

The Constitution of the Republic of South Africa, 1996 was the result of remarkably detailed and inclusive negotiations that were carried out with an acute awareness of the injustices of the country's non-democratic past. It took effect on 4 February 1997.



## The Constitution

The Constitution is the supreme law of the land. No other law or government action can supersede the provisions of the Constitution. South Africa's Constitution is one of the most progressive in the world and enjoys high acclaim internationally.

### The Preamble

The Preamble states that the Constitution aims to:

- heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights
- improve the quality of life of all citizens and free the potential of each person
- lay the foundations for a democratic and open society in which government is based on the will of the people, and in which every citizen is equally protected by law
- build a united and democratic South Africa that is able to take its rightful place as a sovereign state in the family of nations.

### Founding provisions

According to Chapter One of the Constitution, South Africa is a sovereign, democratic state founded on the following values:

- human dignity, the achievement of equality and the advancement of human rights and freedom
- non-racialism and non-sexism
- supremacy of the Constitution
- universal adult suffrage, a national common voters' roll, regular elections and a multiparty system of democratic government to ensure accountability, responsiveness and openness.

### Fundamental rights

The fundamental rights contained in Chapter Two of the Constitution seek to protect the rights and freedom of individuals. The Constitutional Court (CC) guards these rights and determines whether actions by the State are in accordance with constitutional provisions.

### Government

Government consists of national, provincial and local spheres, which are distinctive, interdependent and interrelated. The powers of the law-makers (legislative authorities), government (executive

authorities) and courts (judicial authorities) are separate from one another.

### Parliament

Parliament is the legislative authority of South Africa and has the power to make laws for the country in accordance with the Constitution.

It consists of the National Assembly and the National Council of Provinces (NCOP). Parliamentary sittings are open to the public. Since the establishment of Parliament in 1994, a number of steps have been taken to make it more accessible and to motivate and facilitate public participation in the legislative process. The website [www.parliament.gov.za](http://www.parliament.gov.za) encourages comment and feedback from the public.

### National Assembly

The National Assembly consists of no fewer than 350 and no more than 400 members elected through a system of proportional representation.

The National Assembly, which is elected for a term of five years, is presided over by the Speaker, assisted by the Deputy Speaker. The National Assembly is elected to represent the people and to ensure democratic governance as required by the Constitution. It does this by electing the President, providing a national forum for public consideration of issues, passing legislation, and scrutinising and overseeing executive action.

### National Council of Provinces

The NCOP consists of 54 permanent members and 36 special delegates, and aims to represent provincial interests in the national sphere of government. Delegations consist of 10 representatives from each province. The NCOP must have a mandate from the provinces before it can make certain decisions. It cannot, however, initiate a Bill concerning money, which is the prerogative of the Minister of Finance. NCOP Online ([www.parliament.gov.za/ncop](http://www.parliament.gov.za/ncop)) links Parliament to the provincial legislatures and local government associations. It provides information on draft legislation and allows the public to make electronic submissions. The NCOP came into existence on 6 February 1997.

## Law-making

Any Bill may be introduced in the National Assembly. A Bill passed by the National Assembly must be referred to the NCOP for consideration.

A Bill affecting the provinces may be introduced in the NCOP. After it has been passed by the council, it must be referred to the assembly.

A Bill concerning money must be introduced in the assembly and referred to the NCOP for consideration and approval after being passed.

If the council rejects a Bill or passes it subject to amendments, the assembly must reconsider the Bill and pass it again with or without amendments. There are special conditions for the approval of laws dealing with provinces.

## The President

The President is the Head of State and leads the Cabinet. He or she is elected by the National Assembly from among its members, and leads the country in the interest of national unity, in accordance with the Constitution and the law.

## The Deputy President

The President appoints the Deputy President from among the members of the National Assembly. The Deputy President assists the President in executing government functions.

## Cabinet

The Cabinet consists of the President, as head of the Cabinet, the Deputy President and ministers. The President appoints the Deputy President and ministers, assigns their powers and functions and may dismiss them.

The President may select any number of ministers from among the members of the National Assembly, and may select no more than two ministers from outside the assembly.

The President appoints a member of the Cabinet to be the leader of government business in the National Assembly.

## Deputy ministers

The President appoints deputy ministers from among the members of the National Assembly.

## Traditional leadership

Chapter 11 of the Constitution states that the institution, status and roles of traditional leadership, according to customary law, are recognised, subject to the Constitution.

The Chief Directorate: Traditional Leadership and Institutions in the Department of Provincial

### The Presidency, February 2009

|                  |                   |
|------------------|-------------------|
| President        | Kgalema Motlanthe |
| Deputy President | Baleka Mbete      |

and Local Government provides support to traditional leaders and institutions, and is responsible for the development of policy in this regard.

It renders an anthropological service, and provides advice and support regarding governance and development matters. It advises and supports the National House of Traditional Leaders and maintains a database of traditional leaders and institutions.

It is also responsible for developing and implementing a regulatory framework for the protection of the rights of cultural, religious and linguistic communities.

## Traditional Leadership and Governance Framework Amendment Bill

The Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003), was passed in December 2003 and came into operation in September 2004. The implementation of the Act in national and provincial spheres has necessitated that certain improvements be effected to the Act.

The Traditional Leadership and Governance Framework Amendment Bill provides for the following amendments:

- recognition of kingships or queenships and the withdrawal of such recognition
- disestablishment of paramountcies and the withdrawal of recognition of paramount chiefs
- establishment of kingship or queenship councils and the determination of their functions
- the determination of the membership of traditional councils and kingship or queenship councils by premiers and the Minister of Provincial and Local Government respectively in line with provincial peculiarities
- establishment of a traditional subcouncil where the area of jurisdiction of a traditional community occupies two or more geographical areas apart from each other
- extension of the original one year to five years, the period within which the traditional authorities must be transformed in line with the Act
- alignment of the terms of office of all the structures.

## Traditional councils

The stipulations of Chapter 12 of the Constitution and the advent of democracy required the trans-





formation of the composition of traditional councils. Therefore, legislation has transformed the composition of traditional councils to provide for elements of democracy (40% of members must be elected) and gender representivity (one third of members must be women).

Legislation has also opened a window of opportunity for municipalities and traditional councils to achieve co-operative governance. Traditional councils have been given a strong voice in development matters and may now enter into partnerships and service-delivery agreements with government in all spheres.

### Houses of traditional leaders

The Constitution mandates the establishment of houses of traditional leaders by means of either provincial or national legislation.

The National House of Traditional Leaders was established in terms of the National House of Traditional Leaders Act, 1997 (Act 10 of 1997). Its objectives and functions are to promote the role of traditional leadership within a democratic constitutional dispensation, enhance unity and understanding among traditional communities and advise national government.

Provincial houses of traditional leaders were established in all six provinces that have traditional leaders, namely the Eastern Cape, KwaZulu-Natal, the Free State, Mpumalanga, Limpopo and North West.

The Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003), provides for the establishment of local houses of traditional leaders.

In accordance with the National Programme of Support (NPS) for the institution of traditional leadership, a comprehensive skills development programme for traditional leadership has been developed by the Department of Provincial and Local Government in partnership with the Local Government Sector Education and Training Authority.

In 2008, the Government NSP for Traditional Leadership was expected to be submitted to Cabinet for approval. In addition, all provincial governments had promulgated province-specific legislation on traditional leadership, while 76% of traditional councils and 58% of local houses had been established. The policy document on Khoi-San traditional communities was developed in consultation with the National Khoi-San Council and traditional communities were expected to contribute towards the finalisation of the policy framework by the end of 2008.



The national and provincial houses of traditional leaders enhance the co-operative relationships within national and provincial government, while the establishment of local houses of traditional leaders will deepen and cement the relationship between municipalities and traditional leaders on customary law and development initiatives.

In March 2008, Cabinet approved the proposal to establish a national department for traditional leadership under the Minister of Provincial and Local Government to restore the dignity of traditional leadership, which is the custodian of African customs and heritage. The process will begin in the 2009/10 financial year. It is expected that the department will be fully established and operational by the 2010/11 financial year.

### The National House of Traditional Leaders Bill

The Council of Traditional Leaders Act, 1997 was amended through the Council of Traditional Leaders Amendment Act, 1998 (Act 85 of 1998), and the National House of Traditional Leaders Amendment Act, 2000 (Act 206 of 2000).

To improve the functionality and broaden the scope of the work of the national house, the National House of Traditional Leaders Bill provides for the following key issues:

- the continued existence of the National House of Traditional Leaders with added responsibilities
- the composition of the national house to be representative of all provinces, including the provinces that have recently acquired traditional communities after the redetermination of provincial boundaries
- streamlining the process of electing members of the national house in the provinces
- determining powers and duties of the national house in line with the *White Paper on Traditional Leadership and Governance*
- enhancing the functioning and management of the national house
- providing support to the house by government in respect of administration, finances, capacity-building and resources
- providing for the relationship between the national house and the provincial houses
- providing for the relationship between the national house and kings and queens
- providing for the relationship between the national house and government.



### Commission on Traditional Leadership Disputes and Claims

The commission was established in terms of Section 22(1) of the Traditional Leadership and Governance Framework Act, 2003. The main objective of the commission is to investigate and make findings on traditional-leadership disputes and claims.

In 2008, the Commission on Traditional Leadership Disputes and Claims presented its findings on the status of South Africa's existing para-mountcies. The determination was made in terms

of customary law and the Traditional Leadership and Governance Framework Act, 2003.

### Department of Provincial and Local Government

The mandate of the department is derived from chapters three and seven of the Constitution of the Republic of South Africa, 1996.

The aim of the department is to develop and promote a national system of integrated and co-operative governance and to support provincial and local government.

