human Resources for Industry Programme
TIDCA	Trade, Investment and Development Cooperation Agreement
TIFA	Trade and Investment Framework Agreement
TIK	Trade and Investment KZN
TISA	Trade and Investment South Africa
TNMM	Transactional Net Margin Method
UIF	Unemployment Insurance Fund
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
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
USAID	US Agency for International Development
USTR	US Trade Representative
VAT	Value Added Tax
VET	Value Extraction Tax
WEF	World Economic Forum
WCO	World Customs Organisation
WHC	Widely Held Company
WTO	World Trade Organisation
ZAR	South African Rand Currency (International Notation)

Addendums: Indicative costs and other practical aspects of doing business and living in South Africa

Addendum 1: Telecommunication costs

Telkom call rate charges[77]

The following tables provide an overview of the new Telkom rates for 2013 (effective from 1 August 2013).

	Current		Effective 1 August 2013	
Line charges	Residential	Business	Residential	Business
Installation (new line)	R551.69	R551.69	R584.79	R584.79
Monthly rental (analogue line)	R148.37	R203.35	R157.00	R216.00
ISDN 2a (per month)	R270.39	R375.55	R286.62	R398.08

Bundle category

	Consumer bundles (all unchanged)	Current price
Soft capped bundles	do Basic (1024kbps + 5GB)	R219
	do Advanced (2,048kbps + 10GB)	R395
	do Premium (4/10mbps + 20GB)	R554
	do Premium Plus (4/10mbps + 30GB)	R639
	do Elite (20mbps + 30GB)	R727
	do Elite Plus (40mbps + 50GB)	R1 099
Uncapped bundles	do Uncapped Basic Bundle	R329
	do Uncapped Advanced Bundle	R459
	do Uncapped Premium Bundle	R699
	do Uncapped Premium Plus Bundle	R999
	do Uncapped Elite	R1 899
	do Uncapped Elite Plus	R3 499

[77] *http://mybroadband.co.za/news/telecoms/83273-new-telkom-prices-kick-in.html*

Postpaid call charges (0-50km) local

	Current		Effective 1 August 2013	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	R0.57	R0.57	R0.63	R0.63
Per minute rate *	R0.42	R0.21	R0.46	R0.23
Talktime for minimum charge	81 seconds	166 seconds	82 seconds	166 seconds

* Actual calls are charged per second with a minimum charge per call.

Postpaid call charges (>50km) long distance

	Current		Effective 1 August 2013	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	0.57	0.57	0.63	0.63
Per minute rate *	0.57	0.29	0.46	0.23
Talktime for minimum charge	60 seconds	120 seconds	82 seconds	166 seconds

* Actual calls are charged per second with a minimum charge per call.

International outgoing calls

(With rates to a few popular international fixed-line destinations)

	Current		Effective 1 August 2013	
Price per minute	Peak time	Global off-peak time	Peak time	Global off-peak time
Minimum charge	R0.57	R0.57	R0.63	R0.63
UK	R0.60	R0.60	R0.60	R0.60
USA	R0.60	R0.60	R0.60	R0.60
Canada	R0.70	R0.70	R0.60	R0.60
France	R0.75	R0.75	R0.75	R0.75
Australia	R0.75	R0.75	R0.75	R0.75
Portugal	R0.97	R0.72	R0.81	R0.81
Germany	R1.12	R0.81	R1.13	R1.13
Botswana	R1.43	R1.17	R1.43	R1.43
India	R1.16	R0.93	R1.13	R1.13
Namibia	R1.17	R1.01	R1.13	R1.13
Zimbabwe	R1.58	R1.46	R1.54	R1.54
These charges are also applicable to PrepaidFone and WorldCall; actual calls are charged per second with a minimum charge per call.				

New ADSL bill

Note: From 1 August 2013, new ADSL subscribers can also expect to pay more for the installation of the service. Installation charges will increase by 6% and this includes post-paid and DSL services.

The following table provides an overview of the increase in the basic cost of ADSL access (excluding an ADSL data account) from 1 August 2013.

Telkom residential rates

	Old prices			New prices		
Service	Line rental	ADSL access	Total price	Line rental	ADSL access	Total new price
1Mbps	R148.37	R165.00	R313.37	R157.00	R165.00	R322.00
2Mbps	R148.37	R299.00	R447.37	R157.00	R299.00	R457.00
4/10Mbps	R148.37	R425.00	R573.37	R157.00	R425.00	R582.00

Telkom business rates

	Old prices			New prices		
Service	Line rental	ADSL access	Total price	Line rental	ADSL access	Total new price
1Mbps	R203.35	R165.00	R368.35	R216.00	R165.00	R381.00
2Mbps	R203.35	R299.00	R502.35	R216.00	R299.00	R515.00
4/10Mbps	R203.35	R425.00	R628.35	R216.00	R425.00	R641.00

Vodacom Business Call package information[78]

Business Call

Contract package	
Subscription cost	R 185.00
Connection fee	R 97.00
Domestic calls	
Vodacom to Vodacom (peak)	R 1.60
Vodacom to Vodacom (off-peak)	R 0.95
Vodacom to other (peak)	R 2.15
Vodacom to other (off-peak)	R 1.15
General service calls (peak)	R 2.15
General service calls (off-peak)	R 1.15
Value added services (peak)	R 2.15
Value added services (off-peak)	R 1.15
More weekend minutes	20
Messaging	
SMS (peak)	R 0.80
SMS (off-peak)	R 0.35
MMS	R 0.80 per 300KB
Premium rated SMS	R 0.50 - R 30.00
International SMS	R 1.74
Voicemail retrieval (121)	Free
Voicemail forwarding & distribution	R 0.88
Voicemail deposit from another 082 cell using 082 131	R 1.00
Domestic Fax printing (per minute)	R 1.06
Video calls	
Video calls to Vodacom	R 1.60
Video calls to MTN	R 2.15

[78] *www.vodacom.co.za/personal/phonesandpackages/businesscall*

Cell C Business Chat package[79]

Businesschat	standard	400	700	1000
monthly fee	R165.00	R650.00	R1100.00	R1500.00
Peak call p/m				
Cell C to Cell C	R 1.65	R 1.43	R 1.43	R 1.43
Cell C to other mobiles	R 2.00	R 1.79	R 1.75	R 1.70
Cell C to Telkom	R 1.15	R 1.15	R 1.15	R 0.99
International calls	View tariff list at: www.cellc.co.za/international-tariffs			
SMS per message	R 0.80	R 0.80	R 0.80	R 0.80
DATA per MB	R 2.00	R 2.00	R 2.00	R 2.00
Off-peak call p/m				
Cell C to Cell C	R 0.95	R 0.90	R 0.90	R 0.90
Cell C to other mobiles	R 1.10	R 1.10	R 1.10	R 1.10
Cell C to Telkom	R 0.95	R 0.90	R 0.90	R 0.90
International calls	View tariff list at : www.cellc.co.za/international-tariffs			
SMS per message	R 0.36	R 0.36	R 0.36	R 0.36
DATA per MB	R 2.00	R 2.00	R 2.00	R 2.00

[79] *www.cellc.co.za/cell-phone-contract/businesschat*

Addendum 2: Fuel costs

Latest fuel prices: 2013[80]

2013 (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	Reef
Jan	1165.00	1151.00	1186.00	1111.370	1086.670	807.128	849.028
Feb	1206.00	1192.00	1227.00	1129.170	1104.470	833.128	875.028
Mar	1287.00	1273.00	1308.00	1187.550	1162.850	890.128	932.028
Apr	1297.00	1283.00	1320.00	1196.610	1170.010	860.328	906.228
May	1124.00	1210.00	1247.00	1141.050	1114.450	802.328	848.228
Jun	1216.00	1202.00	1239.00	1137.070	1110.470	803.328	849.228
July	1300.00	1286.00	1323.00	1215.270	1188.670	878.328	924.228
Aug	1332.00	1318.00	1355.00	1248.230	1221.630	903.328	949.228

[80] *www.aa.co.za/on-the-road/calculator-tools/fuel-pricing.html*

World-wide fuel price comparison[81]

1 American gallon = 3.785 litres
1 Imperial gallon = 4.540 litres
Currency converter = www.oanda.com/convert/classic

World-wide fuel list

Country	Leaded petrol		Unleaded petrol		Diesel	LPG	Currency	Per
	Price	Octane rating	Price	Rating				
Argentina	-	-	6.525 7.045	95 97	5.925	-	ARS	litre
Australia	-	-	1.399	95	1.514	-	AUD	litre
Germany	-	-	1.642 1.593 1.691	95 95E10 98	1.521	0.823	EUR	litre
India	-	-	73.53	91	44.09	33.23	INR	litre
Japan	-	-	142.96 153.82	90 100	121.58		JPY	litre
Kenya	-	-	113.68	93	105.85	-	KES	litre
Mozambique	-	-	47.52	-	36.81	-	MZM	litre
Russia	-	-	28.45 31.00 34.00	92 95 98	31.15	15.90	RUB	litre
South Africa (Coastal)	11.75 LRP	93 95	11.69 11.75	93 95	11.26	-	ZAR	litre
South Africa (Gauteng)	12.05 LRP	93 95	11.87 12.10	93 95	11.50	-	ZAR	litre
United Kingdom	-	-	1.351 1.432	95 98	1.419	0.769	GBP	litre
United States of America	-	-	3.432 3.599 3.750 3.289	87 89 91 E85	4.010	-	USD	Am. gal

[81] *AIT/FIA Information Centre - OTA. Retrieved August 2013.*

Addendum 3: Water tariffs

The national and regional water tariffs/charges for 2013/14 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/charges2013.aspx

Addendum 4: Cost of living comparison[82]

The table below provides a cost of living price comparison of prices in South Africa, the USA, UK, Australia, France and Japan:

ZAR Currency Exchanges	
ZAR/GBP	15.4367
ZAR/USD	13.2032
ZAR/AUS$	8.9635
ZAR/EUR	9.9361
ZAR/YEN	9.8691

[82] *http://www.numbeo.com/cost-of-living/country_result.jsp?country=South+Africa. August 2013.*

