



# SOUTH AFRICA YEARBOOK 2023/24

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Home Affairs

## Home Affairs

The Department of Home Affairs (DHA) derives its mandate from the Constitution and various acts of Parliament and policy documents. This mandate entails the management of citizenship and civil registration, the management of international migration and the management of refugee protection. It allows the department to be a key enabler of national security, citizen empowerment, efficient administration and socioeconomic development. These functions must be managed securely and strategically. The department's services are divided into two broad categories: civic services and immigration services.

Over the medium term, the department will continue to focus on promoting economic growth, modernising ICT infrastructure to ensure integrated planning and efficient administration, and ensuring access to rights and civic services. As a result of Cabinet-approved budget reductions and one-off allocations in 2023/24 of R839.9 million for the records digitisation project and R200 million for the Represented Political Parties' Fund, expenditure is expected to decrease at an average annual rate of 3.2%, from R12.4 billion in 2023/24 to R11.2 billion in 2026/27. The department will review its performance targets to accommodate these reductions.

The department is set to receive an additional R1.3 billion over the medium term to fund the shortfall arising from the 2023/24 public sector wage agreement and to prevent a significant decrease in the number of personnel. This allocation is also intended to maintain the department's operating capacity. Transfers to entities and spending on compensation of employees account for 76% (R24.7 billion) of the department's budget over the medium term, while spending on goods and services accounts for 24% (R7.7 billion).

## Promoting economic growth

The publication of the revised critical skills list, comprising high-demand and priority occupations earmarked for the fast-tracking of recruitment in South Africa, in November 2023 is expected to attract critical skills and facilitate economic growth. The department also plans to explore new visa categories, such as start-up visas and remote-working visas, that could enable economic growth by attracting skills and promoting tourism.

Accordingly, over the medium term, the department will focus on the introduction of a points-based system that incorporates the critical skills and general work visas; and the creation of visas for start-ups and remote workers. To carry out these activities, R4.7 million is allocated in the Admissions Services subprogramme in the Immigration Affairs programme.

To attract foreign direct investment, the department will continue to streamline and simplify the issuing of visas. As such, it has rolled out the eVisa system, which aims to combat visa fraud and safely open South Africa's borders for legitimate travel, to the main tourism-generating countries not exempted from visas. The department plans to expand

the system by March 2025 to include study, business and intra-company transfer visas to eight countries (Japan, Germany, France, Spain, Italy, the United Kingdom, Kenya and Uganda). Accordingly, R100 million in 2024/25 is allocated in the Transversal Information Technology Management subprogramme in the Administration programme.

## Modernising ICT infrastructure

In support of implementing a risk-based approach to immigration, the department will continue to use the interactive advance passenger information processing system and, once developed, the passenger name record.

In combination with the system, the passenger name record, which is expected to be finalised by the end of 2024/25, will enable improved risk assessment before arrival. For this purpose, R208 million is allocated in 2024/25 in the Admissions Services subprogramme in the Immigration Affairs programme.

The department plans to automate the processing of births in 41 health facilities over the medium term. This is expected to minimise fraud and corruption, streamline the registration process and improve the turnaround time for issuing birth certificates. To carry out the automation drive, R15 million is allocated in 2024/25 in the Transversal Information Technology Management subprogramme in the Administration programme.

In an effort to improve access to enabling documents such as smart identity cards and passports, a further R15 million in 2024/25 in this subprogramme is allocated for rolling out the functionality to apply for passports and smart identity cards in an additional 5 front offices.

## Ensuring access to rights and services

Over the medium term, the department will focus on initiatives that improve access to its services. This includes using the existing 227 mobile offices at a projected cost of R77 million in 2024/25 in the Citizen Affairs Management and Service Delivery to Provinces subprogramme in the Citizen Affairs programme.

These units are planned to be operational in 2024/25 in geographical areas with populations of no more than 40 000, and are equipped with the necessary hardware, systems and connectivity to function as ordinary Home Affairs offices. Also in 2024/25, the department plans to design and roll out interactive self-service kiosks that citizens can use to apply for smart ID cards and passports, and reprint birth, marriage and death certificates.

These are planned to be set up at 250 non-modernised offices at a cost of R60 million in the Transversal Information Technology Management subprogramme in the Administration programme. To address overcrowding and long queues, the department plans to eventually roll out the kiosks in modernised offices as well.

The department plans to increase its presence in shopping malls

over the medium term to ease congestion at offices. Targeted malls include Cresta shopping centre in Johannesburg to ease congestion at the Randburg office and the Pavilion shopping centre in Durban to ease congestion at the Umgeni and Pinetown offices.

Negotiations are under way to establish these offices. The department will be responsible for basic rental and operating and utility costs, which are anticipated to amount to R5.5 million per year in the Administration programme.

The rollout of the online birth registration system at health care facilities requires the establishment of service points in these facilities so that births can be registered on the spot. This initiative is intended to facilitate compliance with prescripts that require births and deaths to be registered within 30 days.

As such, 95 health care facilities are planned to be equipped with the online birth registration system at a cost of R8.7 million in 2024/25 in the Transversal Information Technology Management subprogramme in the Administration programme.

## Legislation

The mandate of the DHA is derived from a broad legislative framework, including the:

- Constitution of the Republic of South Africa of 1996;
- Births and Deaths Registration Act, 1992 (Act 51 of 1992), as amended (Act 18 of 2010);
- Marriages Act, 1961 (Act 25 of 1961);
- Recognitions of Customary Marriages Act, 1998 (Act 120 of 1998);
- Civil Union Act, 2006 (Act 17 of 2006);
- Alteration of Sex Description and Sex Status Act, 2003 (Act 49 of 2003);
- National Archives and Records Service of South Africa Act, 1996 (Act 43 of 1996), as amended;
- Identification Act, 1997 (Act 68 of 1997);
- Immigration Act, 2002 (Act 13 of 2002)
- Refugee Act, 1998 (Act 130 of 1998)
- South African Citizenship Act, 1995 (Act 88 of 1995), as amended (current Act 17 of 2010); and
- South African Passports and Travel Documents Act, 1994 (Act 4 of 1994).