#### Cabinet ministers and deputy ministers, as at 1 February 2009

| Portfolio                              | Minister                 | Deputy Minister                   |
|--|--------------------------|-----------------------------------|
| Agriculture and Land Affairs           | Lulama Xingwana          | Dirk du Toit                      |
| Arts and Culture                       | Pallo Jordan             | Ntombazana Botha                  |
| Communications                         | Ivy Matsepe-Casaburri    | Radhakrishna Padayachie           |
| Correctional Services                  | Ngconde Balfour          | Loretta Jacobus                   |
| Defence                                | Charles Nqakula          | Fezile Bhengu                     |
| Education                              | Naledi Pandor            | André Gaum                        |
| Environmental Affairs and Tourism      | Marthinus van Schalkwyk  | Joyce Mabudafhasi                 |
| Finance                                | Trevor Manuel            | Nhlanhla Nene                     |
| Foreign Affairs                        | Nkosazana Dlamini Zuma   | Sue van der Merwe, Fatima Hajaig  |
| Health                                 | Barbara Hogan            | Molefi Sefularo                   |
| Home Affairs                           | Nosiviwe Mapisa-Nqakula  | Malusi Gigaba                     |
| Housing                                | Lindiwe Sisulu           | -                                 |
| Intelligence Services                  | Siyabonga Cwele          | -                                 |
| Justice and Constitutional Development | Enver Surty              | Johnny de Lange                   |
| Labour                                 | Membathisi Mdladlana     | -                                 |
| Minerals and Energy                    | Buyelwa Sonjica          | -                                 |
| Provincial and Local Government        | Sicelo Shiceka           | Nomatyala Hangana                 |
| The Presidency                         | Manto Tshabalala-Msimang | -                                 |
| Public Enterprises                     | Brigitte Mabandla        | -                                 |
| Public Service and Administration      | Richard Baloyi           | -                                 |
| Public Works                           | Geoff Doidge             | Ntopile Kganyago                  |
| Safety and Security                    | Nathi Mthethwa           | Susan Shabangu                    |
| Science and Technology                 | Mosibudi Mangena         | Derek Hanekom                     |
| Social Development                     | Zola Skweyiya            | Jean Swanson-Jacobs               |
| Sport and Recreation                   | Makhenkesi Stofile       | Gert Oosthuizen                   |
| Trade and Industry                     | Mandisi Mpahlwa          | Rob Davies and Elizabeth Thabethe |
| Transport                              | Jeff Radebe              | -                                 |
| Water Affairs and Forestry             | Lindiwe Hendricks        | -                                 |

As a national department, its functions are to develop national policies and legislation with regard to provinces and local government, as well as to support and monitor the implementation of the following:

- Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)
- Municipal Property Rates Act, 2004 (Act 6 of 2004)
- Municipal Finance Management Act, 2003 (Act 56 of 2003)
- Traditional Leadership and Governance Framework Act, 2003
- Disaster Management Act, 2002 (Act 57 of 2002)
- Municipal Systems Act, 2000 (Act 57 of 2002)
- Municipal Structures Act, 1998 (Act 117 of 1998)
- Municipal Demarcation Act, 1998 (Act 27 of 1998)
- *White Paper on Local Government* (1998).

The department's other function is to support provinces and local government in fulfilling their constitutional and legal obligations.

The vision of the department is to create a capable and well-integrated system of government to achieve sustainable development and enhanced service delivery. The mission of the department is to provide professional and technical support to government by:

- developing appropriate policies and legislation to promote integration in government's development programmes and service delivery
- providing strategic interventions, support and partnerships to facilitate policy implementation in the provinces and local government
- creating enabling mechanisms for communities to participate in governance.

The values of the department as adopted in accordance with the Batho Pele ("People First") principles focus on the following:

- dedication to professional development and service delivery
- professionalism in the conduct of all employees
- leadership and participation in service delivery
- being goal-orientated in undertaking its mandate.

The activities of the Department of Provincial and Local Government are organised under the following seven branches:

- Corporate Services
- Governance, Policy and Research

- Urban and Rural Development
- Systems and Capacity-Building
- Free Basic Services and Infrastructure
- Monitoring and Evaluation.

### **Provincial government**

In accordance with the Constitution, each of the nine provinces has its own legislature, consisting of between 30 and 80 members. The number of members is determined in terms of a formula set out in national legislation. The members are elected in terms of proportional representation.

The executive council of a province consists of a premier and a number of members (MECs). Premiers are appointed by the President of the country.

Decisions are taken by consensus, as is the case in the national Cabinet. Besides being able to make provincial laws, a provincial legislature may adopt a constitution for its province if two thirds of its members agree.

However, a provincial constitution must correspond with the national Constitution.

According to the Constitution, provinces may have legislative and executive powers, concurrent with the national sphere, over:

- agriculture
- casinos, racing, gambling and wagering
- cultural affairs
- education at all levels, excluding university and university of technology education
- environment
- health services
- housing
- language policy
- nature conservation
- police services
- provincial public media
- public transport
- regional planning and development
- road-traffic regulation
- tourism
- trade and industrial promotion
- traditional authorities
- urban and rural development
- vehicle licensing
- welfare services.

These powers can be exercised to the extent that provinces have the administrative capacity to assume effective responsibilities.

Provinces also have exclusive competency over a number of areas, which include:

- abattoirs
- ambulance services



### Members of the executive councils of provincial governments, as at 30 September 2008

| Eastern Cape               |  | KwaZulu-Natal              |   |
|----------------------------|--|----------------------------|---|
| Mr Mbulelo Sogoni          | Premier  | Mr Sibusiso Ndebele        | Premier   |
| Mr Gugile Nkwinti          | Agriculture  | Mr Mtholephi Mthimkhulu    | Agriculture and<br>Environmental Affairs                  |
| Mr Mahlubandile Qwase      | Education  | Ms Ina Cronjé              | Education   |
| Mr Phumulo Masualle        | Finance, Economic,<br>Development and<br>Environmental Affairs | Ms Weziwe Thusi            | Arts, Culture and Tourism                                 |
| Ms Thokozile Xasa          | Local Government and<br>Traditional Affairs                    | Dr Zweli Mkhize            | Finance and Economic<br>Development                       |
| Ms Pemmy Mojadina          | Health   | Ms Neliswa Nkonyeni        | Health  |
| Ms Thobile Mhlahlo         | Housing, Safety and Liaison                                    | Mr Mike Mabuyakhulu        | Local Government, Housing<br>and Traditional Affairs      |
| Mr Christiaan Martin       | Public Works   | Dr Meschack Radebe         | Social Welfare and<br>Population Development              |
| Ms Gloria Barry            | Roads and Transport  | Ms Lydia Johnson           | Public Works  |
| Ms Noxolo Abraham-Ntantiso | Sport, Recreation, Arts and<br>Culture                         | Mr Bheki Cele              | Transport, Community<br>Safety and Liaison                |
| Mr Sam Kwelita             | Social Development   | Mr Amichand Rajbansi       | Sport and Recreation                                      |
| Free State                 |  | Limpopo                    |   |
| Ms Beatrice Marshoff       | Premier  | Mr Sello Moloto            | Premier   |
| Ms Mamiki Qabathe          | Agriculture  | Dr Aaron Motsoaledi        | Education   |
| Mr Cosca Mokitlana         | Education  | Mr Saad Cachalia           | Provincial Treasury                                       |
| Mr Neo Masithela           | Tourism, and Environmental<br>and Economic Affairs             | Mr Charles Sekoati         | Health and Social Development                             |
| Mr Mxolisi Dikwana         | Public Safety and Liaison                                      | Ms Maite Nkoana-Mashabane  | Local Government and Housing                              |
| Mr Sakhwo Belot            | Health   | Mr Collins Chabane         | Economic Development,<br>Environment and Tourism          |
| Mr Joel Mafereka           | Local Government and Housing                                   | Ms Dikeledi Magadzi        | Agriculture   |
| Mr Pule Makgoe             | Provincial Treasury  | Dr Joyce Mashamba          | Sport, Arts and Culture                                   |
| Mr Seiso Mohai             | Transport, Roads and<br>Public Works                           | Mr Justice Pitso           | Roads and Transport                                       |
| Ms Mantsheng Tsopo         | Social Development   | Ms Samson Ndou             | Public Safety and Liaison                                 |
| Mr Ace Magashule           | Sport, Arts and Culture  | Ms Machuene Semanya        | Public Works  |
| Gauteng                    |  | Mpumalanga                 |   |
| Mr Paul Mashatile          | Premier  | Mr Thabang Makwetla        | Premier   |
| Mr Khabisi Mosunkutu       | Agriculture, Conservation and<br>Environment                   | Ms Dinah Pule              | Agriculture, Conservation,<br>Environment and Land Reform |
| Ms Dorothy Mahlangu        | Local Government   | Mr Craig Padayachee        | Economic Development and<br>Planning                      |
| Ms Angelina Motshekga      | Education  | Ms Mmathulare Coleman      | Education   |
| Mr Mandla Nkomfe           | Finance and Economic Affairs                                   | Mr Fish Mahlalela          | Health and Social Development                             |
| Mr Brian Hlongwa           | Health   | Ms Candith Mashego-Dlamini | Local Government and Housing                              |
| Ms Nomvula Mokonyane       | Housing  | Mr Madala Masuku           | Public Works  |
| Mr Firoz Cachalia          | Community Safety   | Ms Jabulani Mahlangu       | Finance   |
| Ms Barbara Creecy          | Sport, Arts, Culture and<br>Recreation                         | Ms Dinah Pule              | Culture, Sport and Recreation                             |
| Mr Kgaogelo Lekgoro        | Social Development   | Mr Jackson Mthembu         | Roads and Public Transport                                |
| Mr Ignatius Jacobs         | Public Transport, Roads<br>and Works                           | Mr Siphosezwe Masango      | Safety and Security                                       |

### Members of the executive councils of provincial governments, as at 30 September 2008

#### Northen Cape

|                          |   |
|--------------------------|---|
| Ms Dipuo Peters          | Premier   |
| Ms Tina Joemat-Petterson | Agriculture and Land Reform                             |
| Mr Gomolelo Lucas        | Education   |
| Mr Pakes Dikgetsii       | Finance   |
| Ms Eunice Binase         | Health  |
| Mr Boeboe van Wyk        | Housing and Local Government                            |
| Ms Thembi Madikane       | Safety and Liaison                                      |
| Mr Goolam Akharwary      | Social Development                                      |
| Mr Fred Wyngaardt        | Sport, Arts and Culture                                 |
| Mr Pieter Saaiman        | Economic Affairs, Tourism, Environment and Conservation |
| Mr Kagisho Molusi        | Public Works, Roads and Transport                       |

#### North West

|                        |   |
|------------------------|---|
| Ms Edna Molewa         | Premier                                   |
| Mr Ndleleni Duma       | Arts, Culture and Sport                   |
| Mr Jan Serfontein      | Agriculture, Conservation and Environment |
| Mr Darkey Africa       | Economic Development and Tourism          |
| Mr Debeza Yawa         | Local Government and Housing              |
| Rev Johannes Tselapedi | Education                                 |
| Ms Nomonde Rasmeni     | Health                                    |
| Ms Maureen Modiselle   | Finance                                   |
| Mr Frans Vilakazi      | Transport, Roads and Community Safety     |
| Mr Jerry Thibedi       | Public Works                              |
| Ms Nikiwe Mangqo       | Social Development                        |

#### Western Cape

|                     |  |
|---------------------|--|
| Mr Lynne Brown      | Premier  |
| Mr Cobus Dowry      | Agriculture  |
| Mr Patrick McKenzie | Community Safety   |
| Mr Yousuf Gabru     | Education  |
| Ms Pierre Uys       | Local Government, Environmental Affairs and Development Planning |
| Ms Garth Strachan   | Finance, Tourism and Economic Development                        |
| Mr Marius Fransman  | Health   |
| Mr Cameron Dugmore  | Housing  |
| Mr Koleka Mqulwana  | Transport and Public Works                                       |
| Ms Zodwa Magwaza    | Social Development   |

- liquor licences
- museums other than national museums
- provincial planning
- provincial cultural matters
- provincial recreation and activities
- provincial roads and traffic.