Table 1: Cost of living price comparison – prices in countries

	South Africa	United Kingdom	United States	Australia	France	Japan
Restaurants	R	£	$	Aus $	€	¥
Meal, inexpensive restaurant	75.00	10.00	10.00	17.00	12.00	800.00
Meal for 2, mid-range restaurant, three-course	320.00	40.00	45.00	80.00	45.00	4,000.00
Combo meal at McDonalds or similar	40.00	5.00	6.00	8.00	7.00	650.00
Domestic beer (0.5 litre draught)	15.00	3.00	3.23	6.00	5.00	500.00
Imported beer (0.33 litre bottle)	18.00	3.00	4.50	7.00	4.00	500.00
Cappuccino (regular)	16.00	2.30	3.50	4.00	2.50	350.00
Coke/Pepsi (0.33 litre bottle)	8.50	1.10	1.50	3.00	2.39	120.00
Water (0.33 litre bottle)	8.00	1.00	1.25	2.50	1.50	105.00
Markets						
Milk (regular), 1 litre	10.00	0.98	1.00	1.50	1.00	188.50
Loaf of fresh white bread (500g)	9.50	1.00	2.20	3.00	1.20	194.00
Rice (1kg)	15.00	1.50	2.20	3.00	2.00	475.00
Eggs (12)	18.00	2.00	2.00	4.00	2.73	201.60
Local cheese (1kg)	65.00	6.00	8.91	10.00	10.00	1,200.00
Chicken breasts (boneless, skinless), (1kg)	49.99	7.00	7.00	10.50	9.00	800.00
Apples (1kg)	15.00	1.70	3.31	4.00	2.50	500.00
Oranges (1kg)	12.00	1.66	3.31	3.40	2.00	499.00
Tomato (1kg)	15.00	2.00	3.28	4.92	2.13	600.00
Potato (1kg)	10.50	1.20	2.20	3.00	1.20	300.00
Lettuce (1 head)	9.00	1.00	1.50	2.39	1.00	194.00
Water (1.5 litre bottle)	12.00	1.00	1.79	3.00	0.90	150.00
Bottle of wine (mid-range)	46.00	6.00	12.00	15.00	5.00	1 300.00
Domestic beer (0.5 litre bottle)	12.00	1.70	2.00	4.60	1.50	281.50
Imported beer (0.33 litre bottle)	15.00	1.60	3.00	5.00	1.70	300.00
Pack of cigarettes (Marlboro)	32.00	7.10	6.00	17.98	6.20	440.00
Transportation						
One-way ticket (local transport)	11.00	2.10	2.00	4.00	1.50	180.00
Monthly pass (regular price)	425.00	58.75	68.00	120.00	48.00	9 250.00
Taxi start (normal tariff)	20.00	2.60	3.00	3.75	2.30	705.00
Taxi 1 km (normal tariff)	10.00	1.37	1.40	2.00	0.86	300.00
Taxi 1 hour waiting (normal tariff)	64.70	23.25	27.00	47.20	25.60	2 972.50
Gasoline (1 litre)	12.00	1.38	0.98	1.50	1.50	150.00
Volkswagen Golf 1.4 90 KW Trendline (or equivalent new car)	190 000.00	15 049.50	20 000.00	28 000.00	16 061.00	2 200 000.00

	South Africa	United Kingdom	United States	Australia	France	Japan
Utilities (monthly)						
Basic (electricity, heating, water, garbage) for 85m² apartment	1 000.00	147.26	164.69	200.00	123.75	18 558.33
1 min. of prepaid mobile tariff local (no discounts or plans)	2.00	0.14	0.12	0.90	0.30	42.00
Internet (6 Mbps, unlimited data, Cable/ADSL)	574.57	19.99	45.00	60.00	30.00	4 000.00
Sports and leisure						
Fitness club, monthly fee for 1 adult	350.00	39.00	40.00	70.00	50.00	8 000.00
Tennis court rent (1 hour on weekend)	50.00	10.00	18.08	20.00	15.00	2 000.00
Cinema, international release, 1 seat	45.00	8.00	10.00	17.00	9.50	1 800.00
Clothing and shoes						
1 pair of jeans (Levis 501 or similar)	600.00	50.00	40.00	100.00	89.50	8 000.00
1 summer dress in a chain store (Zara, H&M)	350.00	30.00	35.00	75.00	35.00	6 750.00
1 pair of Nike shoes	800.00	60.00	75.00	150.00	80.00	8 000.00
1 pair of men leather shoes	700.00	60.00	80.00	130.00	100.00	10 000.00

	South Africa	United Kingdom	United States	Australia	France	Japan
Rent per month						
Apartment (1 bedroom) in city centre	4 500.00	650.00	900.00	1 736.00	616.50	95 000.00
Apartment (1 bedroom) outside of centre	3 500.00	550.00	700.00	1 300.00	500.00	55 000.00
Apartment (3 bedrooms) in city centre	8 250.00	1 200.00	1 500.00	3 000.00	1 200.00	199 000.00
Apartment (3 bedrooms) outside of centre	7 000.00	900.00	1 200.00	2 000.00	945.00	120 000.00
Buy apartment price						
Price per square meter to buy apartment in city centre	12 000.00	2 777.00	1 654.17	7 500.00	4 000.00	587 730.00
Price per square meter to buy apartment outside of centre	9 745.37	2 000.00	1 200.00	5 000.00	2 550.00	350 000.00
Salaries and financing						
Median monthly disposable salary (after tax)	15 000.00	1 700.00	3 200.00	4 166.50	2 000.00	266 000.00
Mortgage interest rate in percentages (%), yearly	9.00	4.20	4.00	6.50	4.00	2.00

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.

> ***Notes:***
> By law, in South Africa no child can be excluded from a state school if his or 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
- The South African Schools Network: www.southafricanschools.net/282 283

The American International School of Johannesburg[90]

Tuition and fees for 2013/14
Application fee (non-refundable): R850
Annual capital fee (non-refundable): R23 100

Grade	Annual payment 100% fees Due date: July 30, 2013	Semester payments 50% annual fees + 5% levy Semester 2 due: Jan. 8, 2014 Semester 1 due: July 30, 2013
Grizzly Cubs*	R35 640.00	R18 711.00
Pre-K* and K	R51 797.00	R27 193.43
Grades 1-5	R51 797.00	R27 193.43
Grades 6-8	R71 279.00	R37 421.48
Grades 9-11	R84 115.00	R44 160.38
Grades 12	R97 102.00	R50 978.55
	R103 444.00	R54 308.10

* On request Grizzly Cubs and Pre-Kindergarten tuition fee may be altered to reflect half-day attendance.

Other fees

	Annual payment	Payment per semester Semester 1: August 2013 Semester 2: January 2014
Busfare*	R 20 671	R10 335.50 (or R5 167.75 per term)
ELL**	R179 per lesson	

* No one way discounts granted.

** ELL students will be billed for two lessons per week at the start of the first semester. The account will be adjusted at the beginning of the second semester according to the student's specific needs.

[83] *www.aisj-jhb.com*

Unisa[84]

The University of South Africa (Unisa) offers distance learning.

Their fees are depicted in the tables below:

Master's & doctoral studies
Prescribed student fees (master's degrees)

Description	Year	Total	Minimum payment at the time of registration	Due by 29 March 2013	Due by 15 May 2013	Due by 15 August 2013
Subjects in Education, Law, Libraries, Museums, Psychology, Administration and Social Services						
Module	Year	R1 621.00	R790.00		R416.00	R415.00
Paper	Year	R3 242.00	R1 580.00		R832.00	R830.00
Research proposal	Year	R2 988.00	R2 988.00			
Module/short dissertation	Year					
Dissertation of limited scope	Year	R6 484.00	R6 484.00			
Dissertation master's degree	Year	R11 590.00	R11 590.00			
Subjects in Business; Commerce and Management Sciences; Computer Science and Data Processing; Language, Linguistics and Literature; Architecture and Environment Design; Engineering and Engineering Technology; Home Economics; Industrial Art, Trades and Technology; Mathematical Sciences; Philosophy; Religion and Theology; and Social Sciences Studies						
Module	Year	R1 596.00	R790.00		R403.00	R403.00
Paper	Year	R3 192.00	R1 580.00		R806.00	R806.00
Research proposal	Year	R3 192.00	R3 192.00			
Module/short dissertation	Year					
Dissertation of limited scope	Year	R6 384.00	R3 192.00			
Dissertation master's degree	Year	R10 698.00	R10 698.00			

[84] www.unisa.co.za

Description	Year	Total	Minimum payment at the time of registration	Due by 29 March 2013	Due by 15 May 2013	Due by 15 August 2013
Subjects in Architecture and Environment Design; Engineering and Engineering Technology; Home Economics; Industrial Arts, Trades and Technology; Mathematical Sciences; and Physical Education, Health Education and Leisure						
Module	Year	R1 558.00	R790.00		R768.00	R384.00
Paper	Year	R3 116.00	R1 580.00		R768.00	R768.00
Research proposal	Year	R3 191.00	R3 191.00			
Module/short dissertation	Year					
Dissertation of limited scope	Year	R6 232.00	R6 232.00			
Dissertation master's degree	Year	R9 806.00	R9 806.00			
Subjects in Business, Agriculture and Renewable Natural Resources; Arts, Visual and Performing Arts, and Health Care and Health Science; Life Science and Physical Science						
Module	Year	R1 524.00	R790.00		R367.00	R367.00
Paper	Year	R3 048.00	R1 580.00		R734.00	R734.00
Research proposal	Year	R3 048.00	R3 048.00			
Module/short dissertation	Year					
Dissertation of limited scope	Year	R6 096.00	R6 096.00			
Dissertation master's degree	Year	R8 846.00	R8 846.00			

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 2013 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[85]

Market rental rates for office buildings
Quarter 2013:1
Rands per rentable m², gross leases (excl. VAT)

Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Johannesburg CBD		81.10	63.75	49.00
Braamfontein	93.33	83.67	73.60	55.00
Sandton CBD	182.00	141.75	107.50	88.75
Dunkeld West	133.00	120.00	97.50	83.00
Wierda Valley	133.00	120.00	97.50	88.50
Randburg Ferndale	87.67	80.79	71.10	65.80
Rivonia	109.58	95.50	85.50	74.40
Rosebank	165.60	129.58	97.50	85.40
Ilovo	168.40	133.33	100.00	89.60
Ilovo Boulevard	149.00	130.00	106.25	91.25
Chiselhurston	122.50	108.75	98.33	83.33
Parktown	109.00	97.50	85.00	79.00
Richmond/Millpark	-	79.75	73.12	66.83
Bedfordview	109.00	95.00	83.00	78.33
Bruma	-	105.00	87.50	75.00
Meadowbrook	-	100.00	80.00	55.00
Woodmead	124.42	110.50	92.60	81.00
Sunninghill	101.88	95.40	86.40	79.50

[85] *Rode's Report 2013(pp.28-29). www.rode.co.za*

Market rental rates for office buildings
Quarter 2013:1
Rands per rentable m², gross leases (excl. VAT)

Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Bryanston/ Epsom	142.17	121.33	106.00	88.75
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
Pretoria	115.00	80.00	70.00	62.50
Lynnwood	138.50	98.50	85.50	77.00
Faerie Glen	118.00	110.00	-	-
Menlyn	159.33	127.50	110.00	-
Menlo Park	-	117.50	100.00	-
Brooklyn/ Waterkloof	150.00	130.00	97.50	-
Hatfield	128.50	122.50	100.00	70.00
Centurion	148.00	110.00	98.33	-
Highveld Technopark	132.50	117.50	110.00	-
Sunnyside	-	95.00	80.00	70.00
Arcadia	-	92.50	75.00	65.00
Nelspruit	140.00	120.00	95.00	75.00
Bloemfontein CBD	125.00	107.50	85.00	61.67
Durban CBD	85.00	77.50	52.50	43.33
Westville	121.67	101.67	95.00	75.00
Pinetown	92.50.	82.50	72.50	50.00
Port Elizabeth	-	-	-	51.25
East London		60.00	50.00	45.60
East London dec.	103.84	75.00	55.00	37.50