## Entities

### Electoral Commission

The Electoral Commission was established in terms of the Electoral Commission Act, 1996 (Act 51 of 1996) which sets out the commission's composition, powers, functions and duties. It is mandated to manage national, provincial and local government elections, ensure that those elections are free and fair, and declare results within a prescribed period.

Over the medium term, the commission will focus on conducting

the 2024 national and provincial elections, and preparing for the 2026 local government elections. This will entail the procurement, printing, distribution and warehousing of registration and election materials; rental and infrastructure payments for about 23 400 voting stations; amendments to ballot papers as a result of legislative changes; the appointment and training of an estimated 350 000 electoral and expansion staff; the maintenance of the voters' roll; technological improvements such as rewriting candidate nomination, ballot generation and election result systems; and the procurement of a building for its national office. These activities are expected to result in expenditure of R3.4 billion over the MTEF period.

The commission plans to undertake extensive civic education and communication campaigns ahead of the 2024 elections, and a national registration event ahead of the 2026 elections. These include a communication strategy to inform and educate citizens on the amended Electoral Act of 1998. Through these campaigns, which are being rolled out on various platforms, particularly social media, the commission aims to keep the electorate informed and improve voter turnout. Expenditure on outreach is expected to amount to R718 million over the medium term.

To ensure compliance with applicable provisions of the Political Party Funding Act (2018), the commission's party funding programme will focus on the management and administration of the Represented Political Parties' Fund and the Multiparty Democracy Fund, for which R71.5 million is allocated over the MTEF period.

This work is expected to include oversight, monitoring and enforcement, and the production of quarterly publications containing declarations of direct funding by political parties. The commission aims to undertake research over the period ahead to enhance monitoring and compliance with policies, and publicity campaigns to raise awareness of the Political Party Funding Act (2018).

Expenditure is expected to decrease at an average annual rate of 8.5%, from R3.1 billion in 2023/24 to R2.4 billion in 2026/27, in line with the end of the election period. This is mainly driven by Cabinet-approved budget reductions and a decrease in spending on compensation of employees and goods and services as the contracts of expansion and election staff hired ahead of the 2024 elections are terminated.

The commission is set to derive 96.6% (R6.6 billion) of its revenue over the medium term through transfers from the department and the remainder through interest on investments. Revenue is expected to decrease at an average annual rate of 1.5%, from R2.4 billion in 2023/24 to R 2.3 billion in 2026/27.

## Government Printing Works (GPW)

The GPW is mandated to provide secure printing and ancillary services to all organs of state in all spheres of government. The entity operates on sound business principles and fulfils its mandate subject

to policies as prescribed by the Minister of Home Affairs. It produces enabling documents such as smart identity cards and passports, and facilitates communication by various government institutions through coordinating and distributing the *Government Gazette*.

The entity will continue to focus on refurbishing its new office building at an estimated cost of R200 million over the medium term. The facility will be modernised with a pedestrian bridge connecting the Visagie Street factory precinct with the administration building across the street. The entity also plans to continue finalising its masterplan project, which details the construction and expansion of the Visagie Street factory site, at an estimated cost of R2 billion over the MTEF period. The Development Bank of Southern Africa was appointed as the implementing agent for the execution of both projects.

The entity also plans to procure a new enterprise resource planning system and resuscitate the eGazette system at an estimated cost of R100 million over the MTEF period. An estimated R433 million over the same period is earmarked for extensively revamping the entity's ICT environment to support the overall needs of the organisation, in particular to enable increased production capacity.

Total expenditure is projected to increase at an average annual rate of 15%, from R1.5 billion in 2023/24 to R2.3 billion in 2026/27, mainly driven by increases in the prices of raw materials and the volume of passports required. The entity is set to generate 99.8% (R6.4 billion) of its revenue over the medium term through its business operations, increasing at an average annual rate of 12.2%, from R1.7 billion in 2023/24 to R2.3 billion in 2026/27.

## Programmes

### Civic Services

The Civic Services Branch within the DHA is responsible for ensuring secure, efficient and accessible services and documents for citizens and lawful residents in the country. It does this through execution of the following core functions:

- management of the National Population Register (NPR);
- management of passports and travel documents;
- determination of the status of citizens;
- management of South African IDs and the Home Affairs National Identification System (HANIS)/Automated Biometric System;
- management of births, marriages and death records; and
- registration of births, marriages, deaths as well as amendments of personal particulars.

In addition, the branch renders a verification of identity service to all government institutions, banks and other private sector institutions.

### Citizenship

In South Africa, the right to identity – which includes nationality, name and family relations – is enshrined in Section 28 of the Constitution of the Republic of South Africa of 1996. The Births and Deaths

Registration Act of 1992 governs the registration of births in South Africa. The last amendment on the Births and Deaths Registration Act of 1992 was made in 2010. The registration of births in South Africa falls under the mandate of the DHA. To better enforce the registration of births, the Amendment Act of 2010 mandates the registrations of births within 30 days from date of birth.

The Constitution and the Act reaffirm South Africa's commitment to Articles seven and eight of the United Nations (UN) Convention on the Rights of the Child and the African Charter on the rights and welfare of the child. The agreements mandate the preservation of children's rights to identity, a nationality, to a name from birth, family ties and birth registration immediately after birth. The realisation of the right to be registered is closely linked to the safeguarding of a whole range of fundamental rights, including healthcare, social security, education, participation and protection.

The primary purpose of the records derived from the civil-registration process is to create a permanent record of the birth occurrence and for the issuing of a birth certificate, which is a personal document to attest birth registration and the most visible evidence of the government's legal recognition of the child. In essence, without a birth certificate the unregistered babies/children essentially do not legally exist.