The President's Co-ordinating Council (PCC) is a consultative forum where the President discusses issues of national, provincial and local importance with the premiers.

The forum addresses issues such as:

- enhancing the role of provincial executives regarding national policy decisions
- strengthening the capacity of provincial governments to implement government policies and programmes
- integrating provincial growth and development strategies (PGDS) within national development plans
- improving co-operation between national and provincial spheres of government
- improving co-operation on fiscal issues
- ensuring that there are co-ordinated implementation programmes and the necessary structures in place to address issues such as rural development, urban renewal, and safety and security.

### Local government

There are 283 municipalities in South Africa. They are focused on growing local economies and providing infrastructure and services.

In accordance with the Constitution and the Organised Local Government Act, 1997 (Act 52 of 1997), which formally recognises organised local government associations, organised local government may designate up to 10 part-time representatives to represent municipalities and to participate in proceedings of the NCOP.

The Department of Provincial and Local Government aims to build and strengthen the capability and accountability of provinces and municipalities. This includes:

- continued hands-on support through the established system and capacity-building programme, focusing on critical areas such as integrated development planning, local economic development (LED), financial management, service delivery and public participation
- evaluating the impact of government programmes in municipal areas, enhancing performance and accountability by improving the quality of reporting on the local

government strategic agenda (LGSA) and improving the monitoring, reporting and evaluation of capacity in local government.

The department is also responsible for co-ordinating and supporting policy development and the implementation of the LGSA, and monitoring and supporting service delivery.

### **Municipal Demarcation Board**

The board is a constitutional institution established by the Local Government: Municipal Demarcation Act, 1998.

The main function of the board is to determine municipal boundaries in accordance with the Act and other related legislation, and to advise on demarcation matters.

In addition, the board is tasked with delimiting wards into metropolitan and local municipalities.

### **South African Local Government Association (Salga)**

Salga is a listed public entity, established in terms of Section 21 of the Companies Act, 1973 (Act 61 of 1973), and recognised by the Minister of Provincial and Local Government in terms of the Organised Local Government Act, 1997 (Act 52 of 1997).

Salga represents local government on numerous intergovernmental forums such as the President's Co-ordinating Council (PCC), Minister and MECs (MinMec) forum, the Budget Forum, as well as the NCOP and on the Financial and Fiscal Commission.

Salga aims, among other things, to:

- transform local government to enable it to fulfil its developmental role
- enhance the role of provincial local government associations as provincial representatives and consultative bodies on local government
- raise the profile of local government
- ensure full participation of women in local government
- act as the national employers' organisation for municipal and provincial member employers
- provide legal assistance to its members, using its discretion in connection with matters that affect employee relations.

Salga is funded through a combination of sources, including a national government grant, membership fees from provincial and local government associations that are voluntary members, and donations from the donor community for specific projects.

### **Local Government Strategic Agenda (2006 – 2011)**

The implementation of the LGSA from 2006 onwards was a logical extension of Project Consolidate, initiated in 2004. The three core pillars of the LGSA are:

- mainstreaming hands-on support to local government to improve municipal governance, performance and accountability
- addressing the structure and governance arrangements of the State to better strengthen, support and monitor local government
- refining and strengthening the policy, regulatory and fiscal environment for local government and giving greater attention to the enforcement measures.

In 2007, national government together with all provinces, Salga, individual municipalities and key partners outside of government gave active support to implementing this agenda, which focuses on the five key performance areas of local government transformation, namely:

- municipal transformation and institutional development
- basic services and infrastructure
- financial viability and financial management
- LED
- good governance and community participation.

In terms of the five-year LGSA, 164 municipalities have been receiving hands-on support as from April 2008, an increase of 56 municipalities since 2007. National sector departments, namely the Department of Provincial and Local Government, National Treasury, and the Department of Water Affairs and Forestry, have mobilised 626 technical experts in support of municipalities. The Department of Water Affairs and Forestry has also dedicated 51 technical experts to focus on water-related services, particularly in the Free State.

### **Municipalities**

The Constitution provides for three categories of municipalities.

Imbizo is a forum for enhancing dialogue and interaction between government and the people. It provides an opportunity for government to communicate its Programme of Action and the progress being made. It promotes participation of the public in the programmes to improve their lives.



As directed by the Constitution, the Local Government: Municipal Structures Act, 1998 contains criteria for determining when an area must have a category-A municipality (metropolitan municipalities) and when municipalities fall into categories B (local municipalities) or C (district municipalities). The Act also determines that category-A municipalities can only be established in metropolitan areas.

Metropolitan councils have single metropolitan budgets, common property ratings and service-tariff systems, and single employer bodies.

South Africa has nine metropolitan municipalities, namely:

- Buffalo City (East London)
- City of Cape Town
- Ekurhuleni Metropolitan Municipality (East Rand)
- City of eThekweni (Durban)
- City of Johannesburg
- Mangaung Municipality (Bloemfontein)
- Msunduzi Municipality (Pietermaritzburg)
- Nelson Mandela Metropolitan Municipality (Port Elizabeth)
- City of Tshwane (Pretoria).

Metropolitan councils may decentralise powers and functions.

However, all original municipal, legislative and executive powers are vested in the metropolitan council.

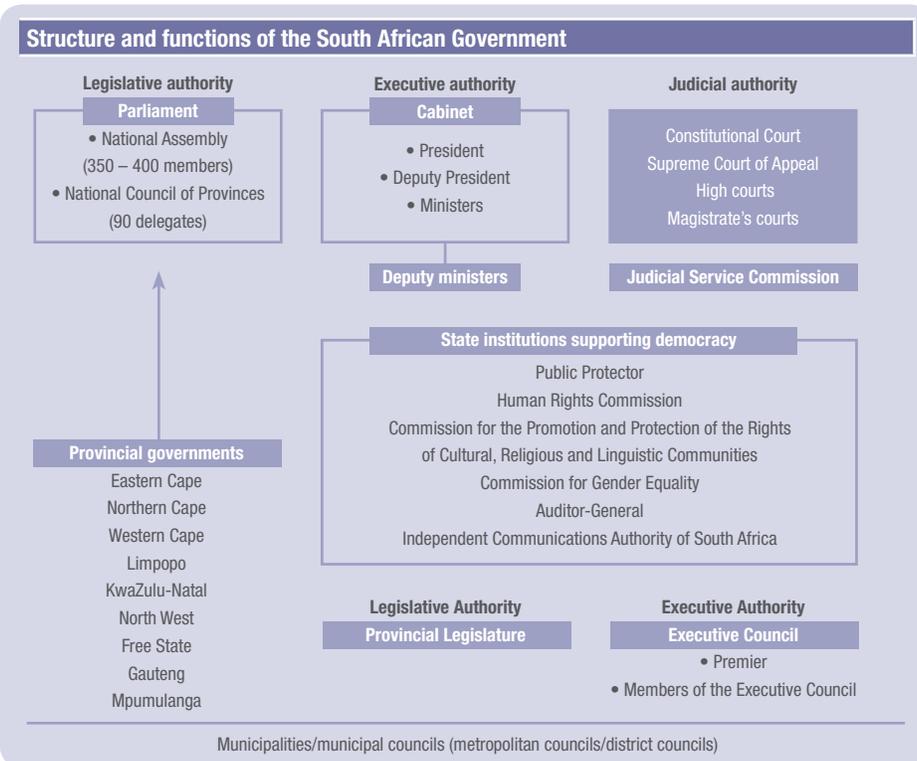
In metropolitan areas, there is a choice of two types of executive system: the mayoral executive system where executive authority is vested in the mayor, and the collective executive committee system where these powers are vested in the executive committee.

Non-metropolitan areas consist of district councils and local councils.

District councils are primarily responsible for capacity-building and district-wide planning.

The Local Government: Municipal Structures Act, 1998 provides for ward committees whose tasks, among other things, are to:

- prepare, implement and review integrated development plans (IDPs)
- establish, implement and review municipalities' performance-management systems
- monitor and review municipalities' performances
- prepare municipalities' budgets
- participate in decisions about the provision of municipal services
- communicate and disseminate information on governance matters.





### **Integrated development plans**

In terms of the Local Government: Municipal Systems Act, 2000, all municipalities are required to prepare IDPs. Integrated development planning is a process by which municipalities prepare five-year strategic plans that are reviewed annually in consultation with communities and stakeholders.

The aim is to achieve service delivery and development goals in municipal areas in an effective and sustainable way. National and provincial sector departments, development agencies, private-sector bodies, non-governmental organisations (NGOs) and communities all have a key role to play in preparing and implementing IDPs.

The IDP Nerve Centre provides a single, web-based information system that allows multiple stakeholders, involved in municipal service delivery, to access, capture, revise and report a core set of planning, funding, programme and project-based information over a multi-year period in a consistent manner.

By May 2008, the IDP analysis sessions were underway in all nine provinces. The objectives of the IDP analysis sessions are to:

- develop a concrete programme, as part of the five-year LGSA
- provide clarity on how sector departments can accelerate their support to municipalities, based on master sector plans.

The engagement of some national departments in the analysis and improvements of IDPs remains a challenge. There is a need for national sector departments to participate actively in IDP analysis sessions to ensure the development and improvement of master sector plans.

The Department of Provincial and Local Government distributed the IDP Format Guide and IDP Analysis Framework to sector departments, provinces and municipalities. The provincial and sector reports were presented at the National Development Planning Forum in May 2008.

In terms of integration of planning, the IDP analysis sessions were held in all provinces in April and May 2008. A winter school was opened in July 2008 at the University of Pretoria to planners from municipalities that had poor IDPs.

A partnership with the South African Planning Institute has been established on a mentoring programme for municipal planners on development administration.

In 2007/08, 79% of IDPs received a credibility rating of between high and medium compared with 40% three years before. Of major significance

in this regard is the 100% adoption rate of IDPs as a result of concerted effort of all spheres over the last three years.

### **Legislation**

The Local Government: Municipal Systems Act, 2000 establishes a framework for planning, performance-management systems, effective use of resources and organisational change in a business context.