Market rental rates for office buildings Quarter 2013:1 Rands per rentable m², gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Cape Town CBD	113.75	96.25	73.33	60.00
Sea Point	115.00	85.00	68.33	53.33
V&A Portswood Ridge	127.50	107.50	-	-
Granger Bay	122.50	120.00	-	-
Salt River	97.50	85.00	67.50	60.00
Woodstock	106.67	91.67	71.67	60.00
Observatory	92.50	83.33	63.33	52.50
Kenilworth	112.50	87.50	-	-
Rondebosch/Newlands	118.33	93.33	77.50	60.00
Wynberg	112.67	93.75	70.00	55.00
Westlake	112.67	93.75	70.00	55.00
Claremont Upper	120.00	97.50	75.00	
Hout Bay	100.00	85.00	-	-
Pinelands	110.00	-	-	-
Milnerton	-	90.00	70.00	-
Century City	143.33	115.00	85.00	75.00
Maitland	85.00	75.00	60.00	50.00
Goodwood (N1 City)	100.00	90.00	80.00	60.00
Bellville CBD	-	-	70.00	60.00
Tyger Valley area	117.50	105.00	87.50	75.00
Durbanville	110.00	97.50	80.00	67.50
Kuils River	-	-	65.00	-
George	75.00	65.00	55.00	65.00

Addendum 6.2: Mean market values for serviced and level industrial stands

Mean market values for serviced and level industrial stands Quarter 2013:1 (R/m² excl. VAT)					
Location	Area: in m²				
	1 000	2 000	5 000	10 000	Vacancy
Central Witwatersrand	735	715	708	675	1.6
West Rand	695	668	638	612	1.3
East Rand	700	750	729	679	1.5
Pretoria	600	614	562	568	2.3
Nelspruit	900	900	750	725	2.0
Durban	1.554	1.391	1.224	1.129	2.3
Cape Peninsula	1.198	1.127	1.056	989	2.0
George	373	360	337	327	6.3
Port Elizabeth	624	540	428	403	4.2
Bloemfontein	306	283	258	172	1.5

Addendum 6.3: Typical gross outgoings (costs) for prime office buildings[86]

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2013:1 R/rentable m² per month			
Location	Mean	SD	n
Johannesburg CBD	14.67	4.11	3
Sandton	27.88	3.51	4
Dunkeld West	23.00	2.12	4
Wierda Valley	24.00	1.41	3
Randburg Ferndale	18.33	2.36	3
Rivonia	19.33	0.94	3
Rosebank	30.83	4.25	3
Illovo	26.88	4.80	4
Illovo boulevard	26.25	2.17	4
Chiselhurston	26.67	2.36	3
Parktown	17.50	5.40	3
Richmond/Milpark	16.00	4.32	3

[86] *Rode's Report 2013 (pp. 38-40). www.rode.co.za.*

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2013:1 R/rentable m² per month			
Location	Mean	SD	n
Bedfordview	20.00	0.00	2
Bruma	20.00	0.00	2
Meadowbrook	12.50	-	1
Woodmead	22.50	2.04	3
Sunninghill	20.00	0.00	3
Bryanston/Epsom	21.00	1.00	2
Fourways	21.67	2.36	3
Houghton	17.33	5.25	3
Melrose Arch	31.25.	6.50	4
Hydepark	23.25	3.42	4
Eastgate/Kramerville	19.25	5.75	2
Ormonde	12.00	-	1
Midrand	19.12	2.46	4
Hendrik Potgieter Corridor	20.00	-	1
Lynnwood Glen	11.00	1.00	2
Lynnwood	21.00	1.00	2
Lynnwood Manor	18.50	6.50	2
Lynnwood Ridge	15.00	0.00	2
Faerie Glen	14.50	0.71	3
Val de Grace	15.00	-	1
Menlyn	25.00	0.00	2
Menlo Park (Brooks St.)	13.50	1.50	2
Brooklyn/Waterkloof	25.50	2.50	2
Nieuw Muckleneuk	23.00	-	1
Hatfield	15.83	1.84	3
Centurion	17.33	4.78	3
Highveld Technopark	17.50	2.50	2

Typical gross outgoings for prime office buildings
(As reported by brokers) Quarter 2013:1
R/rentable m² per month

Location	Mean	SD	n
Arcadia	12.00	0.00	2
Murrayfield	12.00	-	1
Neslpruit	20.00	-	1
Polokwane	22.00	1.00	2
Bloemfontein CBD	5.00	0.00	2
Westdene	5.50	0.50	2
Durban CBD	25.50	1.50	2
Durban Berea	29.00	1.00	2
Essex Terrace	30.50	1.50	2
Westway	33.50	1.08	3
La Lucia Ridge	33.00	1.00	2
Westville	31.50	0.41	3
Pinetown	8.00	-	1
Hillcrest-Kloof (Upper Highway)	30.00	-	1

Typical gross outgoings for prime office buildings
(As reported by brokers) Quarter 2013:1
R/rentable m² per month

Location	Mean	SD	n
Port Elizabeth CBD	13.25	1.25	2
East London CBD	-	-	0
East London decentralised	-	-	0
Cape Town CBD		2.94	3
Sea Point	30.00	-	1
V&A Portswood Ridge	25.00	-	1
Granger Bay	-	-	-
Salt River	-	-	-
Woodstock	20.00	-	1
Observatory	-	-	-
Mowbray	-	-	-
Kenilworth (Racecourse)	-	-	-
Westlake	26.50	1.50	2
Tokai	25.00	0.00	2
Claremont Lower	-	-	-
Claremont Upper	-	-	-
Hout Bay	-	-	-
Noordhoek (Sun Valley)	-	-	-
Pinelands	30.00	-	-
Athlone	-	-	-
Milnerton	-	-	-
Panorama	-	-	-
Rondebosch/ Newlands	-	-	-
Wynberg	25.00	-	1

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2013:1 R/rentable m² per month			
Location	Mean	SD	n
Goodwood (N1 City)	17.00	7.07	2
Tygerberg Hills	-	-	-
Bellville CBD	12.50	2.50	2
Tyger Valley area	22.50	7.50	2
Durbanville	-	-	-
Mitchell's Plain	-	-	-
Airport	-	-	-
Kuilsriver	15.00	-	1
George	-	-	-

Addendum 6.4: Flat rentals for standard units[87]

Flat Rentals: Standard units Quarter 2013:1 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R2 555	R3 306	R4 255	R5 078
Germiston average	R1 699	R2 115	R2 850	R2 811
Pretoria average	-	-	-	-
Nelspruit average	-	-	-	-
Durban average	R2 830	R3 337	R4 148	R5 124
Cape Town average	R2 695	R3 283	R4 174	R5 198
Port Elizabeth average	R2 374	R2 624	R3 478	R4 280
East London average	R2 436	R2 636	R3 141	R3 610
Bloemfontein average	R1 779	R2 360	R3 008	R3 744

[87] Rode's Report 2013 (pp.112 - 117). www.rode.co.za.

Addendum 6.5: Flat rentals for upmarket units[88]

Flat rentals: Upmarket units Quarter 2013:1 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R3 001	R4 298	R5 326	R6 045
Germiston average	R1 850	R2 392	R2 796	R3 250
Pretoria average	R2 500	R2 700	R3 400	R3 800
Centurion average	R3 588	R4 133	R4 986	R6 264
Nelspruit average	-	-	-	-
Durban average	R3 238	R4 152	R5 200	R7 049
Cape Town average	R3 334	R4 134	R5 327	R6 891
Port Elizabeth average	R2 610	R3 066	R3 563	R4 320
East London average	R2 821	R3 060	R3 493	R3 945
Bloemfontein average	-	-	-	-

[88] Rode's Report 2013 (pp.118 - 122). www.rode.co.za

Addendum 7: Ease of Doing Business (DB) in South Africa[89]

> ***Note:***
> This addendum summarises the World Bank "Doing Business 2013" data for South Africa. The first table lists the overall "Ease of Doing Business" rank (out of 185 economies) and the rankings by each topic. The rest of the tables summarize the key indicators for each topic and benchmark against regional and high-income economy (OECD) averages.

Ease of doing business

Doing business 2013 rank	Doing business 2012 rank	Change in rank
39	41	⬆ 2

Topic	DB 2013 rank	DB 2012 rank	Change in rank
Starting a business	53	43	⬇ -10
Dealing with construction permits	39	38	⬇ -1
Getting electricity	150	148	⬇ -2
Registering property	79	78	⬇ -1
Getting credit	1	1	No change
Protecting investors	10	10	No change
Paying taxes	32	34	⬆ 2
Trading across borders	115	145	⬆ 30
Enforcing contracts	82	83	⬆ 1
Resolving insolvency	84	81	⬇ -3

[89] www.doingbusiness.org/data/exploreeconomies/south-africa

Starting a business

DB 2013 rank	DB 2012 rank	Change in rank
53	45	⬇ -10

Indicator	South Africa	Sub-Saharan Africa	OECD
Procedures (number)	5	8	5
Time (days)	19	34	12
Cost (% of income per capita)	0.3	67.3	4.5
Paid-in min. capital (% of income per capita)	0.0	116.0	13.3

Procedure	Time to complete	Associated costs
Lodge formation documentation with the Companies and Intellectual Property Commission (CIPC) for registration	5 -7 days	ZAR 175
Open a bank account	1-2 days	no charge
Register with the office of the local receiver of revenue (SARS) for income tax, VAT, and employee withholding tax (PAYE and SITE).	12 days	no charge
Register with the Department of Labor for Unemployment Insurance.	4 days (simultaneous with procedure 4)	no charge
Register with the Commissioner according to the Compensation for Occupational Injuries and Diseases Act.	Around 10 days, simultaneous with Procedure 4	no charge

Key world rankings

> ***Note:***
>
> Economies are ranked on their ease of Doing Business, from 1 – 185. 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	13	17	19	25	4	6	69	22	6	16
United Kingdom	7	19	20	62	73	1	10	16	14	21	8
Australia	10	2	11	36	37	4	70	48	44	15	18
Mauritius	19	14	62	44	60	53	13	12	15	58	64
Germany	20	106	14	2	81	23	100	72	13	5	19
Japan	24	114	72	27	64	23	19	127	19	35	1
United Arab Emirates	26	22	13	7	12	83	128	1	5	104	101
South Africa	39	53	39	150	79	1	10	32	115	82	84
Botswana	59	99	132	90	51	53	49	39	147	68	29
Namibia	87	133	56	87	169	40	82	112	140	41	59
China	91	151	181	114	44	70	100	122	68	19	82
Zambia	94	74	151	151	96	12	82	47	156	89	99
Brazil	130	121	131	60	109	104	82	156	123	116	143
India	132	173	182	105	94	23	49	152	127	184	116
Lesotho	136	79	140	133	157	154	100	95	144	139	75
Malawi	157	141	175	179	97	129	82	58	168	144	134
Angola	172	171	124	113	131	129	70	154	164	183	162
Zimbabwe	172	143	170	157	85	129	128	134	167	111	169

Addendum 8: National remuneration data[90]

National remuneration guide	
Job category	**National salary range (per annum)***
Cleaner	R79 761 – R99 060
Messenger/Driver	R120 465n – R148 685
Telephonist - Level 1	R128 965 – R160 640
Telephonist - Level 3	R171 191 – R211 496
Receptionist - Level 1	R126 229 – R157 268
Receptionist - Level 2	R148 056 – R182 805
Secretary - Level 1	R180 195 – R223 348
Secretary - Level 3	R238 033 – R294 020
Personal Assistant - Level 1	R239 792 – R296 182
Personal Assistant - To CEO	R393 372 – R485 779
Human Resources (HR) Manager - Level 1	R658 941 – R813 589
Human Resources (HR) Manager - Level 2	R831 143 – R1026 665
Graphic Artist / Designer - Junior	R275 760 – R340 735
Graphic Artist / Designer - Senior	R460 959 – R569 420
Clerk (General) - Level 1	R118 384 – R146 627
Clerk (General) - Level 3	R184 613 – R228 137
Chartered Accountant (Qualified) - Level 3	R606 768 – R751 178
Chartered Accountant (Qualified) - Level 5	R814 068 – R1009 077

*Guaranteed salary package - Total basic and benefits.