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;
- registration of the birth of children born outside South Africa to South African fathers or mothers;
- an application for exemption; and
- the South African Citizenship Amendment Act, 2010 (Act 17 of 2010), which, among others, ensures that a child:
  - born to a South African parent inside or outside the country is a South African by birth, as long as the child is registered according to South African law;
  - born of non-South African parents, but adopted by South African parents is a citizen by descent; and
  - born of non-South African parents in South Africa, may, at the age of 18 years, apply for naturalisation. While they are minors, such children will retain the citizenship of their parents with no claim to any citizenship.

### Dual citizenship

South Africa allows dual citizenship. It occurs when a person is a citizen of more than one country. A South African who wishes to obtain the citizenship of another country must first apply to retain his/her South African citizenship and obtain the exemption before acquiring the foreign citizenship. This will allow him/her to hold dual citizenship. All South African dual citizens must enter and leave South Africa on their South African passports. Their foreign passports must only be used

outside South Africa. There is a penalty of a fine or imprisonment for failure to enter or leave the country using the South African passport.

## National Population Register

Early registration of birth is essential to ensure the integrity and credibility of the NPR, which is used to affirm the identity, status and rights of citizens. Furthermore, the optimisation of early birth registration is aligned to the UN Sustainable Development Goal 16, which is aimed at providing access to justice, ending the scandal of invisibility, trafficking of children and providing legal identity for all, including birth registration by 2030.

Various public service institutions depend on the availability of the official birth registration figures for planning execution of their respective mandates. The DHA continues to make steady progress towards universal birth registration. The department strives to build a credible, accurate and secure the NPR with birth as the single point of entry, by registering birth within the first 30 calendar days of birth.

## Deploying mobile units

As part of increased access to services and multi-channel strategy, mobile offices are being deployed to geographical areas with the population threshold of 40 000 and below. Most of these visits are in the rural and far-flung areas, schools and this is to assist clients mainly on smart ID cards applications and other departmental services.

Using mobile units, DHA has been able to target learners ensuring that South African learners doing grade 12 sit for their examinations already in possession of a Smart ID Card. In the 2022/23 financial year, the DHA visited 3 254 schools working in partnership with the Department of Basic Education. The additional mobile units purchased and the ones to be procured in the new financial year will extend the department's reach and greatly enhance its school ID campaigns.

## Immigration Services

The DHA's National Immigration Branch is responsible for control over the admission of foreign nationals for purposes of visitation, work, study, business and residence into South Africa as well as their departure. Management of international migration in South Africa is guided by the 2017 White Paper on International Migration.

The White Paper aims to:

- discourage illegal migration into South Africa by ensuring the legal stay of foreign nationals in the country by applying and renewing the relevant permits through law enforcement activities;
- 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;
- issue temporary and permanent residence permits issue as expeditiously as possible and according to simplified procedures;

- ensure that security considerations are fully satisfied together with stakeholders in the criminal justice cluster and the State regains control over the immigration of foreign nationals to South Africa;
- ensure that economic growth is promoted through the employment of needed foreign labour; foreign investment is facilitated; the entry of exceptionally skilled or qualified people is enabled and academic skills transferred;
- exchange programmes in the SADC are facilitated;
- ensure that tourism is promoted;
- ensure that 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;
- ensure that a policy connection is maintained between foreigners working in South Africa and the training of South African citizens; and
- ensure that a human-rights-based culture of enforcement is promoted including complying with the international human rights instruments on detention.

Immigration Services is also responsible for the regulation of migration through designated ports of entry and via foreign missions, as supported through its issuance of a range of visa and permits which prescribe conditions of entry into South Africa based on the category of the application made.

The Corporate Accounts Unit assists public and private organisations with applications for the importation of scarce skills and business visas. It is also responsible for the determination of the status of asylum seekers and refugees, and the issuing of related permits, confirm and provide enabling documents in the form of Section 22 and Section 24 permits to qualifying clients.

The Inspectorate section is responsible for enforcing the Immigration Act of 2002, and must ensure that all foreign visitors are legally residing within the country, and in the event of transgressions, enforce immigration legislation through measures which may include detaining them and in the event that their undocumented or illegal status is confirmed, to effect deportations.

The Inspectorate also manages a world-class holding facility, the Lindela Repatriation Centre, for persons who may be detained and are awaiting deportation. This facility has been opened to allow for unannounced oversight inspection by the South African Human Rights Commission and Inspecting Judges. In terms of international bodies, the oversight also is conducted through unannounced visits by the UN Rapporteurs on detention, International Organisation for Migration (IOM), and International Committee for the Red Cross to confirm that all persons processed through the holding facility are treated with dignity and offered protection in the form of accommodation, meals and medical treatment (where it may be required).

Detention in police stations subsequent to arrest pending their direct deportation or transfer to the Lindela Repatriation Centre, is permitted

only to those declared as compliant to the Nelson Mandela Rules for the Minimum Detention Standards.

The management of immigration must be risk-based and intelligence-led – integrated across international borders and domestic environments. The purpose of adhering to a risk methodology is to ensure that persons travelling to the country can be profiled well in advance, testing the credibility of travel documentation, personal identity and running background checks on the possible listings against national or international stop lists. Systems are powerful tools for development and for socio-economic inclusion, which contributes to social stability and cohesion.

Secure identity systems can enable e-commerce and government, drastically reduce fraud and costs; thus attracting investment and giving the country a competitive edge. Knowing who is in the country, and why, is critical for national security and stability in a globalised world characterised by rapid movements of people, goods, and even spreading epidemics and pandemics (such as the COVID-19). A risk-based methodology is thus underpinned by a seamless interface of technology, reporting systems and proactive management by Immigration Services.