The Act also establishes a system for municipalities to report on their performance, and provides residents with an opportunity to compare this performance with that of municipalities.

It also regulates public-private partnerships. The Act allows municipalities significant powers to corporatise their services, to establish utilities for service delivery, or to enter into partnerships with other service-providers. The Act provides for the adoption of a credit-control policy for municipalities that will provide for the termination of services in the event of non-payment. Municipalities have the power to pass bylaws to implement the policy.

The Local Government: Municipal Finance Management Act, 2003 is aimed at modernising municipal budgeting and financial management. It facilitates the development of a long-term municipal lending/bond market. It also introduces a governance framework for separate entities created by municipalities.

The Act is a critical element in the overall transformation of local government in South Africa. It fosters transparency at local government level through budget and reporting requirements.

The Local Government: Municipal Property Rates Act, 2004 regulates the power of a municipality to impose property rates, excludes certain properties from rating in the national interest, provides fair and equitable valuation methods of properties, and provides for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies.

### **Municipal Infrastructure Grant (MIG)**

The largest infrastructure transfer programme is the MIG, currently administered by the Department of Provincial and Local Government. The MIG has shown strong real growth over the period, averaging 6,4% between 2004/05 and 2006/07. Real growth is projected to accelerate to an average of 21,4% over the medium term.



The MIG was introduced in 2004/05 through consolidating various sector infrastructure grants, each administered by different departments, into a single programme. This was intended to make the system of transfers to municipalities simpler, more certain and more supportive of municipal infrastructure priorities. The programme is designed to supplement the capital budgets of municipalities, with a focus on providing basic infrastructure services to the poor, while stimulating and job creation over the medium term.

Funding for electrification has not yet been incorporated into the MIG, due to uncertainties associated with the restructuring of the electricity distribution industry. MIG funds are distributed to all municipalities based on a formula that accounts for existing backlogs in service delivery as well as the functions assigned to individual municipalities.

### Local economic development

LED is a key feature of government's overall strategy to address economic challenges.

All metropolitan and district municipalities have convened growth and development summits. The focus in most municipalities is on implementing the decisions and outcomes of these summits.

The National Framework for LED for stimulating and developing sustainable economies promotes a strategic approach to the development of local

economies and a shift away from narrow municipal interests focused only on government input and ad-hoc projects, which do not have impact in terms of scale.

There are two major policy thrusts identified in the framework, namely: public-sector leadership and governance and sustainable community investment programmes. Four key strategies emanate from these policy thrusts with accompanying main actions. These are:

- improving good governance, service delivery, and public and market confidence in municipalities
- spatial development planning and exploiting the comparative advantage and competitiveness of districts and metros
- enterprise support and business infrastructure development
- introducing sustainable community-investment programmes focusing on organising communities for development and maximising circulation of public spend in local economies.

### Project Consolidate

In 2004, Project Consolidate, a hands-on support and engagement programme, focusing on targeted municipalities, was launched.

The mainstreaming of Project Consolidate into the LGSA has seen a total of 359 experts deployed to 105 Project Consolidate municipalities by the end of 2007.

By August 2008, 1 134 experts had been deployed to 268 municipalities (including the Project Consolidate municipalities). Key partners, such as the Siyenza Manje initiative of the Development Bank of Southern Africa (DBSA), played a valuable role. Deployed experts provide technical assistance in areas such as engineering, finance, town planning, project management and human-resource (HR) development. The involvement of national and provincial sector departments in supporting local government has improved. However, professional vacancy rates remain relatively high.

### Government and communication

The vision of the Government Communication and Information System (GCIS) is to help meet the communication and information needs of government and the people to ensure a better life for all.

- It consists of the following chief directorates:
- The Communication Service Agency aims to provide core communication services to the

The Integrated Sustainable Rural Development Programme (ISRDP) and the Urban Renewal Programme (URP), which run projects to improve service delivery and alleviate poverty, continue to focus on their key target groups

– the poor, the marginalised, the underdeveloped and the disadvantaged.

The programmes aim to maximise the impact of all government resources in the 21 identified rural and urban nodes. Under the umbrella of the ISRDP and URP, the Department of Provincial and Local Government with the support of the Business Trust undertook a nodal economic assessment and profiling of all 21 urban and rural development nodes.

One of the key findings of this study was that the individual nodal economies profiles amply demonstrate that there is significant potential for catalytic economic development in these nodes.

One priority of the Governance and Administration Cluster is to support municipalities in recruiting and mobilising the necessary economic development expertise to act on the findings of this study.



GSIS and other government departments, both in-house and through outsourcing. It also produces the *South Africa Yearbook* and *Pocket Guide to South Africa*.

- Government and Media Liaison aims to co-ordinate effective, integrated and comprehensive communication and media liaison services across government. It is also responsible for BuaNews, a government news service.
- Policy and Research conducts communication research to provide communication advice and monitors the development and implementation of government programmes from a communication perspective.
- Provincial and Local Liaison supports development communication and extends government's information infrastructure through partnerships with provincial and local government. It facilitates the establishment of Thusong Service Centres (former multi-purpose community centres) to make services and information more accessible to the public, particularly the disadvantaged.

In June 2008, former President Thabo Mbeki officially launched the 100th Thusong Service Centre at Inhlazuka, Umgungundlovu Local Municipality, KwaZulu-Natal.



The Thusong Service Centres are geared to bring government closer to the people and ensure that citizens, especially the poor, are able to access services close to where they live.

Since the establishment of the Inhlazuka Thusong Service Centre, about 2 000 people a month already benefit from services rendered. In 2008, the Thusong Programme was nearing its 10th year of operation as a "one-stop" centre for services and information. The Inhlazuka centre offers the following services to the community:

- South African Police Service
- post office
- tele-centre
- library
- Department of Home Affairs
- Department of Social Development
- Government Communication and Information System
- Department of Labour
- Department of Health
- Department of Education (district office)
- Department of Local Government and Traditional Affairs
- Community development workers
- Richmond Municipality.

The centre also has a canteen and a sports hall, which are used for various functions.

- Corporate Services provides financial management, administrative services, and HR administration and development (HRD). The Project Desk implements project management and co-ordinates services to cross-cutting projects driven by the GCIS, on behalf of other departments.
- *Vuk'uzenzele* is published bimonthly and focuses on economic and other opportunities created by South Africa's democracy.
- The 2010 Communication Project Management Unit facilitates the achievement of the communication objectives for the first African World Cup in 2010.

The chief executive officer of the GCIS is the official spokesperson for government.

The GCIS is central to developing communication strategies and programmes for government's transversal campaigns.

It also assists departments with specific campaigns and events, as well as in developing departmental communication structures.

The GCIS is responsible for maintaining the website, *Government Online* ([www.gov.za](http://www.gov.za)), which includes an information portal for general information about government, and a services portal, which is a source of information about all the services rendered by national government.

The GCIS leads or is involved in various communication partnerships and joint processes, including the following:

- An intersectoral programme to set up Thusong Service Centres and provide information about how to access government services. By January 2009, 130 Thusong Service Centres were in place and more centres were being established. A strategy for setting up one Thusong Service Centre in each of the country's municipalities by 2014 has been approved.
- The transformation of the advertising and marketing industry.
- The Imbizo Campaign of direct interaction between government and the public.

The following entities report to the GCIS:

- the International Marketing Council (IMC)
- the Media Development and Diversity Agency. (See chapters 4 and 5: *Arts and culture and Communications*.)

### International Marketing Council

The IMC, the custodian of Brand South Africa, is a presidential initiative under the auspices of the GCIS.





The IMC's role is to build a general climate of positive opinion, domestically and abroad, that will encourage a stronger flow of tourism and increased direct investment into South Africa, and build national pride among South Africans as a nation.

The IMC creates the space on which more direct marketing initiatives by the private sector and government departments play out. It also works closely with South African Tourism to ensure that marketing initiatives in tourism and in investment and trade are complementary.

On the domestic front, the IMC's activities seek to build a nation that is proud of itself and reflects the spirit of a country that is "Alive With Possibility".

Particular support is provided to individuals or institutions that interact regularly with visitors to the country or who are particularly active abroad in profiling the opportunities on offer in South Africa.

The IMC has country managers in the United States of America, United Kingdom and India. The country managers work with the South African diplomatic missions in the various capitals to build South Africa's image and deal with challenges to the country's reputation.

Through the South African Government's International Relations, Peace and Security Cluster, the IMC and its partners are actively developing ways to ensure that the marketing of the country is as effective in places where the IMC does not have direct representation.

IMC activities fall into the following main categories:

- marketing, which uses various forms of advertising and promotion to reach the broad South African public and influential business and opinion leaders in key markets abroad
- public relations, with a strong media-relations emphasis, which reinforces the marketing campaigns and promotes the values associated with Brand South Africa through editorial coverage domestically and abroad
- brand integration, involving the development of a substantial cadre of "brand ambassadors" within key organisations, influencing the quality of their interaction with tourists and business visitors to South Africa
- direct representation to priority countries through the country managers whose role in terms of media relations and partnership building has proved invaluable

- online communication through the official South African web portal – *www.southafrica.info* – which rivals major media houses in terms of the volume it attracts

- initiatives in the area of media relations.

In the build-up to the 2010 World Cup, the IMC will intensify its efforts to foster good working relationships with journalists at home and abroad – in view of media interest generated by World Cup preparations, leadership transition, economic growth and challenges such as crime and energy supply.

The IMC tracks international media coverage on the country through daily monitoring and analysis from the Communication Resource Centre (CRC).

An additional CRC-specific service was the establishment of *MediaClubSouthAfrica.com*. It is a web-based media service developed by the IMC in recognition of the important role the media plays in shaping perceptions of South Africa.

The IMC produces a number of newsletters, including the online *Alive with Possibility*, which is published on a weekly basis and contains positive stories about the country.

*The Boundless Opportunities* newsletter is produced in partnership with the JSE Securities Exchange Limited and targets JSE stakeholders domestically and abroad.

The IMC produced *South African Story III* – the third edition of a booklet, which contains facts, quotes and anecdotes that illustrate extraordinary South African stories and the challenges facing the country.

## Co-operative governance

The importance of co-operative governance and intergovernmental relations in South Africa is reflected in Chapter Three of the Constitution, which determines a number of principles.

A number of intergovernmental structures promote and facilitate co-operative governance and intergovernmental relations between the respective spheres of government.

These include:

- the PCC, comprising the President, the Minister of Provincial and Local Government and the nine premiers
- ministerial clusters, director-general clusters, and the Forum of South African Directors-General (Fosad), which promote programme integration at national and provincial level
- ministerial forums between responsible line-function ministers at national level and their



respective counterparts at provincial-government level, which normally meet quarterly and are supported by technical committees

- a number of intergovernmental forums that facilitate co-operative governance and inter-governmental relations.