[90] *Based on data provided by Deloitte Human Capital (February 2013), projected to (August 2013)*

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	100	99	101	101
Durban and Environs	101	95	100	100	99
East Rand	105	104	105	106	105
Eastern Cape	94	94	92	94	94
Free State	91	90	88	90	90
Johannesburg	107	105	106	105	106
Limpopo Province	92	93	89	91	91
Midrand	104	103	102	104	103
Mpumalanga	98	96	94	97	96
Northern Cape	93	91	90	93	92
North West Province	95	92	93	92	93
Other KwaZulu-Natal	99	97	97	96	97
Pretoria	100	102	101	103	102
Vaal Triangle	103	106	104	102	104
West Rand	97	98	95	90	95
Western Cape	96	99	98	98	98

*Regional variances from the national norm (indexed at 100).

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).

Addendum 9: Transportation costs for goods

Addendum 9.1: Rail[91]

Transnet freight rail, rail charge levy

Note:

The Transnet freight rail, rail charge levy information is made available here to enable Transnet freight rail customers to verify amounts on their statements.

Transnet freight rail, rail charge levy %

	Levy components	Effective date	Effective date	Effective date
		2013-04-01	2013-04-01	2013-04-01
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%	0.000%	0.000%
Total levy applicable 2nd Wednesday of month.		0.000%	0.000%	0.000%

[91] Source: http://www.spoornet.co.za. Retrieved August 2013

Detail for levy components

Constants	Diesel price examples	Effective date	Effective date	Effective date
		2013-04-01	2013-04-01	2013-04-01
R	Energy (Diesel) Component of Rail price (P1 to P3)	8.500%	8.500%	8.500%
NP	New Diesel price Diesel Levy	R1196.61	R1196.61	R1196.61
BPx	Diesel Basis price adjusted yearly as on 1 April YYYY	R1196.61	R1196.61	R1196.61
Ix	Diesel Levy Applicable 2nd Wednesday of month	0.0000%	0.0000%	0.0000%
Constants	**Electricity % examples**	**Effective date**	**Effective date**	**Effective date**
		2013-04-01	2013-04-01	2013-04-01
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
		2013-04-01	2013-04-01	2013-04-01
R	Currency component of rail price (P1 to P3)	1.500%	1.500%	1.500%
S	Cumulative currency increase/ decrease margin	0.80	0.80	0.80
NR	New USD RAND (USD ZAR) currency exchange Energy levy	9.1866	9.1866	9.1866
	Energy levy			
BRx	Base currency rate adjusted yearly as end March YYYY	9.1866	9.1866	9.1866
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**
		2013-04-01	2013-04-01	2013-04-01
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	103.500/div>	103.5000	103.5000
	Energy levy			
BSx	Basis metals price index adjusted yearly as in Feb YYYY	103.3000	103.3000	103.3000
Ix	Steel Levy applicable 2nd Wednesday of month	0.000%	0.000%	0.000%
Total levy applicable 2nd Wednesday of month		0.000%	0.000%	0.000%

Addendum 9.2: Road[92]

Toll tariffs 2013

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
N1					
Huguenot	Mainline	29.00	79.00	124.00	201.00
Verkeerdevlei	Mainline	41.00	82.00	124.00	174.00
Vaal	Mainline	48.00	90.00	109.00	145.00
Grasmere	Mainline Ramp (S) Ramp (N)	14.00 7.50 7.50	43.00 21.50 21.50	50.00 25.00 25.00	66.00 33.00 33.00
Stormvoël	Ramp	6.60	16.50	19.50	23.50
Zambesi	Ramp	8.00	20.00	23.50	28.00
Pumulani	Mainline	8.50	22.00	25.00	31.00
Wallmansthal	Ramp	4.00	10.00	12.00	14.00
Murrayhill	Ramp	8.00	20.00	24.00	28.00
Hammanskraal	Ramp	18.50	64.00	70.00	80.00
Carousel	Mainline	40.00	108.00	119.00	138.00
Maubane	Ramp	17.50	47.00	52.00	60.00
Kranskop	Mainline Ramp	32.00 9.0	82.00 24.00	110.00 29.00	135.00 43.00
Nyl	Mainline Ramp	17.50	47.00	52.00	60.00
Sebetiela	Ramp	13.00	24.00	31.00	41.00
Capricorn	Mainline	33.00	92.00	107.00	135.00
Baobab	Mainline	32.00	88.00	121.00	146.00

[92] *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
R30					
Brandfort	Mainline	33.00	66.00	99.00	139.00
N2					
Tsitsikamma	Mainline Ramp	38.00 38.00	96.00 96.00	230.00 230.00	325.00 325.00
Izotsha	Ramp	6.50	12.00	17.00	29.00
Oribi	Mainline Ramp (S) Ramp (N)	21.00 10.00 12.00	38.00 18.00 20.00	53.00 25.00 29.00	85.00 39.00 53.00
Umtentweni	Ramp	9.00	16.00	23.00	37.00
King Shaka Airport	Ramp	4.50	9.00	14.00	18.00
Thongathi	Mainline Ramp (S) Ramp (N)	8.00 4.00 4.00	17.00 9.00 9.00	23.00 12.00 12.00	33.00 17.00 17.00
Mvoti	Mainline	10.00	27.00	37.00	55.00
Mandini	Ramp	5.50	10.00	13.00	17.00
Dokodweni	Ramp	14.00	28.00	33.00	45.00
N3					
Mariannhill	Mainline	8.50	16.00	20.00	30.00
Mooi	Mainline Ramp (S) Ramp (N)	37.00 26.00 11.00	91.00 63.00 27.00	127.00 89.00 38.00	172.00 120.00 52.00
Treverton	Ramp	11.00	27.00	38.00	52.00
Bergville	Ramp	16.00	19.00	34.00	53.00
Tugela	Mainline	53.00	87.00	138.00	191.00
Tugela East	Ramp	33.00	54.00	81.00	112.00
Wilge	Mainline	50.00	85.00	114.00	161.00
De Hoek	Mainline	36.00	56.00	85.00	122.00

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
N4					
Pelindabae	Mainline	4.00	8.00	12.00	15.00
Quagga	Mainline	3.50	6.00	9.00	12.00
Swartruggens	Mainline	75.00	187.00	227.00	267.00
Kroondal	Ramp	10.50	26.00	29.00	34.00
Marikana	Mainline	16.00	39.00	43.00	51.00
Buffelspoort	Ramp	10.50	26.00	29.00	34.00
Brits	Mainline	10.50	37.00	41.00	48.00
Doornpoort	Mainline	10.50	27.00	31.00	37.00
Donkerhoek	Ramp	9.00	13.00	19.00	36.00
Cullinan	Ramp	12.00	19.00	27.00	46.00
Diamond Hill	Mainline	27.00	38.00	71.00	117.00
Valtaki	Ramp	21.00	30.00	43.00	97.00
Ekandustria	Ramp	16.00	24.00	34.00	67.00
Middelburg	Mainline	45.00	97.00	147.00	194.00
Machadodorp	Mainline	67.00	186.00	271.00	387.00
Nkomazi	Mainline	51.00	103.00	149.00	215.00
N17					
Gosforth	Mainline Ramp (W) Ramp (E)	9.00 5.00 4.00	24.00 10.00 15.00	27.00 14.00 17.00	37.00 18.00 23.00
Dalpark	Mainline	8.00	17.00	23.00	31.00
Denne	Ramp	7.00	14.00	19.00	25.00
Leandra	Mainline Ramp	26.00 16.00	67.00 40.00	100.00 60.00	133.00 80.00

Addendum 9.3: Sea

For international and domestic shipment costs refer to: Transnet - National Port Authority Tariffs (effective 1 April 2013), www.transnetnationalportsauthority.net

Addendum 9.4: Air[93]

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 2013 till 31 March 2014.

Passenger flights SAA: *

- General freight: R70.00 - min charge: common rated R5.51 (excl.JNB-DUR-JNB R3.60 per kg under 100kg, Common rated R5.40 excl JNB- DUR-JNB, R3.47 per kg over 100kg).
- Express freight: R100.00 – min charge: common rated R19.40 (excl JNB-DUR-JNB R10.54 per kg under 100Kg, Common rated R19.00 excl JNB-DUR-JNB R10.34 per kg over 100kg).
- Valuable cargo: R320.00 - min charge: 200% of Express Rate (express rates X 2).
- Motor vehicles: on request: DGR fees apply.
- Motorbikes: on request: DGR fees apply.

** Minimum charges will not be included in the calculation of discounts.

SA Express
Minimum charges as per passenger flights: General freight rate R7.77 excl George * George R5.51 * Day Express Rate R19.40 under 100Kg

Minimum charges as per passenger flights: General freight rate R7.62 excl George * George R5.40 * Day Express Rate R19.00 over 100Kg

Starlight Express rates:
BFN/GRJ road feeder available: R3.88 PLZ-GRJ and R9.97 JNB -BFN

	CPT	DUR	ELS	JNB	PLZ
CPT		R 27.95	R 26.64	R 23.26	R 13.33
DUR	R 27.95		R 13.33	R13.06	R28.47
ELS	R 26.64	R 13.33		R 26.64	R 13.33
JNB	R 23.26	R 13.06	R 26.64		R 24.36
PLZ	R 13.33	R 28.47	R 13.33	R 24.36	

[93] 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 R302.00 handling fee

Additional charges

- AWB amendment fee (after acceptance): R183.00.
- Airline security charge per kg: R0.15 (all customers, all cargo, non-commissionable).
- Part 108 Screening: R0.17 per kg, min R12.00 (applicable to all non-regulated agents).
- AWB Fee – All Services: R43.00 per AWB – Applicable to all customers requiring manual capture of AWB*.
- AWB Fee- Starlight express: R125.00 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%

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.