## White Paper on Citizenship, Immigration and Refugee Protection

The DHA had embarked on a painstaking exercise of drafting the *White Paper on Citizenship, Immigration and Refugee Protection: Towards A Complete Overhaul of the Migration System in South Africa*. On 10 November 2023, the White Paper was published in the Government Gazette for public comments. Conflicts, armed violence, disasters, pandemics, seeking better business and work opportunities and other factors force people to leave their countries of origin to other countries.

There have been consistent loud voices calling for effective policy measures and legislative interventions dealing with migration in South Africa. These voices grew louder as violent clashes between foreign nationals and citizens rear their ugly heads. Many groups for and against migration are gaining momentum. South Africa has different pieces of legislation dealing with citizenship, immigration and refugee protection, namely the South African Citizenship Act of 1995, Immigration Act of 2002 and Refugees Act of 1998, as amended.

In fact, the South African Citizenship Act of 1995 is a relic of the colonial era and a replica of the 1949 Citizenship Act under the Union of South Africa. In practice, these pieces of legislation are not in harmony with each other. Piece-meal amendments were made without any policy framework whatsoever. The UN adopted the 1951 UN Refugees Convention and the 1967 Protocol relating to the Status of Refugees.

Meanwhile, the then Organisation of African Unity (OAU), now African Union, endorsed its own 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969 in order to deal with the peculiar circumstances of migration and refugees in Africa. This was done in the spirit of Pan-Africanism. The 1969 OAU

Convention prohibits refusal of entry, expulsion or extradition of asylum seekers and refugees and also provides for certain exclusions on certain grounds. In fact, the refugee laws in most of the AU countries based on the 1969 OAU Convention are much more stringent than the Refugees Act in South Africa. Furthermore, the principle of Pan-Africanism does not promote illegal entry in the countries that are signatory to the 1969 OAU Convention.

Asylum seekers and refugees were not recognized in South Africa until 1993. During the apartheid era, South Africa did not accede to any international and regional conventions relating to the status of refugees and asylum seekers. South Africa administered its refugee policy on an ad-hoc basis, granting refugee status mostly to white nationals from Zimbabwe, Portugal and Mozambique. The Aliens Control Act governed immigration during the apartheid era. The preference of whites over “non-whites” (blacks) became the focus of the immigration policy.

The Refugees Act was passed in 1998. In line with the 1951 Convention, the 1967 Protocol and the 1969 OAU Convention, the Refugees Act prohibits refusal of entry, expulsion or extradition of asylum seekers and refugees. In 1996, two years after the first democratic elections, South Africa acceded to various international agreements such as the 1951 Convention, the 1967 Protocol, the 1969 OAU Convention and other international instruments. This was done without the government having developed a clear policy on migration, including refugee protection. The government did not make reservations and exceptions permitted in terms of international law.

Both the 1951 Convention and 1967 Protocol provide for reservations. In terms of article 42 of the 1951 Convention, any State may make reservations to articles of the Convention other than articles 1, 3, 4, 16(1), 33, 36-46 inclusive. Article VII of the 1967 Protocol provides that any State may make reservations in respect of articles IV and 1 other than articles 1, 3, 4, 16(1) and 33.

Many countries made reservations in respect of both the 1951 Convention and 1967 Protocol. South Africa did not make any reservations in respect of the 1951 Convention and 1967 Protocol. This was a serious mistake on the part of government. It is not surprising that South African courts developed jurisprudence regarding asylum and refugees (in the absence of reservations and exceptions) which is unfavourable to the interests of government.

The White Paper proposes that the Government of the Republic of South Africa must review and/or withdraw from the 1951 Convention and the 1967 Protocol with a view to accede to them with reservations like other countries. The Refugee Protection and Immigration legislation must provide for reservations and exceptions as contained in the 1951 Convention and the 1969 OAU Convention. Particularly in that South Africa does not have the resources to grant the socio-economic rights envisaged in the 1951 Convention.

The White Paper makes radical proposals regarding citizenship:

- Section 4 (3) of the Citizenship Act requires to be reviewed, together with other sections, including those relating to citizenship by naturalization during the legislative process.
- The United States of America, Canada, Switzerland and Britain are developed countries with resources that far exceed those of South Africa, have developed strict immigration, citizenship and refugee laws in order to protect the rights of their citizens.
- The Citizenship Act and Births and Deaths Registration Acts must be repealed in their entirety and be included in the single legislation dealing with citizenship, immigration and refugee protection. This will remove contradictions and loopholes in the paths towards citizenship as is now the case with the three pieces of legislation
- The criteria for granting any form of citizenship must be strictly in accordance with the law.
- A proper register should be kept for all persons granted citizenship by naturalization by the Minister. The register must be tabled every year in Parliament by the Minister.

South Africa is today a great place to live in and many people in the world aspire to live, work or to be citizens of South Africa. In the result, many foreign nationals come to South Africa and stay in the country illegally. No one can account for all undocumented migrants. The DHA has no idea as to how many illegal immigrants are in South Africa. However, Immigration Services deports between 15 000 and 20 000 illegal foreigners every year at a huge cost. This number is on the increase. The Border Management Authority (BMA) is expected to significantly reduce the risk of foreigners entering the country illegally.

The Immigration Act introduced fundamental changes (albeit controversial) and a host of visas such as, temporary visa, study visa, business visa, critical skills visa, corporate visa, spousal visa, retired persons visa, relative visa, intra company visa and permanent residence. New policy framework and legislative intervention is required to establish the Immigration Division whose members are duly qualified to deal with granting of various visas. The current system is unworkable as staff members are overworked. Appeals/reviews are dealt with by the Director-General (DG) and Minister.

Given the responsibilities that the two have, it is impossible for them to deal with the appeals/reviews. Given the current challenges, there is merit in establishing an independent body to deal with appeals/reviews, such as Immigration and Refugee Board: Immigration Division, Refugee Protection Division and Immigration Appeal Division. The closing date for the submission of public comments on the White Paper on Citizenship, Immigration and Refugee Protection was 31 January 2024.