Oversight, monitoring and early-warning systems play a critical role in helping to make co-operative governance work more effectively.

To improve integration among all spheres of government in both policy development and implementation, the Intergovernment Relations Framework Act, 2005 was promulgated in August 2005.

## Elections

The Constitution of South Africa places all elections and referendums in the country in all three spheres of government under the control of the Independent Electoral Commission (IEC), established in terms of the IEC Act, 1996 (Act 51 of 1996).

In the 2004 elections, the African National Congress clinched victory in all nine provinces, gaining 279 of the 400 seats in the National Assembly.

The Democratic Alliance followed with 50 parliamentary seats, the Inkatha Freedom Party was third with 28 seats, the United Democratic Movement won nine seats, while the New National Party and the Independent Democrats secured seven

seats each. The African Christian Democratic Party won six seats, the Freedom Front Plus four, and the Pan Africanist Congress and the United Christian Democratic Party three each. The Minority Front and Azanian People's Organisation won two seats each.

Between 2002 and 2007, several parties took part in floor crossings, changing the political landscape.

However, in 2008, three Bills dealing with the prohibition of floor crossing were introduced.

In September 2009, the chairperson of the IEC, Dr Brigalia Bam, unveiled the 2009 general election logo and theme.

By September 2009, there were more than 20 million registered voters on the national voters' roll. Of these, almost 55% were women.

A general election took place in 2009.

## Disaster management

The Disaster Management Act, 2002 was promulgated in 2003. The National Disaster Management Centre with functional disaster management centres and advisory forums were established in eight provinces. The National Disaster Management Advisory Forum has been recognised by the United Nations (UN) as the national platform for disaster-risk reduction.

South Africa has also made significant progress in respect of the implementation of the Hyogo Framework for Action – a global blueprint for disaster risk-reduction whose goal it is to substantially reduce disaster losses by 2015.

In 2007/08, government mobilised over R400 million for local disasters and R7 million for regional interventions.

## Public Service

The Department of Public Service and Administration develops policy and regulations for the Public Service.

Human-resource management (HRM) in the Public Service was decentralised, and the Minister of Public Service and Administration determined a framework of norms and standards within which departments in the national and provincial spheres must determine their organisational structures and manage their staff. Support efforts have been combined with measures to promote compliance with the Public Service prescripts, including a comprehensive amendment to the Public Service Act, 1994 (Act 93 of 1994), enacted in 2007.

### Seats in the National Assembly, October 2008

|  |     |
|--|-----|
| African National Congress                | 286 |
| Democratic Alliance                      | 47  |
| Inkatha Freedom Party                    | 23  |
| United Democratic Party                  | 6   |
| Independent Democrats                    | 4   |
| African Christian Democratic Party       | 4   |
| Freedom Front Plus                       | 4   |
| National Democratic Convention           | 4   |
| United Christian Democratic Party        | 3   |
| Minority Front                           | 2   |
| African People's Convention              | 2   |
| Pan Africanist Congress                  | 1   |
| Azanian People's Liberation Organisation | 1   |
| Federation of Democrats                  | 1   |
| National Alliance                        | 1   |



The scope of the minister's policy-making powers in terms of the Public Service Act, 1994 includes the structure and functioning of the Public Service; conditions of service and other employment practices in the Public Service; labour relations; health and wellness of employees; information management in the Public Service; e-government; integrity, ethics, conduct and anti-corruption in the Public Service; transformation; reform; innovation; and any other matter to improve the effectiveness of the Public Service and its service delivery to the public.

The department has led the implementation of a range of policies and processes, including the Batho Pele programme. It has also initiated the Community Development Worker (CDW) Programme in the Public Service, which brings government closer to the people by deploying public servants into communities to advise citizens on their civil rights and learn about their needs. The department also pioneered the Government Employees Medical Scheme (Gems), which is already the second-largest closed medical scheme in the country, covering more than 680 000 lives.

The department was the focal point for the African Peer Review Mechanism (APRM) process, which culminated in the adoption of a *Country Self Assessment Report and Programme of Action* in 2006 and a *Country Review Report* by the Panel of Eminent Persons in 2007. The Minister of Public Service and Administration was chairperson of the Pan-African Ministers' Conference from 2003 to 2008 and championed a capacity-building programme on governance and administration for the continent.

The department is providing support to post-conflict countries on the continent, including the Democratic Republic of Congo (DRC) by conducting a census of public servants, introducing anti-corruption initiatives and assisting in the decentralisation process.

The sister department of the Department of Public Service and Administration, the South African Management Development Institute (Samdi), was transformed into the Public Administration Leadership and Management Academy (Palama), which will focus on providing executive training to senior managers and "massifying" training for new entrants to the Public Service.

The Centre for Public Service Innovation (CSPI), also falling within the minister's portfolio, conducts research and creates an enabling environment for innovation in the Public Service.

## Size of the Public Service

By the end of March 2008, the Public Service had 1 204 525 people in its employ (including members of the South African National Defence Force). Of these employees, 63% are attached to the social services sector (health, social development, education and home affairs), followed by 20% in the criminal justice sector.

## Human-resource development

The department has developed a number of strategic frameworks to guide departments in the implementation of the regulatory framework. The HRD Strategic Framework for the Public Service, launched in 2008, marks a shift from the traditional model of HRD, which focuses narrowly on training, to a more expansive model that ensures that public servants have the capacity to undertake their assigned responsibilities with the necessary level of skill, knowledge, experience and commitment.

## HR Connect

Underpinning the HRD Strategic Framework is a project implementing a skills database throughout the Public Service, called HR Connect. The project is being implemented in 22 departments with 30 000 staff. Initial job profiles have been captured on the HR information system database.

The process of gathering information on sector or departmental skills needs and the matching of individual skills with departmental needs commenced in April 2008.

## Conditions of service

Occupation-specific dispensations (OSDs) are tailor-made remuneration dispensations for categories of occupations in the Public Service. The introduction of OSDs aims to improve government's ability to attract and retain skilled employees. Agreements have been reached on OSDs for nurses, educators and legally qualified employees, while OSDs for social workers, health professionals and correctional officials have been developed. A remuneration policy framework for the Single Public Service has been prepared.

## Policy on Incapacity Leave and Ill-Health Retirement (Pilir)

The Pilir was implemented in 2006 to improve the management of incapacity leave and ill-health retirement benefits. In respect of ill-health retirements, actuaries at the Government Employee





Pension Fund confirmed that ill-health retirements decreased by 63% in pilot sites, while the average age of retiring employees increased significantly. The actual cost of ill-health retirements over the entire period of investigation was 59,6% of the expected cost. The administration of Pilir was expected to be decentralised to departments in 2009.

### Medical assistance

Gems was established by government in 2005 to provide public-service employees with equitable access to affordable and comprehensive healthcare benefits. It commenced operations in 2006. More than half its members at the lower salary levels were not previously covered by a medical aid, demonstrating that Gems is performing a developmental function within the economy. Corporate governance is overseen by a Board of Trustees.

### Employee health and wellness

The Public Service has invested in the health of public-service employees and their dependants, including interventions targeted at dealing with HIV and AIDS and other diseases. A practical guide for government departments on managing HIV and AIDS in the workplace was published and training programmes have been developed to build capacity.

A comprehensive, integrated and responsive Employee Health and Wellness Strategic Framework was launched in 2008. A review by Gems has found that lifestyle-related conditions were significant cost drivers for medical assistance in the Public Service.

### Single Public Service

The department provides leadership to the Public Service in service-delivery improvement, including the implementation of the Single Public Service initiative, the Batho Pele programme and the expansion of access to public services and e-government. Legislation has been developed and was submitted to Parliament in June 2008 to create a Single Public Service from the national, provincial and local spheres of government, by providing

a framework of norms of standards regulating employment and other matters.

### Access Strategy

The Thusong Service Centres, an initiative of the GCIS, are being established in townships or poor rural areas to enhance access to government services. They are being equipped with Internet connectivity to enable them to provide online information on government services ([www.gov.za](http://www.gov.za) or via a call centre [1020]). Plans are in place to establish Thusong Service Centres in shopping malls in major centres. An e-government project aimed at “e-enabling” selected services of government is underway.

### Community development workers

By March 2008, more than 3 300 CDWs had been deployed in wards across the country. The CDW programme is one of the primary public-sector reform interventions to enhance development and the implementation of the Batho Pele principles, especially access to services.

The CDWs are pivotal in bringing government closer to the people, and in ensuring that community members become directly involved in the delivery of state services. CDWs have primarily helped citizens to gain access to social services and have increasingly provided support to citizens in taking up economic opportunities.

### Batho Pele (“People First”)

The Batho Pele programme was revitalised in 2004 and departments were encouraged to develop and implement service-delivery improvement plans (SDIPs). Greater involvement of regional offices in the preparing of plans and the implementation of SDIPs at the level of service-delivery points, including hospitals, police stations and law courts, were encouraged.

A “Know Your Service Rights” Campaign was initiated and a user-friendly booklet published. A training programme, the Batho Pele Change Management Engagement Programme, which is aimed at inculcating the principles of Batho Pele, has been provided to most of the country’s municipalities.

### Centre for Public Service Innovation

The CPSI has played a leading role in the implementation of several innovative projects since its establishment in 2002. Many of these initiatives have sought to bring the benefits of improved use of information and communications technologies

Government's Programme of Action is available on *Government Online* ([www.gov.za](http://www.gov.za)). The information is updated regularly to keep the public informed of the implementation progress.





(ICTs) to the public sector. These have included the Batho Pele Gateway Portal, the installation of general services counters at Thusong Service Centres and mobile and wireless technologies.

The CPSI Public-Sector Innovation Awards pay tribute to public servants, or people working closely with government, who have made a real contribution to improving service delivery. Innovative projects from South Africa have also been entered in the UN Public Service Awards since 2002. Four South African projects were shortlisted for the 2008 Commonwealth Association of Public Administration and Management Awards.

Working together with the New Partnership for Africa's Development (Nepad) Governance and Public Administration Programme and the African Union (AU), the CPSI, together with the Department of Public Service and Administration, is implementing the inaugural All Africa Public-Sector Innovation Awards. The programme aims to showcase Africa's innovativeness in ensuring service delivery. The CPSI is also the content manager of the UN Public Administration Network portal for southern Africa.

The "Know Your Service Rights" Campaign was launched in March 2008. It seeks to address concerns that were raised by citizens during studies conducted by the Public Service Commission and the Department of Public Service and Administration. The department developed an information booklet that focuses on highlighting key services provided within the Social Cluster. The major areas of focus are labour, education, health, home affairs, housing, social development, and the basic services of water and sanitation.