Addendum 10: Cost of electricity in major centres

Cape Town[94]

*Proposed schedule of electricity tariffs for 2013/14 **

* All tariffs below are exclusive of VAT and effective from 1 July 2013.

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	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge	Block 1	c/kWh	0-600kWh	125.00	142.50
	Block 2	c/kWh	600.1+kWh	152.00	173.28
Lifeline (for qualifying customers only) Free basic service					
Services rendered		Unit	Remarks	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge	Block 1	c/kWh	0-350kWh	79.70	90.86
	Block 2	c/kWh	350.1+kWh	185.00	210.90

[94] 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	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	10.60	12.08
Energy charge - consumption	c/kWh	88.82	101.25
Energy charge - generation	c/kWh	46.04	52.49
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	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	20.67	23.56
Energy charge	c/kWh	111.52	127.13
Small power users 2 (Low consumption - <1000 kWh / month)			
Services rendered	Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge	c/kWh	174.38	198.79
Off-peak			
This tariff is reserved for existing consumers only as of 1 July 2012.			
Services rendered	Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Minimum charge	R/day	70.59	80.47
Energy charge	c/kWh	64.43	73.45

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	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	34.42	39.24
Energy charge	c/kWh	58.47	66.66
Demand charge	R/kVA	173.99	198.35
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	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	34.42	39.24
Energy charge	c/kWh	54.35	61.96
Demand charge	R/kVA	161.82	184.47
This tariff is only available at medium voltage.			
Services rendered	Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	5 619.71	6 406.47
Energy charge: High demand (June to August)			
Peak	c/kWh	255.46	291.22
Standard	c/kWh	72.86	83.06
Off-peak	c/kWh	39.66	45.21
Energy charge: Low demand (September to May)			
Peak	c/kWh	78.23	89.18
Standard	c/kWh	51.59	58.81
Off-peak	c/kWh	34.71	39.57
Demand charge	R/kVA	87.39	99.62

This tariff is only available at medium voltage and in Atlantis.			
Services rendered	Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	5 210.00	5 939.40
Energy charge: High demand (June to August)			
Peak	c/kWh	255.46	291.22
Standard	c/kWh	67.55	77.01
Off-peak	c/kWh	36.77	41.92
Energy charge: High demand (June to August)			
Peak	c/kWh	72.53	82.68
Standard	c/kWh	45.00	51.30
Off-peak	c/kWh	31.91	36.38
Demand charge	R/kVA	81.03	92.37
High voltage time of use tariff This tariff is only available at 66kV or 132kV depending on the available network.			
Services rendered	Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Service charge	R/day	5 619.71	6 406.47
Energy charge: High demand (June to August)			
Peak	c/kWh	247.80	282.49
Standard	c/kWh	70.67	80.56
Off-peak	c/kWh	38.47	43.86
Energy charge: High demand (June to August)			
Peak	c/kWh	75.88	86.50
Standard	c/kWh	50.04	57.05
Off-peak	c/kWh	33.67	38.38
Demand charge	R/kVA	87.40	99.64

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	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy surcharge	Firm	c/kWh	15.18	17.31
	Non-firm	c/kWh	9.32	10.62
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	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge generation		c/kWh	46.04	52.49
Lighting tariffs				
Street lighting and traffic signals				
Services rendered		Unit	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge		R / 100 W per burning hour	0.1223	0.1394
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	2013/14 R excl. VAT	2013/14 R incl. VAT
Energy charge		R / 100 W per burning hour	0.1335	0.1522

Johannesburg[95]

Proposed schedule of electricity tariffs for 2013/14 *

* All tariffs below are exclusive of VAT and based on a proposed 7% increase effective from
1 July 2013.

Description		2013/14
Domestic life-line - energy (c/kWh)	230V	84.11
Domestic life-line 1 - conventional(c/kWh)	230V	88.59
Domestic - prepaid	0 < 500 kWh	89.04
Domestic - prepaid	501<1000 kWh	101.06
Domestic - prepaid	1001 < 2000 kWh	107.60
Domestic - prepaid	2001 < 3000 kWh	119.03
Domestic - prepaid	> 3001 kWh	127.03
Domestic single phase - service charge (R/m)	60 A	414.08
Domestic single phase - service charge (R/m)	80 A	433.23
Domestic single phase - energy (c/kWh)	0 < 500 kWh	84.98
	501 < 1 000 kWh	
	86.81	
	1001 < 2000 kWh	
	92.42	
	2001 < 3000 kWh	
	102.24	
	> 3001 kWh	109.63
Domestic three phase - service charge (R/m)	60 A	452.69
Domestic three phase - service charge (R/m)	80 A	483.17
Domestic three phase – energy (c/kWh)	0 < 500 kWh	84.98
	501 < 1 000 kWh	86.81
	1001 < 2000 kWh	92.42
	2001 < 3000 kWh	102.24
	> 3001 kWh	109.63

[95] http://www.joburg.org.za/images/stories/2013/March/Tariffs2013/electricity%20services.pdf

Description		2013/14
Domestic single phase (seasonal) - service charge(R/m)	60 A	405.01
Domestic single phase (seasonal) - service charge(R/m)	80 A	423.74
Domestic single phase (seasonal) - energy(c/kWh)	**Summer**	
	0 < 500 kWh	74.36
	501 < 1 000 kWh	75.96
	1001 < 2000 kWh	80.87
	2001 < 3000 kWh	89.46
	> 3001 kWh	95.93
	Winter	
	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
Domestic three phase (seasonal) - service charge(R/m)	60 A	1331.99
Domestic three phase (seasonal) - service charge(R/m)	80 A	1421.70
Domestic three phase (seasonal) - energy(c/kWh)	**Summer**	
	0 < 500 kWh	74.36
	501 < 1 000 kWh	75.96
	1001 < 2000 kWh	80.87
	2001 < 3000 kWh	89.46
	> 3001 kWh	95.93

Description		2013/14
	Winter	
	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	578.78
	>50 kVA	676.56
Agricultural - energy (c/kWh)	**Summer**	96.34
	Winter	131.79
Robot intersections - energy (c/kWh)		164.95
Streetlight and billboard per luminaire		184.92
Business - prepaid (<50 kVA)		134.83
Business - prepaid (>100 KVA)		134.83
Business - service charge (R/m)	<50 kVA	829.23
Business - service charge (R/m)	<100 kVA	1034.58
Business - service charge (R/m)	<500 kVA	1463.26
Business - service charge (R/m)	>500 kVA	2148.94
Business - energy (c/kWh)	**Summer**	
	0 < 500 kWh	109.62
	501 < 1 000 kWh	111.98
	1001 < 2000 kWh	119.22
	2001 < 3000 kWh	131.88
	> 3001 kWh	141.41
	Winter	
	0 < 500 kWh	149.95
	501 < 1 000 kWh	153.17
	1001 < 2000 kWh	163.07
	2001 < 3000 kWh	180.39
	> 3001 kWh	193.44
Reactive energy for LPU (c/kVArh)		13.99

Durban[96]

Proposed schedule of electricity tariffs for 2013/14 *

* All tariffs below are exclusive of VAT and based on a proposed increase of 8% effective from 1 July 2013.

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	208.70	104.42	50.86	220.00
	Low season (c/kWh)			Service charge (Rands)
	Peak	Std	Off-peak	
	102.96	82.83	48.18	220.00

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)	158.52	Energy charge (c/kWh)	120.92
VAT	22.19	VAT	16.93
Total	180.71	Total	137.85

Business and general prepayment - scale 10&11

[96] *www.duban.gov.za\Tariffs*

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)	134.26		
VAT	18.80		
Total	153.06		

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 2012 and exclude VAT).

Industrial Time of Use (ITOU)		Amount
Peak	High demand season (June - August)	195.60 (c/kWh)
Standard		63.16 (c/kWh)
Off-peak		36.85 (c/kWh)
Peak	Low demand season (September - May)	67.57 ((c/kWh)
Standard		48.26 (c/kWh)
Off-peak		32.66 (c/kWh)
Network demand charge (R/kVA)		65.50 (based on actual demand)
Network access charge (R/kVA)		20.00 (based on notified max demand)
Service charge		R2 374.15
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 2013 and exclude VAT).

Residential Time of Use (RTOU)	Non-seasonal (c/kWh)			Service charge
	Peak	Std	Off-peak	(Rands)
	150.79	75.32	55.80	80.48

**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)	78.05
VAT	10.93
Total	88.98
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.*

Addendum 11: Immigration – Permits and visas[97]

1. Where to apply for a residence permit

Any foreigner who wants to enter South Africa must apply for the appropriate residence permit 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 permits 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 permit 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 (BI-1740) to change his or her status or the conditions attached to his or her temporary residence permit, 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 diplomatic representatives abroad or at Regional Offices of the Department inside the country provided that such an applicant is in possession of a valid Temporary Residence Permit.

All applicants must:

- Have a valid passport. The passport must be valid for a minimum of 30 days after the intended stay.
- Ensure the temporary residence permit is valid at all times.

2. Price list

Temporary residence permits

Visitor's permit	R425
Business permit	R1 520
Work permits (quota, general, exceptional skills, intra-company transfer)	R1 520
Corporate permit	R1 520
Study permit	R425
Exchange permit	R425
Retired persons' permits	R425
Relatives' permit	R425
Medical treatment permit	R425

3. Permanent residence permits

	R1 520

> *Note:*
>
> Applications for spouses of South African citizens, dependent children and recognised refugees do not require payment of the processing fee.