## International engagements

Policy and cooperative governance: the Immigration Services Branch is involved in numerous international engagements through participation in various bilateral and multilateral forums.

- Bilateral level: this includes regular engagements with all the SADC countries and other African countries. It also involves bilateral engagements with other countries outside of Africa in line with South Africa's foreign policy, as directed by the Department of International Relations and Cooperation.
- Multilateral level: engagements take place at a number of forums, such as:
  - The AU: AU Summit of Heads of States and Government (presidential invites).
  - The IOM: Migration Dialogue for Southern Africa.
  - The UN: particularly the UN High Level Dialogue on Migration and Development.
  - The SADC: the Ministerial Committee of the Organ on Politics, Defence and Security Cooperation.

## AU and Agenda 2063

South Africa, working through the SADC, continues to support the implementation of the aspirations espoused in Agenda 2063. In this regard, the DHA will continue to support the implementation of the AU Free Trade Area through the rationalization of ports of entry and introduction of one-stop border posts. The DHA will also support facilitation of secured movement of persons into South Africa. To this end, South Africa will engage in bilateral engagements with other African countries on visa exemptions to support the AU Protocol on Free Movement of Persons.

## Management of asylum seekers and refugees

The Administration of Refugees and Asylum Seekers section within the DHA is managed in line with the Constitution, the Refugees Act of 1998, the 1951 UN Convention on the Status of Refugees and its 1967 Protocol and the 1969 Organisation of African Unity Convention on Refugees. Refugees enjoy all the human rights contemplated in the Bill of Rights except the right to vote. To this end, Asylum Seeker Management is responsible for the determination of the status of asylum seekers and refugees, and the issuing of related permits, confirm and provide enabling documents in the form of Section 22 and Section 24 Refugee Traveling Document and Refugee Identity Document permits to qualifying clients.

There are five Refugee Reception Offices (RROs): Musina RRO in Limpopo, Desmond Tutu RRO in Gauteng, Durban RRO in KwaZulu-Natal, Port Elizabeth RRO in the Eastern Cape and Cape Town RRO in the Western Cape.

Key operations at RROs include:

- receiving and capturing new asylum applicants, including biometrics with photo and full set of fingerprints stored in the HANIS; booking clients that cannot be assisted on the same day;
- adjudicating their asylum claims;
- granting refugee status;

- referring manifestly unfounded, fraudulent and abusive decisions to the SSCRA;
- referring unfounded decisions to the Refugee Appeal Board;
- processing failed asylum seekers through the Immigration Act of 2002;
- extending permits of clients awaiting final decisions;
- preparing and communicating the SCRA and Refugee Appeal Board decisions to asylum seekers;
- joining declared family members;
- processing resettlements and voluntary returns of refugees and asylum seekers;
- receiving applications for and handing over refugee ID and travel documents to persons granted refugee status;
- preparing submissions for the SCRA reviews of refugee status in line with country of origin reports;
- preparing submissions for people applying to be refugees indefinitely; and
- administering transgressions (over-stayers, lost permits).

## Refugee Appeal Authority

The Refugee Appeals Authority of South Africa (RAASA) is an independent statutory body established in terms of Section 8(A)(1) of the Refugees Act, 1998 (Act 130 of 1998), as amended. The primary mandate of RAASA is to consider all the appeals made against the decisions of the Refugee Status Determination Officers (RSDO). Upon receipt of an application by an asylum seeker and conclusion of the hearing by the RSDO, the RSDO must either: grant asylum, reject the application as manifestly unfounded, abusive or fraudulent or unfounded.

## Management of the inspectorate

The Administration of the Inspectorate section has two directorates within the Immigration Branch – Deportations and Central Law Enforcement at national level. At provincial level there are inspectorate units for each of the local Home Affairs front line offices.

The branch manages the deportation of undocumented or illegal foreign nationals. Besides the coordination of deportations to the country of origin, scope is provided to manage visa and entry stop lists, receive and adjudicate appeals against deportations, and appeals for the upliftment of prohibitions, and undesirability statuses. Within the mandate of central law enforcement, officials undertake special investigations and joint operations within the security cluster and participating enforcement arms.

The inspection of businesses with government departments such as Employment and Labour contributes to securing the labour environment for citizens and legally employed foreign nationals, as well as compliance with the Basic Conditions of Work Act, 1997 (Act 75 of 1997). The coordination and cooperation with law-enforcement

agencies include the investigation of syndicates involved in illegal migration and corruption, civics cases involving acquisition of South African documents illegally and the detection of international fugitives from justice, as well as investigating cases involving terror suspects.

The department also cooperates with international bodies and foreign governments to ensure that potential illegal foreigners or terror suspects are detected. Inspectorate officials are also trained to assist with the detection and fraudulent use of fake passports and IDs. This is specialised, and passports are often made to appear genuine at face value, however a proper investigation can reveal embedded flaws that enable the DHA to timeously react to institute appropriate measures to prevent further distribution and use. Such instances involve criminal cases that require officials to testify in prosecution cases to ensure conviction of the perpetrators.

The DHA also initiated the first-ever community border crossing point between South Africa and Botswana at Tshidilamolomo in North West, with the aim to roll these out to other border crossings with selected neighbouring countries. Government is committed to contributing to regional integration in Africa and efforts to ease the movement of Africans on the continent.

## Management of Visas and permits

The section is responsible for providing policy direction and setting standards with regards to issuing of temporary residence visas and permanent residence permits. Permitting renders a critical function supporting macro-economic investment and attraction of critical and other relevant skills that are in high demand in South Africa due to the lack of such skills. The effective and efficient issuance of critical skills visas is a priority but with attention also being given to the overall improvement of turnaround times for issuance of other categories of permits and visas.