The main objectives of the campaign are to:

- inform citizens of the different types of services that government provides and rights that emanate from these services
- make the public aware and educate citizens of means and institutions for exercising such rights and redress mechanisms
- exert positive pressure on the Public Service and its officials through a concerted public-awareness effort that is aimed at educating citizens about their rights in relation to how services are delivered
- discourage complacency among public servants because citizens would be more aware and knowledgeable about their rights and expect service standards and a recourse process should their rights be violated
- strengthen and emphasise the importance of partnerships between the public and government in ensuring citizen participation in the service-delivery continuum.



### **State Information Technology Agency (Sita)**

Sita consolidates and co-ordinates the State's information technology (IT) resources to save costs through scale, to increase delivery capabilities and to improve interoperability. In 2004, Sita embarked on a comprehensive three-year turnaround strategy, called Tswelopele, a Tswana word for "moving forward". The overarching purpose of this large-scale change programme is to restore stakeholder confidence in the organisation and re-establish it as an efficient and effective ICT partner to government.

### **Government Information Technology Officers' (Gito) Council**

The Gito Council is an advisory body which advises government on the application of IT to improve service delivery. Its membership consists of the chief information officers from national departments and offices of the premiers. The council has been involved in developing an IT security policy framework, IT procurement guidelines, e-government policy and strategy. It also monitors government IT projects to avoid duplication.

### **Fighting corruption**

The fight against corruption remains extremely high on government's agenda. A guide on the minimum anti-corruption capacity requirements has been issued to departments. The National Anti-Corruption Forum, consisting of government, business and civil society, has strengthened the country's partnership approach to promote ethical conduct. Citizens are encouraged to report incidents of corruption to the National Anti-Corruption Hotline (NACH) (0800 701 701).

South Africa acceded to the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in June 2007 as the first African country and the 37th member of the OECD Working Group on Bribery in International Business Transactions. An impact appraisal of the National Anti-Corruption Framework, has been finalised.

The third Anti-Corruption Summit was held in August 2008.

### **International and African affairs**

The Minister of Public Service and Administration participates in public-administration international knowledge communities, including the





Commonwealth Association for Public Administration and Management, the UN Committee of Experts and the International Institute of Administrative Sciences.

The minister is the chair of the Pan-African Conference of Ministers of Public Service, which drives the implementation of a continental capacity-development programme on governance and administration.

The minister's programme includes the development of the African Public Service Charter, strengthening the capacity of the African regional economic communities and providing support to post-conflict countries.

In 2004, South Africa signed a Memorandum of Understanding (MoU) with the Minister of Public Administration of the DRC aimed at facilitating co-operation in the field of governance and administration. Support is focused on four areas of co-operation:

- conducting a census of public servants
- anti-corruption projects
- decentralising public administration
- establishing a management development institute in the DRC.

The biometric enrolment for the Kinshasa Census was completed in 2007. The main aims of the census were to provide an employment profile of the Public Service, including staffing numbers, gender, employment duration, age groups, place of employment, occupational categories and grades. Enrolment in the remaining 10 provinces is underway. A Code of Conduct for the DRC has been published and disseminated.

### African Peer Review Mechanism

South Africa is one of 28 African countries participating in the APRM. The Minister of Public Service

The resolutions of the Third National Anti-Corruption Summit, which was held in August 2008, were noted and endorsed by Cabinet on 18 September 2008. The resolutions include the following: a clear articulation of the national integrity system; implementation of anti-corruption legislation; regulating and managing conflict of interests; legislative measures to ensure that companies involved in price fixing, market allocation and collusive tendering are prohibited from state tenders; ethical conduct; and the need to expedite regulations for political-party funding to encourage transparency.



and Administration was designated as a focal point for the South African process and has the overall responsibility for leading the process and chairing the APRM Governing Council.

An interdepartmental committee and interim secretariat, which is located within the department, was established to assist the minister in setting up the necessary structures to implement the mechanism in South Africa.

South Africa's response to the APR Panel's *Country Review Report* was presented to the APR Forum in July 2007.

The *Country Review Report* identified 18 South African best practices worthy of emulation and strongly endorsed the process undertaken by South Africa in completing its *Country Self-Assessment Report* (CSAR). The CSAR included a Programme of Action (PoA) aimed at addressing the challenges faced by the country, and South Africa submitted its first monitoring and evaluation (M&E) report on the implementation of the PoA to the APR Panel in June 2008.

The review of South Africa by its African peers reinforced the strategic importance of partnership within society, ensuring the capacity of institutions as the bedrock to accelerate development and the fight against poverty. The APRM as an instrument is unique in its commitment and forthrightness to overcome the country's historical legacy and ensure focused efforts to overcome poverty.

### Governance and Administration (G&A) Cluster

The national cluster system comprises six Cabinet committees and five corresponding administrative structures. The administrative structures are the G&A Cluster; the Social Cluster; the Economic Cluster; the Justice, Crime Prevention and Security Cluster; and the International Relations, Peace and Security Cluster. The G&A Cluster is co-chaired by the directors-general of public service and administration and provincial and local government.

Following the 2008 State of the Nation Address, the cluster developed a PoA. The cluster reports bimonthly to Cabinet on the implementation of the PoA. The co-ordinating ministers of the cluster present regular reports to the media. The reports are posted on the Government's website.

The cluster's priorities include:

- good governance (anti-corruption, Batho Pele, employment equity and public participation)



- capacity of the State, skills-development strategies and capacity-development programmes
- macro-organisation of the State (establishment of a Single Public Service, enhancing access to government services, including e-government)
- transversal systems (co-ordinating planning and M&E).

The Department of Home Affairs has implemented several projects aimed at improving the delivery of civic services. The identity document (ID) turn-around time stood at an average of 37 days by January 2009, down from the February 2008 average of 103 days.

By April 2008, as a result of the track-and-trace system, ID distribution was harmonised, as a single service-provider now collects documentation from home affairs offices and delivers it from the central ID processing centre back to local offices, reducing the average “postage” time to three days. The department is also engaging with the South African Post Office to improve distribution to citizens.

ID track-and-trace technology was implemented at 260 home affairs offices. It is now possible to check the status of an application throughout the ID issuing process. SMS and Internet query functionality is also available to assist clients with enquiries. The department’s Customer Contact Centre has been expanded to 102 contact centre agents and 22 case-resolution officers and now deals with approximately 80 000 calls per month. Some 80% of calls are answered within 20 seconds.

### Public Service Commission (PSC)

The PSC derives its mandate from sections 195 and 196 of the Constitution. Section 195 sets out the following values and principles governing public administration that should be promoted by the commission:

- a high standard of professional ethics
- efficient, economic and effective use of resources
- a development-orientated public administration
- providing services in an impartial, fair and equitable way, without bias
- responding to people’s needs and encouraging the public to participate in policy-making
- an accountable public administration
- transparency
- good HRM and career-development practices
- a representative public administration with employment and personnel-management

practices based on ability, objectivity, fairness and the need to redress the imbalances of the past.

In terms of Section 196(4) of the Constitution, the functions and powers of the commission are:

- promoting the values and principles, as set out in Section 195, throughout the Public Service
- investigating, monitoring and evaluating the organisation, administering personnel practices of the Public Service, and in particular, adhering to the values and principles set out in Section 195, and public-service procedures
- proposing measures to ensure effective and efficient performance within the Public Service
- giving directives aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in Section 195
- reporting on its activities and the performance of its functions, including any findings it may make and directions and advice it may give, and providing an evaluation of the extent to which the values and principles are complied with
- investigating and evaluating the application of personnel and public-administration practices, and reporting the relevant executive authority and legislature
- investigating grievances of employees in the Public Service concerning official acts or omissions, and recommending appropriate remedies
- monitoring and investigating adherence to applicable procedures in the Public Service
- advising national and provincial organs of state regarding personnel practices in the Public Service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the Public Service.

The PSC is accountable to the National Assembly and it must also report to the legislature of the province concerned on its activities in that particular province.

The commission comprises 14 members – five are appointed on the recommendation of a committee of the National Assembly and one member is appointed from each of the nine provinces. A commissioner is appointed for a term of five years. One regional office in each province, administered by regional directors and support staff, serves as a base for the provincially based commissioners.



### Labour-relations improvement

Given the labour-intensive nature of the Public Service, the maintenance of labour peace is a fundamental requirement for the effective functioning of departments. Generally, the Public Service is dependent on sound labour relations for the promotion of its service-delivery objectives. Public servants are the vehicles through which the Public Service ensures delivery on its mandate and a discontent workforce will have negative implications on effective service delivery.

The PSC plays a key role in promoting sound labour relations in the Public Service through the execution of its constitutional mandate. It is the leading arbiter on grievances in the Public Service and also deals with other complaints impacting on the employer/employee relationship. The PSC has developed Grievance Rules in terms of which grievances are handled by departments and the PSC.

During 2007/08, the PSC received 597 grievances. This represented a decline from the previous financial year during which 641 grievances were received. The PSC continues to experience difficulties as a result of inadequate information provided by departments when they submit grievances. As a result, the PSC has had to invoke Section 10 of the PSC Act, 1997 (Act 46 of 1997), on numerous occasions by summoning heads of departments (HoDs) to appear before the PSC.

### Public-administration investigations

The PSC undertakes audits and investigations into public-administration practices by responding to complaints lodged in terms of its two complaints access mechanisms, namely, the Complaints Rules and the NACH. The investigation of complaints lodged through both access mechanisms is conducted in terms of the Protocol for Conducting Public Administration Investigations of the PSC.

The PSC avoids the duplication of resources in the handling of complaints through co-operation and referral to institutions vested with the mandate for the further handling of such complaints. These include, among other things, the South African Revenue Service, the Independent Complaints Directorate, the Public Protector and the Auditor-General.

During 2007/08, 150 complaints/requests for investigations were received. The complaints received predominantly related to maladministration, irregularities regarding HR and procurement practices.

Apart from investigations, a number of research projects focusing on public-administration practices were also conducted. One of the flagship research projects of the PSC, is its annual *Overview of Financial Misconduct in the Public Service*.

The PSC also published a report titled *Trend Analysis on Complaints Lodged with the PSC* during 2006/07.

### Professional ethics and human-resource reviews

During 2007/08, the PSC continued to establish a culture of professional and ethical behaviour, and to review HR practices in the Public Service through its involvement in the management of conflicts of interest through the Financial Disclosure Framework (FDF) for senior managers, the management of the NACH and by providing secretarial support to the National Anti-Corruption Forum. It also produced various reports and promotional material aimed at promoting professional ethics and strengthening integrity in the Public Service.