[97] *Source: Department of Home Affairs. www.home-affairs.gov.za. Retrieved August 2013.*

4. Forms

Visas	
BI-84 – Visa application	
Photo specifications	
Types of visas	
BI-1784 - Visas for medical treatment	
BI-1738 - Visas for working in the entertainment industry, Visas for compliance of Treaty conditions	
Visas for cultural / economic / social exchange programmes, Extending your visa	
BI-84 - Visas for attending a conference	
Visas for crew (maritime)	
Temporary residency	
BI-1738 – Temporary residence application	
Types of temporary residence permits	
BI-1738 - Work Permits, Study Permits, Exchange Permits, Retired Persons' Permits, Relatives' Permits, Medical Treatment Permits	
Permanent residence	
BI-947 - Direct Residency Permits, Residency-on-Other-Grounds Permits	
Refugee status & asylum	
BI-1590 - Applying for refugee / asylum-seeker status	

5. 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 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 **90 days** or less and when in transit:

African Union Laissez Passer
Andorra
Argentina
Australia
Austria
Belgium
Botswana
Brazil
Canada
Chile
Czech Republic
Denmark
Ecuador
Finland
France
Germany **(except in diplomatic staff due to assume duty at the Embassy and Consulates of Germany in SA)**
Greece
Iceland
Ireland
Israel
Italy
Jamaica
Japan
Liechtenstein
Luxemburg
Malta
Monaco
Namibia **(only ordinary passport holders)**
Netherlands
New Zealand
Norway
Paraguay
Portugal
San Marino
Singapore
Spain
St Vincent & the Grenadines
Sweden
Switzerland
Tanzania **(90 days per year)**
Trinidad & Tobago **(only ordinary passport holders)**
Zambia **(90 days per annum)**
United Kingdom of Great Britain and Northern Ireland
British Islands Bailiwick of Guernsey and Jersey, Isle of Man. British Oversees Territories namely: 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.
Uruguay
Venezuela
United States of America **(except in diplomatic staff due to assume duty at the Embassy and Consulates of the USA in SA)**
Zimbabwe

- 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
Bahamas **(only ordinary passport holders)**
Barbados
Belize
Benin
Bolivia
Cape Verde
Costa Rica
Cyprus
Gabon
Guyana
Hong Kong (only with regard to holders of Hong Kong British National Overseas passports and Hong Kong Special Administrative Region passports)
Hungary
Jordan
Lesotho
Macau (only with regard to holders of Macau Special Administrative Region passports [MSAR])
Malaysia
Malawi
Maldives
Mauritius
Mozambique
Namibia
Peru
Poland
Seychelles
Slovak Republic
South Korea
Swaziland
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)
Algeria (30 days)
Angola (90 days)
Belarus (90 days)
Bulgaria (90 days)
China (PROC) (30 days) **(only diplomatic passport holders)**
Cyprus (90 days)
Comoros (90 days)
Croatia (90 days)
Cuba (90 days) **(diplomatic, official & service)**
Egypt (30 days)
Ghana (90 days)
Guinea (90 days)
Hungary (120 days)
India (90 days)
Ivory Coast (Cote d'Ivoire) (30 days)
Kenya (30 days)
Mexico (90 days)
Madagascar (30 days)
Morocco (30 days)
Mozambique (90 days)
Namibia (30 days)
Paraguay (120 days)
Poland (90 days)
Romania (90 days)
Russian Federation (90 days)
Rwanda (30 days)
Slovak (90 days)
Slovenia (120 days)
Thailand (90 days)
Tunisia (90 days)
Vietnam (90 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 or 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 afore-mentioned 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 permit.
- 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 permit 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 are exempt from visa and study permit 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.

6. Frequently Asked Questions (FAQs)

Questions	Answers
Can the capital requirements for a business permit be reduced or waived?	The capital requirements above may be reduced or waived in respect of the following types of industries/businesses:
	• Information and Communication Technology.
	• Clothing and textile manufacturing.
	• Chemicals and bio-technology.
	• Agro-processing.
	• Metals and minerals refinement.
	• Automotive manufacturing.
	• Tourism.
	• Crafts.
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):
	• Reflect the full particulars of the relevant newspaper or magazine as well as date on which the advertisement was published.
	• Stipulate the minimum qualifications and experience required to fill the position.
	• Clearly define the position and the duties to be performed.
	• Measure at least 60mm by 60mm.
	• State the closing date for applications.
	• Should not be older than 3 months at the time of application for a work permit. This period is calculated from the closing date of advert.

Addendum 12: Customs and excise regulations – Practical guidelines for immigrants and travellers[98]

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 quick 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.

[98] www.southafrica.net/sat/content/en/za/travel-tips-detail?oid=18161&sn=Detail&pid=17563

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.
- 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 are 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.
- 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.

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.
- 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.
- 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 Southern African Customs Union (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.

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.

Addendum 13: South African business practices and etiquette[99]

General aspects

- On the whole, Western business rules and etiquettes are generally adhered to in South Africa. Nevertheless, African business practices are important and play an important role in shaping South Africa's business culture and practices.
- Generally speaking, money is looked upon differently in African culture. Africans see it as something that is necessary for sustenance, but anything beyond what can suffice is seen as unnecessary, although with the continued integration of Western values and norms this is changing. In the West, the business world encourages accumulation of possessions and of wealth.
- Another important difference in the business cultures of the two areas is planning. Western cultures carefully chart and examine moves months or even years ahead of schedule. Whereas, African culture prefers that a final decision be preceded by full consultation of all parties before being implemented.
- Greetings in South Africa vary from culture to culture. In most cases, a firm handshake will do the trick, but every culture has its own preference. Note, that English-speakers, on the whole, are likely to be more formal and polite, while black South Africans embrace informality and more personal greetings.

Working practices

- Schedule business appointments as far in advance as possible, and always confirm the appointment by calling the day before.
- Formal meetings and appointments usually begin and end on time.
- Use titles and surnames to address people.
- South Africans are transactional and do not need to establish long-standing personal relationships before conducting business.
- Appointments should generally be made starting at 9am.
- Do not rush deals. South Africans are very casual in their business dealings.
- Business cards have no formal exchange protocol.
- Dress conservatively, particularly for initial meetings with new business associates.

Working relationships

- For the most part, South Africans prefer to do business with those they have met previously.
- A vital part of African culture is respect for one's ancestors and elders. It is deemed highly offensive to most South Africans if the proper respect for an elder is not shown, especially in more rural areas.
- If your company is not known in South Africa, a more formal introduction may help you gain access to decision-makers and not be shunted off to gatekeepers.
- Networking and relationship building are crucial for long-term business success.
- Most businessmen are looking for long-term business relationships.
- There are major differences in communication styles depending upon the individual's cultural heritage.
- Most South Africans, regardless of ethnicity, prefer face-to-face meetings to more impersonal communication mediums such as e-mail, letter or telephone.

[99] *www.initiateimmigration.com/working-in-south-africa/business-practices/*

Business practices

- On the whole, titles are not used in South African business settings. However, some honorary doctorates may wish to be addressed in this way.
- Initial meetings for South African companies are about establishing personal rapport and developing mutual trust, two vital elements in South African business culture.
- The overall aim during business negotiations in South Africa is to reach a general consensus. South Africans prefer to see a fair, win-win situation where all sides gain something from the deal.
- Don't be surprised if your South African business colleagues ask what may seem to be personal questions about your way of life after a relatively brief period of time.

Business meeting etiquette

- Appointments are necessary and should be made as far in advance as possible.
- It may be difficult to arrange meetings with senior level managers on short notice, although you may be able to do so with lower-level managers.
- It is often difficult to schedule meetings from mid-December to mid-January or the two weeks surrounding Easter, as these are prime vacation times.
- After a meeting, send a letter summarising what was decided and the next steps.

Business negotiations

- It is imperative to develop mutual trust before negotiating.
- Do not interrupt a South African while they are speaking.
- South Africans strive for consensus and win-win situations.
- Include delivery dates in contracts. Deadlines are often viewed as fluid rather than firm commitments.
- Start negotiating with a realistic figure. South Africans do not like haggling over price.
- Decision-making may be concentrated at the top of the company and decisions are often made after consultation with subordinates, so the process can be slow and protracted.

Dress etiquette

- Business attire is becoming more informal in many companies. However, for the first meeting, it is best to dress more conservatively.

- Men should wear dark-coloured, conservative business suits.
- Women should wear elegant business suits or dresses.
- South Africans of urban cultures generally wear Western dress.
- Dress well in public, it will be expected by your South African host.

Addendum 14: How to apply for a police clearance certificate (PCC)[100]

> ***Note:***
>
> This service is available to people who require confirmation on their criminal status for emigration purposes or for working abroad. A certificate will be issued stating whether any criminal offences are recorded against the applicant. The taking of the fingerprints is performed at the nearest police station, prior to the analysis thereof and the issuing of the certificate. The issuing of a clearance certificate is the sole responsibility of the SAPS Criminal Record Centre in Pretoria.

Process

- The applicant must provide a full set of their fingerprints, preferably taken at their nearest police station.
- The applicant's full name, surname, date of birth, place of birth and identity number (if available) must also be recorded on the fingerprint form.
- A copy of the applicant's ID document/passport must accompany the application. The applicant must present their ID at the police station as proof of identity will be required.
- South African citizens living outside the Republic may apply at any police station in that country or at the South African embassy. Fingerprints should be taken on the official fingerprint forms of the specific country. The fingerprint form must be signed by the person who took the fingerprints. The application must be accompanied by a completed set of fingerprints and a copy of the applicants ID or passport.
- If the applicant provides his/her cell phone number (currently only South African) on the application for a PCC he/she will be provided with an sms indicating that application was received and the reference number that will be allocated to his/her certificate. The applicant can then determine, by making use of the reference number provided, when his/her PCC has been finalised at the Police Clearance office by making use of the facility on the SAPS website.

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[100] *www.saps.gov.za/_dynamicModules/internetSite/faqBuild.asp?myURL=272*

- The police station where the applicant applied will forward the complete application to the Criminal Record Centre. Alternatively, the applicant may deliver the completed application in person or mail the application to:

  The Head of the South African Criminal Record Centre
  (For attention: Police Clearance Certificates)
  Private Bag X308
  Pretoria
  Gauteng
  South Africa
  0001

  The application may also be delivered by courier to:

  The Head of the South African Criminal Record Centre
  (For attention: Police Clearance Certificates)
  Bothongo Plaza West
  CRC Client Service Centre
  1st Floor, Room 14
  271 Schoeman Street
  Pretoria
  Office Hours 7:30 - 16:00
  (Monday - Friday)

Cost

- This service is rendered at R59 per application payable by bank guaranteed cheques bankers draft or electronic payment into the SAPS account (ABSA cheque account number 4054522787; Branch code 632005; Swift code ABSA ZAJJ) in the favour of the National Commissioner of SAPS.
- In the case of an electronic payment, the initials and surname of the applicant should be indicated as the reference. The letters PCC must be added as reference, which will indicate that the payment is for a PCC.
- An applicant who prefers to make an electronic payment abroad, can approach any bank who can make a telegraphic transfer and request that the relevant fees be paid into above mentioned bank account. Proof of payment must be sent to this office before the processing of the application will take place.
- On completion, the certificate will be mailed to the applicant by post. Individuals abroad are responsible for their own postage. Applicants can arrange for the certificate to be collected via courier service at their own expense. A PCC can be reissued within six months of the original application yet an additional cost of R59 will be required. After six months of the date of the original application a new application must be submitted.

Contact information:	
Tel (South Africa):	+27 12 393 3928
Tel (International):	+27 12 393 3928
Fax number (South Africa):	+27 12 393 3909
Fax number (International):	+27 12 393 3909
E-mail addresses:	crc-nameclear@saps.org.za
	crc.clientserv.sec@saps.org.za
	crc.client@saps.org.za

Note:

The average time to render this service will take approximately 14 working days from the day that the complete application is received at the Criminal Record Centre until the Clearance Certificate is issued.