In this way, the DHA is supporting economic stimulus as well as the simplification of the visa regime to aid in the attraction of sought-after academics, scientific and engineering skills. It is also an area where the department has made substantial investment to define the regulatory environment and enabling conditions under which priority applications can be processed within a targeted and monitored turnaround period. The function performed by permitting is critical in respect of supporting the development of the economy and adding to the stimulus of trade, investment and tourism.

It also facilitates attraction and retention of critical skills according to risk-based approach to enhance economic growth through skilled labour and investment, tourism, cross-border trades, business in consultation with key government departments and stakeholders. In February 2022, the department published a revised list of critical skills needed for national economic growth. Permitting supports intergovernmental policy to enhance bilateral and multilateral relations with countries that are of interest to South Africa and encourages

contacts between business, representatives of cultural, scientific and educational and research institutions. It manages the process of visa exemption agreements that promote intra-regional trade; attract investment for development; promote cross-regional infrastructure projects.

As a key deliverable of the Inter-Ministerial Committee on Investment, the department is also a member of the national one-stop-shop that was opened as part of efforts by government to ease the way of doing business in South Africa, and to attract investors. The DHA contributes to the one-stop-shop centres by offering investors and their families reduced turnaround times for visas by establishing a dedicated centre at its back office to deal with applications received from the centres and offer immigration-related advice.

The service is focused on supporting large corporates, businesses, organisations, and employers who make an important contribution to the economy in infrastructure, manufacturing, energy, retail, professional and financial services, research and development, and knowledge production. In the 2023/24 financial year, the DHA planned to implement the recommendations of the Operation Vulindlela (OV) Work Visa Review Report. Set up in 2020 to support Cabinet and the President to accelerate the implementation of priority structural reform, the task of OV in the visa and permit environment was to review the regulatory framework and processes that govern the issuing of critical skills, general work, business, and intracompany transfer visas at the DHA.

To achieve this, the efficacy of South African work-visa processing system was benchmarked against countries that are recognised as successful in attracting foreign national skilled workers. The OV Report compared South Africa's performance to that of like countries in the sense that they also have a scarce skills deficit alongside high unemployment– a conundrum that characterises many emerging economies. The OV Work Visa Review Report made a number of recommendations such as the introduction of start-up visas and remote working visas.

The report also recommends the introduction of a Trusted Employer Scheme (TES) which is a scheme that rewards “good” or trusted users of the programme with lower document thresholds and faster processing times. The most important incentive for a business is quick processing or faster mobilisation of staff, allowing the business to start earning revenue from the services of the foreign employee earlier. The Immigration Act of 2002 requires any foreign national who enters the country and who is not a holder of a visa or a permanent residence permit, to produce a port of entry visa.

As such, the DHA processes temporary visa applications in respect of visitor's visa, relative's visa, medical treatment visa and retired person's visas in accordance with published timeframes whilst permanent residence applications are dealt with under sections 26 and 27 of the Act, which makes provision for eleven different categories

under which an application for a permanent residence permit can be lodged. Exemptions and waivers require a client to substantiate his or her case and show exceptional circumstances in a form of a motivation.

The circumstances are investigated, verified and forwarded to the Minister of Home Affairs for a decision. The decision on such cases is solely at the discretion of the Minister. The DHA has also made provision for a person that may be aggrieved by the decision of the department to decline his or her application for a visa or permanent residence permit, to apply for a review of the decision, or submit an appeal application against that decision. Appeals may be submitted twice – first to the DG, and if they are rejected on the first appeal, clients may appeal to Minister of Home Affairs.

The Appeals Unit was recently established in response to requirements for the department to demonstrate better efficiency in its management of such appeals and the turnaround times in which they are concluded. A performance target has also been set by the department to monitor achievements against this objective and to satisfy sustainable maintenance of the turnaround. Special dispensations get considered by the DHA when there are exceptional circumstances that must be considered.

Special dispensation applications are handled in accordance with Section 31(2) (b) of the Immigration Act of 2002, in terms of which the Minister of Home Affairs may “grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which justify such a decision.” The special dispensation does not grant the holder the right to apply for permanent residence. Women, children and persons with disability who are eligible are assisted with applications.

## Port Control

The mandate of the Port Control section up to 1 April 2023 is to facilitate the legal entry and departure of all persons into and out of South Africa through designated ports of entry and the management of the extended border through pre-clearance of persons travelling by air and sea. Port Control focuses on facilitating the movement of bona fide visitors and tourists with the highest possible degree of certainty, security and efficiency in support of national security, priorities and interests whilst preventing illegal migration through the ports of entry.

South Africa shares borders with six countries: Lesotho, Eswatini, Mozambique, Zimbabwe, Botswana and Namibia. There are 72 designated ports of entry (eight harbours, 11 airports and 53 land ports) that play a critical role in generating employment within the economy, stimulating international trade, investment and tourism.

The functions performed at a designated port of entry include:

- facilitating travellers' entry and departure through immigration;
- stakeholder management – government and industry stakeholders,

including subcommittees of the BMA;

- international relations – cross border liaison with counterparts of the neighbouring countries;
- reporting – including statistics and analysis of trends;
- ensuring the issuance of administrative conveyance fines; and
- participating in the modernisation efforts of the DHA to ensure transition to best practice international standards in the management and processing of migration.

Movement of persons and goods is managed efficiently and effectively through the border with the participation of other border management stakeholders who have clear responsibilities at the port of entry and borderline. Being faced with an ever-increasing number of travellers, the balance between efficient and effective traveller facilitation and security considerations becomes critical.

By building risk-assessment profiles and conducting analysis against watch lists, it enables governments to make fast, accurate and informed decisions to secure borders whilst protecting legitimate travel, tourism and trade. Whilst facilitating the legitimate movement of travellers and goods, border management staff are also faced with threats posed by transnational crime, terrorism, illegal migration, corruption, pandemics and environmental hazards.