To address non-submission or late submission of disclosure forms, the PSC published the *Report on the Management of Conflicts of Interest through Financial Disclosures*, making recommendations to improve compliance with the FDF.

The PSC conducted a survey and produced the *Report on the Management of Gifts in the Public Service* in 2008. Prior to the establishment of the NACH, no mechanism existed in the Public Service for the centralised reporting of corruption. Since its establishment, the NACH has provided free access to the public and government employees to report corruption in the Public Service.

During 2007/08, 1 441 corruption cases were reported.

While integrity among public servants is a fundamental requirement for good governance, the equitable, effective and efficient management of their career incidents and development is of equal importance to ensure that their performance is maximised.

The PSC has therefore continued to prioritise its strategic review of HRM practices within the Public Service and has produced a number of reports aimed at promoting best practice and ensuring compliance with national norms and standards.

To gain deeper understanding of the challenges that the Public Service faced in recruiting and retaining persons with disabilities, the PSC held formal inquiries with selected national and provincial departments in 2008.



### **Evaluation of employee assistance**

In 2007, the PSC completed the *Report on the Evaluation of Employee-Assistance Programmes in the Public Service*. The report identifies some of the best practices that can be used to strengthen ineffective employee-assistance programmes.

This report is significant as there is a clear need to address the increasing number of employee problems and the mounting impact of HIV- and AIDS-related problems in the workplace.

### **Leadership and performance improvements**

Public-service leadership plays a critical role in providing strategic direction in managing government's transformation programme. Given this role, it is important that this leadership is subjected to a proper system of scrutiny and support. The PSC has continued to play a role in this regard by, among other things, facilitating the evaluation of the performance of HoDs, and providing advice on the performance agreements of HoDs. In addition, the PSC's work in this area has involved research on selected critical issues and public-service leadership. These include the implementation of the Performance Management and Development System (PMDS) for senior managers, the turnover rates of HoDs and relationships at the interface between the Executive and HoDs.

The PSC published and distributed the guideline for the evaluation of HoDs. The purpose of the guidelines is to assist executing authorities and HoDs in preparing and conducting the evaluation of performance for a specific financial year. The guidelines introduced cut-off dates regarding retrospective evaluations to promote better compliance with the provisions of the PMDS.

The PSC continued developing and strengthening its work on the Organisational Performance Assessment processes. Information generated through such an assessment can be used to provide feedback to executing authorities on the performance of their departments, in addition to the advice generated on the performance of their individual HoDs.

### **Service delivery and quality assurance**

Public participation plays a significant role in promoting participatory governance in the Public Service. Since citizens are not only beneficiaries of government services but are well positioned to contribute meaningfully towards effective planning and implementation of service-delivery programmes, active involvement of citizens in

policy-making and the service-delivery processes is critical to ensure that responsive strategies are put in place. The PSC annually applies assessment instruments that establish the progress the Public Service is making in service delivery.

These assessment instruments include inspections of service-delivery sites and citizens' forums and satisfaction surveys.

During 2007/08, the PSC completed a citizens' satisfaction survey, focusing on farmer support and development services to emerging farmers as well as food-security projects by the provincial departments of agriculture.

To assess the mechanisms that departments use to promote citizen engagement, the PSC conducted an evaluation of the *Implementation of the Batho Pele Principle of Consultation in the Public Service*. The report raises important issues concerning how departments understand and practise "consultation", and some of the critical challenges that impact on participatory governance.

The PSC also monitored and evaluated departments' adherence to the policy prescribed in the Promotion of the Administrative Justice Act, 2000 (Act 3 of 2000), in the Public Service. The Act gives people affected by administrative decisions the right to be informed that a decision is to be taken, to be given reasons for decisions and to have decisions reviewed in court.

In its drive to improve the implementation of the verification of qualifications in the Public Service, the PSC evaluated the qualification-verification procedures introduced in departments.

The PSC has recognised the importance of collecting first-hand information on the performance of service-delivery institutions. As a result, the PSC has approved a project on service-delivery inspections.

As part of fulfilling its constitutional mandate, the PSC will continue to generate evidence on the performance of the Public Service to advise Parliament and the executive on progress and to, among other things, draw attention to areas of concern.

### **Governance monitoring**

M&E remains a priority in guiding the transformation of the Public Service into an effective institution that delivers on the objectives of government.

Effective M&E is at the core of the PSC's mandate, and specific instruments have been developed over the years to support the



implementation of this mandate. One such system is the Transversal Public Service M&E System, which the PSC has been applying annually to a sample of national and provincial departments. Apart from the information generated from applying the system to produce a consolidated M&E report for each research cycle, the PSC also uses it to compile the annual *State of the Public Service Report*. During 2007/08, the PSC produced 22 evaluation reports through its M&E System.

Following an audit by the PSC of government's poverty-reduction programmes and the development of a database of the programmes, the PSC further embarked on a series of evaluations focusing on samples of programmes taken from the database. The sample evaluated comprised public works, land redistribution, income-generating and home-based care projects. The report produced, therefore, builds on the audit of poverty-reduction programmes that was completed earlier.

Being at the forefront of M&E in the country, the PSC saw the need to share its expertise with the broader emerging M&E community. It produced both a pamphlet on basic concepts in M&E and a conceptual framework for meta-evaluation.

In addition, the PSC has over the years established sound networks with the local and international M&E community. These have now yielded

various opportunities for engagement on the practice of M&E. Moreover, the PSC has continued to support the work of the South African M&E Association and also participated in the Fourth African Evaluation Association Conference in Niger, and the Networks of Network on Impact Evaluation Seminar in Washington, DC, United States of America. All of these engagements have expanded the networks of the PSC, and were used to profile its work to a broader audience and to improve the quality of M&E.

### **Public Administration Leadership and Management Academy**

Palama (Sesotho for "ascend") was opened in August 2008. The academy, which has evolved from Samdi, aims to achieve a massive increase in training courses for managers in the Public Service by involving public- and -private-sector educational and training institutions in an expanded training programme.

The academy facilitates and co-ordinates the programmes by monitoring and ensuring quality assurance of the training delivered by participating educational and training institutions.

The academy is part of the Batho Pele initiative, which aims to get public servants to be service-oriented, to strive for excellence in service delivery and to commit to continuous service-delivery improvement. Palama encourages public managers across government to raise their performance and enhance the Batho Pele ethos of service and delivery by taking advantage of the opportunities for management development that the academy is making available.

The academy's main mandate is to ensure the necessary massification of high-quality practical management training for junior and middle managers in all three spheres of government.

At the level of senior management service, the academy wants to improve the provision of executive development programmes offered by Higher Education institutions. At the level of the junior and middle management services, the academy is developing and managing a national learning framework under which the curricula and material to be used by a range of providers will be identified and developed.

Through a series of workshops, the academy has already forged links with its provincial counterparts and with providers for local government such as the Department of Provincial and Local Government and the DBSA and is encouraging better links among them.

In October 2008, government released the results of the *Fifteen Year Review*, which it initiated in 2007. It takes stock of progress since the attainment of democracy, in achieving the objective of improving the quality of life of all South Africans.



The review is based on almost a year of research and analysis within government, undertaken by outside experts and organisations. It will feed into the long-term planning which helps direct national development. It is not only about taking stock of progress, but it is equally about identifying shortcomings and challenges.

The review takes a detailed look at the impact of government activities across the different clusters of government, including the special programmes and policies aimed at meeting the needs of women, children, persons with disabilities and young people. The picture it reveals combines progress with persisting and new challenges.

It takes into account major trends in the South African society and internationally, such as: changes in household size and structure, growth in the economically active population, migration, structural unemployment, social cohesion, inequality, state legitimacy, national leadership and social partnership and the global context.



Palama will no longer be a provider of training but a facilitator and co-ordinator of service provision. The outcome sought is a change from the selective provision of 150 000 training days a year across all academies to a massified comprehensive provision of training to meet the need.

The academy has identified the following strategic objectives through which it will achieve its mandate:

- developing and administering a training framework of curricula and materials oriented to service delivery to be used by providers of transversal skills training for junior and middle managers
- co-ordinating the provision of executive development programmes for senior management
- capacitating public-sector departments to identify and meet their management development and training needs in relation to their service-delivery objectives
- developing and implementing a suitable quality management and monitoring system
- establishing and maintaining partnerships and linkages with national and international management-development institutes and training providers
- arranging customised training programmes in support of South African foreign policy within the AU and Nepad.

## Department of Home Affairs

The Department of Home Affairs provides individual status-determination services and has a network of offices in all provinces. Mobile offices or units service areas on a regular pre-arranged basis where the establishment of fixed offices is not warranted.

The new organisational structure of the department has been approved by the Minister of Public Service and Administration and 2008 – 2010 will see its full implementation.

The structure supports a new approach to the functioning of the department, including reporting,

Existing fingerprint records of citizens are being converted on to the Automated Fingerprint Identification System (AFIS). Over 30 million fingerprint records are stored on the AFIS database and remote verification of citizens' fingerprints that are registered on the AFIS database is now possible. By August 2008, online fingerprint verification had been successfully implemented at 93 home affairs offices and training in revised procedures had been provided to 236 staff members.



accountability, quality assurance, leadership support and performance management.

In line with the recommendations for the new vision and design, the new structure creates a partial separation between the two main core business branches with a shared support structure. The establishment of the organisation will increase from 7 000 to 9 200.

Statutory bodies falling under the department are the:

- Immigration Advisory Board
- Standing Committee for Refugee Affairs
- Refugee Appeal Board.

The Government Printing Works (GPW), a division of the Department of Home Affairs, provides printing, stationery and related services to all government departments, provincial governments and municipalities. It also publishes, markets and distributes government publications. Based in Pretoria, the printing works provides a variety of related services to departments, the printing industry and other African countries, including manufacturing and supplying fingerprint ink to the South African Police Service (SAPS), and printing postage stamps for the DRC and Lesotho.

By May 2008, phase one of the Home Affairs Turnaround Strategy was completed. Phase two, which is a large-scale change programme to improve the citizen experience at home affairs offices, is underway. Some of the achievements in the first phase regarding internal governance include:

- suspending or dismissing over 200 officials for dishonest activities in the six months preceding May 2008
- determining a new operating model for the department after a customer survey and stakeholder engagement
- designing a new organisational structure in line with the operating model
- filling top posts and determining a budget structure
- commencing a programme to stabilise the existing operational infrastructure, which includes the network and is aimed at developing real-time online capability and enhanced security.

## Civic services

The Branch: Civic Services is mainly responsible for population registration and civic services. Population registration entails recording personal particulars in the Population Register with a view





to issuing IDs; identification by means of fingerprints and photographs; and dealing with matters pertaining to the status of persons, such as births, marriages and deaths.