Addendum 15: Site development procedures in South Africa[101]

Procedure	Agency	Time to complete	Associated costs
1. Submit site development/ building plans to Municipality for approval. Three copies of all plans are circulated internally among several departments within the municipality (usually zoning, water, structural, land survey, drainage/sewage, fire, and health departments). Site development plans may be approved first, which allows the company to start preliminary work on site. Building plans are usually approved by the time the site is ready for construction. The approved plans are returned to the company with all forms required in the future attached: notification of excavation, concrete work (if applicable), plumbing/sewage, and electrical work. The cost is determined by the municipality based on a sliding scale. The company has the option to call beforehand and request an estimate in about one to two days. By law, the time limit for plan approval is 30 days, but the municipality commonly extends the time, so the procedure can take up to three months to complete.	Municipality	90 days	R14 006
2. Submit copy of building plans to Telkom to apply for telephone connection. Telkom reviews the plans and marks its requirements and where the connection is to be made. The application states when the service is required. This procedure can be done simultaneously with the previous one.	Telkom SA Limited	20 days	R600
3. Submit occupational health and safety plan.	Municipality	7 days	No charge
4. Pay road repair deposit*. BuildCo must pay a deposit in case any damage is done to public roads during construction.		30 days	R1 500
5. Submit notification of completion of excavation/ foundation work. A notification form is attached to the approved plans.	Municipal Building Inspectorate	1 day	No charge
6. Receive inspection of excavation and foundations work.	Municipal Building Inspectorate	1 day	No charge
7. Submit notification of completion of sewage/ plumbing work.	Municipal Building Inspectorate	1 day	No charge
8. Receive inspection of sewage and plumbing. This inspection takes place before closing up.	Municipal Building Inspectorate	1 day	No charge

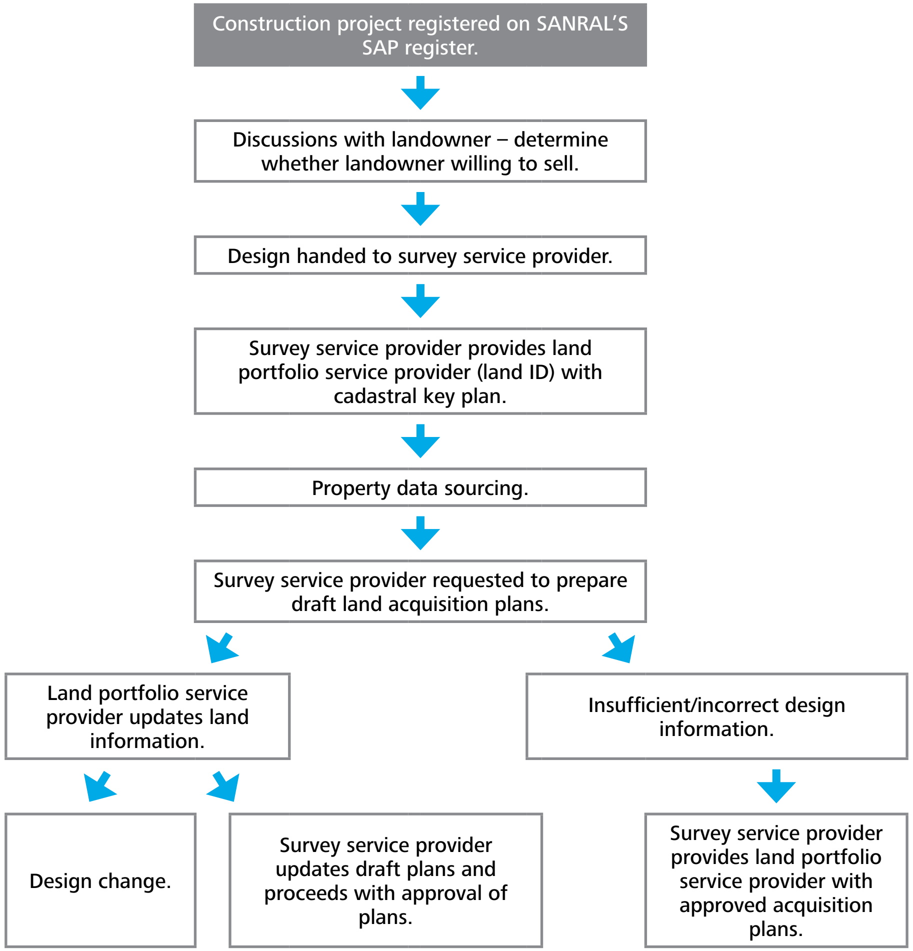
[101] *www.doingbusiness.org/data/exploreeconomies/south-africa/dealing-with-construction-permits/*

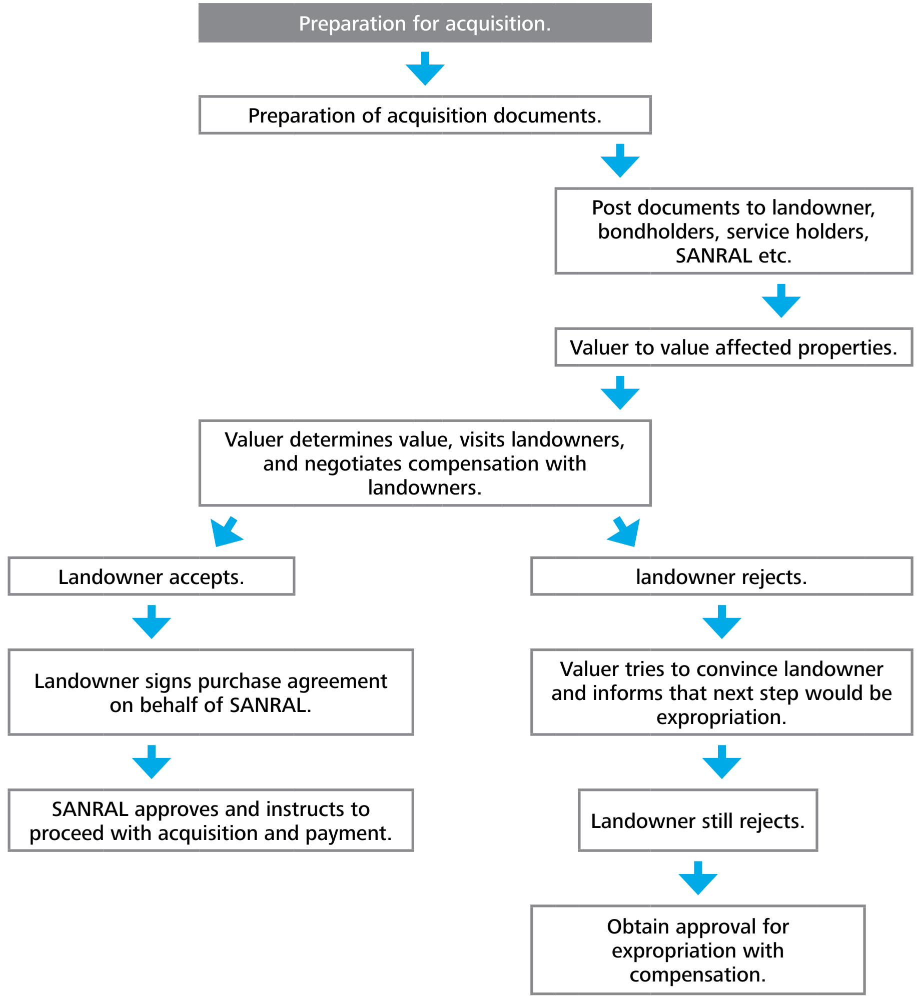
Procedure	Agency	Time to complete	Associated costs
9. Submit certificate of compliance (plumbing, sewage). The company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. Self-certification is done by a certified professional.	Municipality	1 day	No charge
10. Apply for water and sewerage connection. The service should not be provided until the certificate of compliance has been submitted. This procedure can be done simultaneously with the previous one.	Municipal Building Inspectorate	30 days	R1 350
11. Obtain telephone connection*. This procedure can be done simultaneously with previous ones.	Telkom SA Limited	1 day	R1 650

Procedure	Agency	Time to complete	Associated costs
12. Receive final inspection by municipal authorities. The inspection is a prerequisite to obtaining the occupational certificate. Usually a preliminary inspection could have taken place shortly before construction is completed, in which case the final inspection is just a formality. Obtaining the occupational certificate would be issued after this process.	Municipality	1 day	No charge
13. Obtain Occupational Certificate. This certificate is issued after the final inspection by the municipal authorities has been carried out and certifies that the building complies with the national and municipal building regulations.	Municipality	1 day	No charge

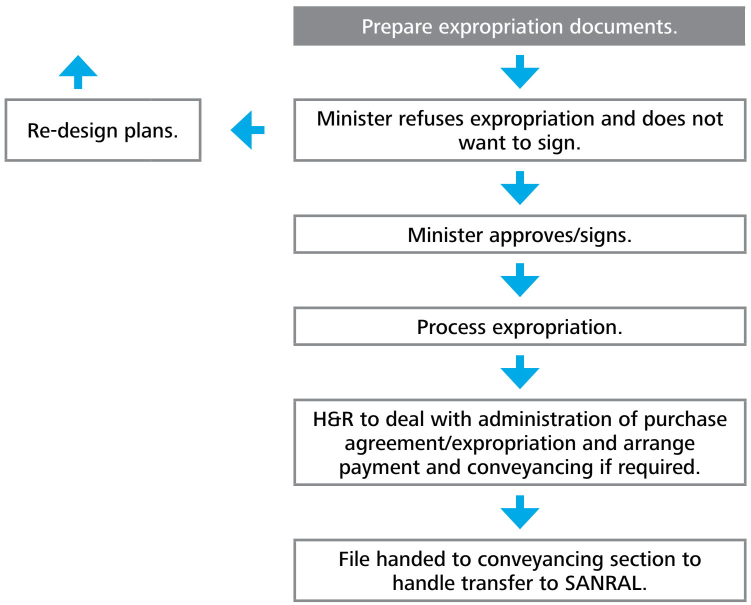
* This procedure can be done simultaneously with previous ones.

Addendum 16: Land acquisition processes in South Africa[102]





[102] *SANRAL Land Acquisition Guidelines. www.nra.co.za/.../Land_Acquisition_Guideline_Manual_for_consulti. Retrieved August 2012.*



Addendum 17: Employee rights - Labour Relations Act Schedule 8: Code Of Good Practice: Dismissal[103]

Code Of Good Practice: Dismissal

Labour Relations Act (ACT 66 OF 1995 as amended)

Schedule 8

This Code of Good Practice is neither published nor sold by the South African Labour Guide. All Codes of Good Practice are available free of charge from the Commission for Conciliation, Mediation and Arbitration at 20 Anderson Street, Johannesburg, or from any of their branch offices.

1. Introduction

(1) This Code of Good Practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.

(2) This Act emphasises the primacy of collective agreements. This Code is not intended as a substitute for the employer's disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum.

(3) The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

2. Fair reasons for dismissal

(1) A dismissal is unfair if it is not effected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.

(2) This Act recognises three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.