## Redevelopment of six priority ports of entry

The existing 72 ports of entry were designed in a different era for a different purpose and are not coping with the current volumes of movement of people and goods. The state of these ports has a negative impact on the economy of the country. In order to address this situation, government designated six priority ports to be targeted for infrastructure improvement. These are Beit Bridge, Lebombo, Maseru Bridge, Kopfontein, Oshoek and Ficksburg ports of entry.

There is a drive to develop one-stop border posts in Africa to address delaying factors in major transit corridors. Combining the border control formalities for exiting and entering two countries has the potential to reduce travel and processing time for passenger and freight vehicles, resulting in the reduction of transport costs for traders and the cost of goods to the consumers in the supply value chain. As such the six identified ports of entry will be developed as one-stop border posts.

This will not only include physical infrastructure but also process and system enhancements to ensure seamless movement of people, goods and conveyances through the ports of entry. Cognisant of the current fiscal constraints and the urgent need to improve efficiency at these strategic ports of entry, the department will pursue this project through a public-private partnership. This will allow for shared risk between government and the private sector, which is expected to reduce constraint on the national fiscus and allow government to access private sector infrastructure development expertise and

financial flexibility.

To this end, five bidders were pre-qualified to submit proposals for the redevelopment of these ports. This process will result in the appointment of private parties that will develop and maintain the ports of entry for a period of 20 years. Consultations on the bilateral agreements between the countries that share the border posts are ongoing. The agreements will cover key aspects, such as the one-stop border post model to be implemented and the governance structures. The construction of the ports of entry will be undertaken in phases and is expected to be completed by 2025.

## Visa requirements

Foreigners who wish to enter South Africa must be in possession of valid machine-readable passports or travel documents. They must have valid visas, except in the case of certain countries whose citizens are exempt from visa control for bona fide holiday and business visits of a limited duration. 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 foreign nationals at ports of entry. The visa becomes a permit upon entry; therefore, no additional permit will be issued. Children from visa exempt countries only need a passport if they are accompanied by an adult.

If unaccompanied, a child should carry the following documents:

- Copy of a birth certificate.
- Parental consent letters.
- Copy of the passport(s)/ID(s) of the parent(s)/legal guardian(s).
- Contact details of the parent(s)/ legal guardian(s).
- Letter from the person who is to receive the child in South Africa, containing his/her residential address and contact details of where the child will reside.
- Copy of the ID/valid passport and visa or permanent residence permit of the person who is to receive the child in South Africa.

Where applicable:

- Copy of an adoption order.
- Copy of a death certificate of the deceased parent/ parents or legal guardian.
- Copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child.

The requirements for parental consent and birth certificates remain unchanged in the case of South African children travelling – in view of the requirements of the Children's Act, 2005 (Act 38 of 2005). Where the DHA has issued a child passport containing the particulars of the parents, a birth certificate is not required. Foreign children who require visas need to submit the above documents during the visa application process. The requirements for children travelling is aimed at the protection of children.

## **Outsourced permitting partnership for management of frontline services**

The DHA has outsourced the frontline client services (receiving permits and visa applications) to VFS Global. The company has 12 offices in nine provinces and 11 cities within South Africa. Visa and permit applications are accepted across these 12 centres and subsequently assessed by the DHA head offices in Pretoria.

Non-South Africans with a legal residency permit can apply for a visa or permit at these centres. These are found at:

- Bloemfontein, Free State
- Bruma (Bedfordview), Gauteng
- Cape Town, Western Cape
- Durban, KwaZulu-Natal
- George, Western Cape
- Johannesburg, Gauteng
- Kimberley, Northern Cape
- Mbombela, Mpumalanga
- Gqeberha, Eastern Cape
- Pretoria, Gauteng
- Polokwane, Limpopo
- Rustenburg, North West.

Regulations state that one cannot change from a visitor's visa to another type of visa. Applications, for change of conditions, must be made at a mission abroad – an embassy or consulate, where the applicant is an ordinary resident or holds citizenship. However, exceptional circumstances include if an applicant needs life-saving medical treatment or is an accompanying spouse or child of a business or work visa holder who wishes to apply for a study or work visa.

Life partners looking to apply for temporary residency in South Africa based on a life partner visa will need to prove that they have been together for two years; those applying for permanent residency will need to prove that they have been together for five years. Spouses looking to apply for temporary residency in South Africa based on a spousal visa will not need to prove that they have been in a previous relationship for a certain number of years. If a partner or spouse was in a previous marriage, it is necessary to provide official documents that prove the dissolution of such marriage either by divorce or the death of the other spouse.

The DHA has officially eradicated the exceptional skills and quota permit categories. Current exceptional skills and quota permit holders will not be able to renew their permits going forward. Those looking to renew their visa while in the country must do so 60 days before the current one expires.

Applications for a general work visa will have to include a certificate from the Department of Employment and Labour confirming the following:

- Despite a thorough search, the prospective employer could not find a South African employee with the skills and experience equivalent

to those of the applicant;

- The applicant has proven skills and experience in line with the job offer;
- The salary and benefits of the applicant are not inferior to those of citizens or permanent residents; and
- The contract signed by both the employer and applicant stipulates conditions that are in line with the labour laws of South Africa.

The applicant will need a document to prove that their qualifications have been approved by the South African Qualifications Authority. This document must be translated into one of the official languages of South Africa by a sworn translator. The work visa will be valid for a maximum of five years. The critical skills work visa is based on a list of occupations that are considered critical (examples include agricultural engineers, land surveyor and forestry technicians) in South Africa.

To apply for a visa in this category, the applicant does not need a job offer, but within one year of being granted a visa, will need to prove that he or she is gainfully employed within their field. This visa replaced the exceptional skills and quota visas. Holders of visitor's visas who wish to change the terms or status of their visa must submit an application no less than 60 days prior to the current visa's date of expiration. It is a requirement for businesses to get a recommendation letter from the dtic for a business visa. The dtic then conducts a thorough forensic assessment of the feasibility of the business entity as well as the contribution to the national interest of South Africa.