Civic services entail issuing passports, registering foreign births, determining citizenship, and issuing certificates of naturalisation or resumption of South African citizenship.

### **Citizenship matters**

South African citizenship is regulated by the South African Citizenship Act, 1995 (Act 88 of 1995), and regulations issued in terms thereof. South African citizenship may be granted by way of:

- birth or descent
- an application for naturalisation as a South African citizen
- an application for resumption of South African citizenship
- the registration of the birth of children born outside South Africa to South African fathers or mothers
- an application for exemption in terms of Section 26(4) of the Act.

### **Population Register**

The current Population Register hosted by the Department of Home Affairs stores and provides citizenry-identification information, including unique identification numbers, addresses, birth dates and marriage status. In essence, this system forms the core of citizenry-information systems within the department.

Evolving technology, modern government structures and the need for more secure systems led to the department embarking on a programme to re-engineer the Population Register. This will align its function with the current government dispensation and future needs of both the Government and third-party institutions. This project is closely aligned with the implementation of the Home Affairs National Identification System, which was approved by government in January 1996.

The focus of the project is on providing a more scalable, adaptable, efficient, secure and interactive database. Features will allow integration with the automated biometric fingerprint system, information sourcing from the electronic document-management system and an electronic web-based query system.

### **Immigration**

The Branch: Immigration is responsible for control

over the admission of foreigners for residence in and departure from South Africa. This entails:

- processing applications for visas, temporary residence permits and immigration permits
- maintaining a travellers' and foreigners' control system
- tracing and removing foreigners who are considered undesirable or who are in South Africa illegally.

The Refugees Act, 1998 (Act 130 of 1998), gives effect within South Africa to the relevant international legal instruments, principles and standards relating to refugees; provides for the reception into South Africa of asylum seekers; regulates applications for and recognition of refugee status; and provides for the rights and obligations flowing from such status, and related matters. The Act came into effect on 1 April 2000.

In recent years, the department has sought to control illegal immigration through a variety of measures:

- The Immigration Act, 2002 (Act 13 of 2002), provides for a stricter immigration policy. The implementation of administrative fines and other measures came into effect in 2003. The Immigration Act, 2002 was amended in 2006 to clarify and revise immigration and permit procedures to facilitate skills in line with the Accelerated and Shared Growth Initiative for South Africa and the Joint Initiative for Priority Skills Acquisition.
- The department works closely with the South African Revenue Service and the SAPS to ensure effective border control.
- A computerised visa system was instituted to curb the forgery of South African visas and is being extended to all South African missions abroad.

The final immigration regulations came into effect on 1 July 2004. The release of these regulations followed the signing of the Immigration Amendment Act, 2004 (Act 19 of 2004), into law on 12 October 2004.

The immigration policy aims to:

- discourage illegal migration into South Africa by encouraging foreign nationals to apply for different permits to legalise their stay in the country
- create an enabling environment for foreign direct investment in South Africa
- attract scarce skills required by the economy in accordance with the 2014 vision of eradicating poverty and underdevelopment.



The final immigration regulations furthermore aim to establish a new system of immigration control to ensure that:

- temporary and permanent residence permits are issued as expeditiously as possible and according to simplified procedures
- security considerations are fully satisfied and the State regains control over the immigration of foreigners to South Africa
- economic growth is promoted through the employment of needed foreign labour, foreign investment is facilitated, the entry of exceptionally skilled or qualified people is enabled, skilled HR are increased, and academic exchange programmes in the Southern African Development Community are facilitated
- tourism is promoted
- the contribution of foreigners to the South African labour market does not adversely affect existing labour standards and the rights and expectations of South African workers
- a policy connection is maintained between foreigners working in South Africa and the training of South African citizens
- a human rights-based culture of enforcement is promoted.

The Directorate: Refugee Affairs manages refugee services in South Africa. It has established the Asylum Seekers Unit and Country of Origin Information Unit. Amendments to the Refugees Act, 1998, tabled in Parliament in March 2008, will establish a Refugee Appeals Authority and bring the legislation in line with the Children's Act, 2005 (Act 38 of 2005). The draft Refugees Amendment Bill seeks to dissolve the existing Standing Committee for Refugee Affairs and the Refugee Appeal Board and establish a Refugee Appeals Authority. The Bill will have the authority to invite representations from the UN Human Rights Commission, make its own inquiries and ask the asylum-seeker to appear before it. The Bill proposes that unaccompanied children seeking asylum be issued with an asylum-seeker permit and brought before the Children's Court.

These units advise refugee-reception offices on policy-related matters and on the background information of an applicant's country of origin. After being recognised, refugees are issued with refugee IDs, which give them access to the basic services in South Africa, including basic health-care, education and employment.

The South African Government, through the Department of Home Affairs, issues UN travel documents to refugees. Since May 2005, refugees

have been issued with a refugee smart ID, which contains security features that are not forgeable.

This directorate seeks to professionalise the functioning of the refugee regime in preparation for mass influxes in the future, the main focus as a measurement point being the 2010 Soccer World Cup. The department also seeks to assist those who wish to return to their countries of origin after changes in the circumstances that led to their forced migration, by engaging in campaigns of voluntary repatriation jointly with the UN High Commissioner for Refugees, and later declaration and application of cessation clauses, such as the Angolan Repatriation Programme.

The Directorate: Information Co-ordination manages information on the National Immigration Branch to facilitate regional and national operations.

The directorate's main objectives are to:

- establish an information repository, which acts on risks and urgent immigration matters
- ensure dynamic real-time support on tactical and legal matters to immigration officers globally.

## Visas

Foreigners who wish to enter South Africa must be in possession of valid and acceptable travel documents. They must have valid visas, except in the case of certain countries whose citizens are exempt from visa control. Such exemptions are normally limited to permits, which are issued for 90 days or less at the ports of entry. The visa system is aimed at facilitating the admission of acceptable foreigners at ports of entry. The visa becomes a permit upon entry; therefore, no additional permit will be issued.

## Control of travellers

The travel documents of persons entering or departing South Africa are examined by immigration officers at recognised ports of entry, to determine whether such persons comply with the requirements.

## Control of sojourn

Foreigners who are in the country illegally and who

In 2007, the Department of Home Affairs launched a Braille version of their information brochure, "Know your Home Affairs Services" in Garankuwa, Gauteng.



are therefore guilty of an offence may be classified into three categories, namely those who:

- entered the country clandestinely
- failed to renew the temporary residence permits issued to them at ports of entry
- breached the conditions of their temporary residence permits without permission, such as holiday visitors who took up employment or started their own businesses.

Depending on the circumstances, persons who are in South Africa illegally are either prosecuted, removed, or their sojourn is legalised. Officers at the various regional and district offices of the department are in charge of tracing, prosecuting and removing illegal foreigners from the country. Employers of illegal foreigners may also be prosecuted.

### Permanent residence

Government allows immigration on a selective basis. The Department of Home Affairs is responsible for:

- processing applications for immigration permits for consideration
- admitting persons suitable for immigration, such as skilled workers in occupations in which there is a shortage in South Africa.

The department particularly encourages applications by industrialists and other entrepreneurs who wish to relocate their existing concerns or to establish new concerns in South Africa.

The department is not directly involved in an active immigration drive. In categories where shortages exist, the normal procedure is for employers to recruit abroad independently and, in most cases, initially apply for temporary work permits.

The department considers the applications for immigration permits of prospective immigrants who wish to settle in the relevant provinces. In terms of new regulations, regions will be responsible for issuing permits previously issued by the regional committees in respect of permanent residence. They will also do so in respect of temporary residence. Enquiries in this regard may be made to the nearest office of the Department of Home Affairs in South Africa, to missions abroad, or to the Director-General of Home Affairs for the attention of the Directorate: Permitting in Pretoria.

### Temporary residence

In terms of the Immigration Act, 2002, temporary residence permits are divided into the following categories:

- visitor's permits
- diplomatic permits
- study permits
- treaty permits
- business permits
- crew permits
- medical permits
- relative's permits
- work permits with the following categories:
  - quota work permits
  - general work permits
  - intra-company transfer work permits
  - exceptional skills work permits
  - corporate work permits
  - retired person permits
  - exchange permits
- asylum permits.

In terms of Section 11, a visitor's permit may be issued to a person who intends to enter South Africa for less than 90 days for the purpose of tourism, business, education or medical treatment.

Foreigners who are exempt from visa requirements, or who are citizens of countries that are exempt from visa requirements for 90 days, may therefore proceed to a port of entry where visitors' permits for the mentioned period will be issued, provided such persons can produce evidence to prove their bona fides.

Foreigners who are citizens of countries that are exempted from visa requirements for less than 90 days may likewise obtain visitors' permits at a port of entry. Such foreigners enjoy exemption for the period only. Foreigners who require a visa prior to proceeding to South Africa, or who intend to enter South Africa for any period longer than the period for which they are exempt from the visa requirement, must apply for and obtain a visa prior to proceeding to the country.

Foreigners who intend to accept an offer of employment, start a business, take up studies or enter South Africa for any purpose for which a temporary residence permit is provided for in the Act, must apply for an appropriate temporary residence permit via the South African diplomatic representative in their countries of origin/residence. In countries where there are no

The Department of Home Affairs has a contact centre which deals with both civic services and immigration enquiries. The volumes of enquiries for the call centre have been growing from an initial 4 000 calls a month at its inception to 100 000 calls per month.





representatives, applications must be submitted in the nearest country where there is a foreign representative.

The outcome must be awaited outside South Africa and applicants may only proceed to South Africa once the permit as applied for has been issued to them.

The overriding consideration when dealing with applications for work permits is whether the employment or task to be undertaken cannot be performed by a South African citizen or an approved permanent immigrant already residing in South Africa.

Applications for the extension of temporary residence permits must be submitted at least 30 days prior to the expiry date of the permit, to the nearest regional/district office of the Department of Home Affairs where the applicant is employed. Any enquiries related to temporary residence permits may be directed to the nearest district/regional

office of the Department of Home Affairs in South Africa, to South African diplomatic representatives abroad, or to the Director-General of Home Affairs, for the attention of the Directorate: Permitting.

### **Removal of undesirable persons**

In terms of legislation, the Minister of Home Affairs may order the deportation of any person who is declared undesirable or prohibited, other than an asylum seeker.

These are foreign nationals who are in South Africa illegally and should be deported to the countries of which they are citizens or territories where they have rights of domicile or residence.

Any person who has become a deportation subject may, pending his or her deportation, be detained in a manner and at a place determined by the Director-General of the Department of Home Affairs.



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BuaBriefs

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