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[103] *www.labourguide.co.za*

(3) This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187. The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.

(4) In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

3. Misconduct

Disciplinary procedures prior to dismissal

(1) All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business. In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.

(2) The courts have endorsed the concept of corrective or progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employee's behaviour through a system of graduated disciplinary measures such as counselling and warnings.

(3) Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call for a final warning, or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

Dismissals for misconduct

(4) Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or willful damage to the property of the employer, willfully endangering the safety of others, physical assault on the employer, a fellow employee, client or customer, and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.

(5) When deciding whether or not to impose the penalty of dismissal, the employer should, in addition to the gravity of the misconduct, consider factors such as the employee's circumstances, including length of service, previous disciplinary record and personal circumstances, as well as the nature of the job and the circumstances of the infringement itself.

(6) The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under consideration.

4. Fair procedure

(1) Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal inquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the inquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of the decision.

(2) Discipline against a trade union representative or an employee who is an office bearer or official of a trade union should not be instituted without first informing and consulting the trade union.

(3) If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.

(4) In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with the dismissal procedures.

5. Disciplinary records

Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer, and the reasons for the actions.

6. Dismissals and industrial action

(1) Participation in a strike that does not comply with the provisions of Chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be considered in the light of the facts of the case, including:

- (a) The seriousness of the contravention of this Act.
- (b) Attempts made to comply with this Act.
- (c) Whether or not the strike was in response to unjustified conduct by the employer.

(2) Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

7. Guidelines in cases of dismissal for misconduct

Any person who is determining whether a dismissal for misconduct is unfair should consider:

(a) Whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace; and

(b) If a rule or standard was contravened, whether or not:

- (i) The rule was a valid or reasonable rule or standard.
- (ii) The employee was aware, or could reasonably be expected to have been aware, of the rule or standard.
- (iii) The rule or standard has been consistently applied by the employer.
- (iv) Dismissal was an appropriate sanction for the contravention of the rule or standard.

8. Incapacity: Poor work performance

(1) A newly hired employee may be placed on probation for a period that is reasonable, given the circumstances of the job. The period should be determined by the nature of the job, and the time it takes to determine the employee's suitability for continued employment. When appropriate, an employer should give an employee whatever evaluation, instruction, training, guidance or counselling the employee requires rendering satisfactory service. Dismissal during the probation period should be preceded by an opportunity for the employee to state a case in response and to be assisted by a trade union representative or fellow employee.

(2) After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has:

- (a) Given the employee appropriate evaluation, instruction, training, guidance or counselling.
- (b) After a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.

(3) The procedure leading to dismissal should include an investigation to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.

(4) In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

9. Guidelines in cases of dismissal for poor work performance

Any person determining whether a dismissal for poor work performance is unfair should consider:

(a) Whether or not the employee failed to meet a performance standard.

(b) And if the employee did not meet a required performance standard, whether or not:

- (i) The employee was aware, or could reasonably be expected to have been aware, of the required performance standard.
- (ii) The employee was given a fair opportunity to meet the required performance standard.
- (iii) Dismissal was an appropriate sanction for not meeting the required performance standard.

10. Incapacity: Ill health or injury

(1) Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all of the possible alternatives short of dismissal. When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

(2) In the process of the investigation referred to in subsection (1) the employee should be allowed to the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.

(3) The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.

(4) Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

11. Guidelines in cases of dismissal arising from ill health or injury

Any person determining whether a dismissal arising from ill health or injury is unfair should consider:

(a) Whether or not the employee is capable of performing the work; and

(b) If the employee is not capable:

(i) The extent to which the employee is unable to perform the work.

(ii) The extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted.

(iii) The availability of any suitable alternative work.

Addendum 18: Dispute resolution procedures in South Africa[104]

1. Steps that follow the referral of a labour dispute

(a) In the event of an unfair dismissal, the dispute must be referred within 30 days of date of dismissal/final decision to dismiss.

(b) In case of an unfair labour practice, the dispute must be referred within 90 days. Should a referral not be made within the stipulated time limits an application for condonation must be brought, indicating good reasons for the late referral.

(c) The dispute must be referred to a bargaining council/statutory council with jurisdiction. Should no such council exist, the dispute must be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA).

(d) The Council or CCMA will then attempt to resolve dispute through conciliation.

(e) If the dispute remains unresolved or 30 days have passed, then a certificate is issued indicating the nature of the dispute and that the dispute is unresolved.

(f) The bargaining council/CCMA must arbitrate the matter if it is related to misconduct, incompetence, incapacity, constructive dismissal, dismissal for an unknown reason, or an unfair labour practice.

(g) The Labour Court may adjudicate the matter in case of automatically unfair dismissal (including discrimination and sexual harassment), retrenchment, participation in an illegal strike or exercise of freedom of association.

2. Remedies in cases of unfair dismissal

(a) Reinstatement; and/or

(b) Compensation: maximum 12 month's remuneration in case of unfair dismissal and maximum 24 months' remuneration should the dismissal be automatically unfair.

(c) Urgent interim relief (e.g. an interdict).

(d) In case of automatically unfair dismissal – any order which is appropriate under the circumstances.

3. Consequences of termination of employment

3.1 Rights and duties

(a) Employees' rights acquired before termination remain intact. e.g. salaries in arrears, accrued leave, medical benefits, retrenchment benefits etc. still remain payable.

[104] *www.law24.com/index.php?option=com_fastcontent&view=layman&Itemid=168&domid=slucb/9kmdb/bteeb/g7mfb/th1rb*

3.2 Wrongful/unfair termination

(a) Should the employer be guilty of a breach of contract, contractual remedies will become available to employee. These include claims for specific performance in terms of the contract and claims for damages. e.g. should an employee be appointed in terms of a fixed-term contract and the employer decide to terminate the contract at any time prior to the termination date agreed upon, such an employee could claim that the contractual stipulations must be adhered to, or otherwise claim that the employer pay the salaries he or she would have been entitled to had the contract run its full course.

(b) In case of an unfair dismissal (where there was no fair reason for the dismissal or the employer followed an unfair procedure) employees are entitled to the remedies provided in the Labour Relations Act, namely reinstatement and/or monetary compensation.

(c) A claim in terms of the Labour Relations Act does not abrogate the employee's common law entitlement. Therefore, should the dismissal have been unfair and also constitute a breach of contract, the employee would be entitled to claim on both grounds.

Addendum 19: How to submit your personal income tax return[105]

How to submit your return (ITR12)

There are various ways in which you can complete and submit your return.

This tax season you can be good at tax by choosing the option that suits you best:

- eFiling: The most convenient and quickest way to do it.
- Filing electronically at a branch.
- Completing your return in writing and posting it or dropping it off in a SARS drop box.

[105] *www.sars.gov.za/Tools/Documents/DocumentDownload.asp?FileID*

- eFiling

1.	Register at sarsefiling.co.za if you haven't already done so. Join the over 2.3 million people who already enjoy the speed, convenience and ease of SARS eFiling. If you are already registered for eFiling, simply login with your eFiling username and password.	6.	Next, you have to declare your investment income. If you made any local or foreign taxable gains or losses, fill in the taxable capital gains you made. Declare any other income you earned. If you earned business or professional income or even rental income, you need to fill in the "Local business, trade and professional income" section.
2.	Once you have successfully registered or logged on, you will find your Income Tax Return (ITR12) already populated with your personal information if your employer has provided SARS your IRP5 information. If not, you can try again at a later date by clicking on the "Refresh IRP5 Data" button.	7.	Record your annual medical expenses if you paid your own medical scheme contributions from your bank account and/or any other medical expenses that you did not recover from a medical scheme. Declare your retirement annuity and income protection payments. Claim your work-related travel expenses against your travel allowance.
3.	You can then complete a questionnaire on the first page of the ITR12, which will create all the fields you need to complete in your return.	8.	Once you have completed your tax return, click "Save online" and then use our online tax calculator to get an indication of your assessment.
4.	The second page is for your personal details and you should check the pre-populated information and make changes where necessary. Make sure that you complete or verify all mandatory and relevant fields. One of these is the field for banking details. SARS cannot pay a refund (if applicable) if it has incorrect banking details.	9.	When you're ready to submit the return to SARS, just click on the "File" button. If something is incorrect or incomplete, eFiling will prompt you to correct it. An eFiling step-by-step guide to your ITR12 is available on the SARS website www.sars.gov.za to assist you with the completion and submission of your tax return.
5.	The third page has information about your salary and tax deductions.	10.	You will receive your ITA34 Notice of Assessment within 48 hours on your eFiling profile assuming your return was completed correctly and honestly. The notice will indicate what you owe SARS or what SARS owes you by way of a refund.

- **Filing electronically at a SARS branch**

Staff at SARS branches are ready to assist taxpayers who prefer to file their returns at their nearest SARS branch.

The following supporting documents are required:

- Your original ID or passport, plus a certified copy or, in the absence of an ID/passport, an affidavit together with a temporary ID/ passport.
- Original bank statement with bank stamp that is not older than three months.
- Original proof of residential address not older than three months with your name and residential address (e.g. municipal account).
- Medical aid certificates and receipts/retirement annuity certificates.
- Your IRP5/IT3(a) certificate(s), which you will receive from your employer.
- Travel logbook (if you receive a travel allowance).
- Tax certificates that you received in respect of investment income IT3(b).
- Completed confirmation of diagnosis of disability (ITR-DD) (if applicable).
- Information relating to capital gain transactions (if applicable).
- The approved Voluntary Disclosure Programme (VDP) Agreement between yourself and SARS for years prior to 17 February 2010 (where applicable).
- Financial statements (if applicable, e.g. business income).
- Any other documentation relating to income you received or deductions you want to claim.

Note:

Any changes to banking details will be verified before updating your banking profile. Any refunds due to you (if applicable) will be processed only after your banking details are verified.

Further information on the process to provide banking details is available on the SARS website: www.sars.gov.za.

- **Post or SARS branch drop box**

If you choose manual submission (completing your tax return in writing) then you need to call the SARS Contact Centre on: 0800 00 SARS (7277) or visit a SARS branch and order your Income Tax Return (ITR12). It will then be posted to you.

Deloitte.

Beyond auditing

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Collectively serving more than 50% of the world's largest companies, national enterprises, public institutions, and successful fast-growing global companies, our global professionals bring to fruition the business ideal of being able to "think globally and act locally".

National Anthem

Nkosi sikelel' iAfrika,
Maluphakanyisw' uphondo lwayo,
Yizwa imithandazo yethu,
Nkosi sikelela, thina lusapho lwayo.

Morena boloka setjhaba sa heso,
O fedise dintwa la matshwenyeho,
O se boloke, O se boloke setjhaba sa heso,
Setjhaba sa South Afrika - South Afrika.

Uit die blou van onse hemel,
Uit die diepte van ons see,
Oor ons ewige gebergtes,
Waar die kranse antwoord gee.

Sounds the call to come together,
And united we shall stand,
Let us live and strive for freedom,
In South Africa our land.

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