A minimum of R5 million must be invested into South Africa. Any accountant registered with the South African Institute of Professional Accountants or the South African Institute of Chartered Accountants can verify the availability of funds for a business visa. The business owner's workforce must be 60% South Africans or must be permanent residents employed in various positions. Business visas will be granted for no longer than three years at a time. No business visa will be issued to a foreigner who intends to establish or invest in a business that is listed as an undesirable business undertaking.

To obtain an intra-company visa, the employee in question must be employed with the foreign office/business for a minimum of six months before being eligible for transfer to South Africa. This visa is available for four years but is non-renewable. Holders of a study visa may not conduct part-time work exceeding 20 hours of labour a week. Both study and exchange visas are only issued for the duration of the study period or exchange programme, respectively.

An exchange visa (for people under 25 years) will not be granted to conduct work pertaining to what is considered an undesirable work as published by the Minister of Home Affairs in the gazette, after consultation with the Minister of Trade, Industry and Competition. An asylum transit visa issued at a port of entry is valid for a period of five days to enable the holder to report at a nearest refugee reception office. Fines are no longer charged for overstaying. People who overstay for a prescribed number of times are declared as undesirable. The DHA has

implemented biometric capture at OR Tambo, King Shaka, Cape Town and Lanseria international airports, which has enabled it to abolish the transit visa and allow prospective travellers (mainly from China) to apply for visas through accredited tourism operators.

## **Control of travellers**

People arriving or departing from South Africa by air, sea or land are required to report to an immigration officer at a port of entry for examination in terms of the Immigration Act of 2002 and have their entry or departure recorded.

## **Sojourn**

Foreign nationals who are in the country illegally and 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; and
- 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, people who are in South Africa illegally are prosecuted, removed or their sojourn is legalised. Officers at the various regional and district offices of the DHA 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 DHA is responsible for:

- processing applications for immigration permits for consideration; and
- admitting people 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 DHA 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 DHA considers the applications for immigration permits of prospective immigrants who wish to settle in the relevant provinces. Regions are 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 DHA in South Africa, to missions abroad, or to the DG of the DHA for the attention of the Directorate: Permitting, in Pretoria. The department

has prioritised temporary residence permits, as this category of foreigners is at risk of being in the country illegally, if their applications are not finalised in time. The DHA will prioritise applications for permanent residence permits from holders of quota work permits and exceptional skills work permits, in line with the country's objective of attracting critical skills.

### **Temporary residence**

A temporary residence permit allows a foreign national, such as international students, foreign workers and tourists, to legally stay in South Africa for longer than 90 days. If you wish to stay in South Africa for a period of less than 90 days to visit family or as a tourist, you may apply for visitors' visa.

The Immigration Act of 2002 aims at setting in place a system of immigration control which ensures that visas are issued as expeditiously as possible, on the basis of simplified procedures and objective, predictable and reasonable requirements and criteria and without consuming excessive administrative capacity.

The Immigration Act mandates the DHA to promote economic growth through the employment of needed foreign labour, facilitate foreign investment, enable the entry of exceptionally skilled or qualified people, facilitate academic exchanges within the Southern African Development Community and promote tourism, without compromising the security of the Republic.

The Immigration Act provides for various categories of temporary residence visas, such as:

- Transit visas for the purpose of transiting the Republic enroute to a neighbouring country;
- Visitor's visas for visits not exceeding 90 days;
- Visitor's visas for activities longer than 90 days but not exceeding three years;
- Study visas;
- Treaty visas;
- Business visas;
- Medical treatment visas;
- Relative's visas;
- Work visas;
- Retired person visas; and
- Exchange visas.

With effect from 26 May 2014, applicants are required to submit an application for a temporary residence visa in person at the South African diplomatic representative in his or her country of origin or at a South African diplomatic representative in a neighbouring country if there is no South African diplomatic representation in the applicant's country of origin. The purpose of the in-person application is for biometric data to be captured.

Applicants are advised to ensure that they apply for the correct temporary residence visa commensurate with the intended activities

to be undertaken in the Republic, since holders of visitor's visas are no longer allowed to apply for change of status or change of conditions relating to his or her visitor's visa from inside the country.

For example, a person who applies for a visa to visit a family member in South Africa cannot apply for a relative's visa to remain in the country with such family member. Such person is required to return to his or her country of origin or of permanent residence in order to apply for a relative's visa. The same applies to a person who obtained a visitor's visa for short-term employment activities in terms of Section 11(2) of the Immigration Act who cannot apply for a work visa from inside the country.

### **Entity:**

#### **Border Management Authority**

The BMA was established in terms of the Border Management Authority Act of 2020 to strengthen border control within the border law enforcement area and at ports of entry. The Act empowers the authority to facilitate and manage the legitimate movement of people and goods at ports of entry, prevent illegitimate activities at ports of entry and within the border law enforcement area, and cooperate and coordinate its border law enforcement functions with other organs of state and border communities.

The authority will focus on effectively deploying human resources and technology over the MTEF period. Accordingly, it plans to appoint an additional 300 border guards at a projected cost of R102.8 million; and regional commanders, port commanders and critical senior management officials at a projected cost of R120.7 million.

These positions are expected to anchor and support the frontline port functions transferred from the departments of agriculture, land reform and rural development; forestry, fisheries and the environment; health; and home affairs. The BMA will invest in technology through developing systems and enhancing connectivity at the 71 ports of entry at a projected cost of R116 million over the next 3 years.

Expenditure is expected to increase at an average annual rate of 4.7%, from R1.3 billion in 2023/24 to R1.5 billion in 2026/27, driven mainly by costs related to the authority's establishment and the procurement of border surveillance and ICT equipment. The authority is set to derive all its revenue, amounting to R4.4 billion over the next three years, through transfers from the department. Revenue is expected to increase in line with spending.