

# 2019/20 SOUTH AFRICA YEARBOOK

## Home Affairs



## Home Affairs

The Department of Home Affairs (DHA) is the custodian of the identity of all South African citizens, critical to which is the issuance of birth, marriage and death certificates; identity documents (IDs) and passports; as well as citizenship; naturalisation and permanent residency certificates.

This goes beyond merely issuing documents. The department endeavours to stimulate economic growth in the country through a responsive and efficient immigration regime that will maximise benefits and minimise risks to the country. It is also responsible for the effective, secure and humane management of asylum seekers and refugees.

The Minister of Home Affairs has oversight over three statutory bodies: the Immigration Advisory Board, the Refugee Appeal Authority (RAA) and the Standing Committee on Refugee Affairs (SCRA). The main responsibility of these bodies is to assist the department in discharging its mandate with regard to the Immigration Act, 2002 (Act 13 of 2002) and the Refugees Act, 1998 (Act 130 of 1998).

The DHA also receives funds on behalf of the Electoral Commission of South Africa and for the Represented Political Parties Fund. There are two entities that report to the Minister of Home Affairs, namely: the Electoral Commission and the Government Printing Works (GPW).

A major focus for the DHA is the transformation of the department, so that it can deliver a service that is efficient, accessible and corruption-free. Several closely related strategic drivers are used in this regard.

The mandate of the DHA is derived from the Constitution of the Republic of South Africa, 1996 and various Acts of Parliament and policy documents. The department's services are divided into two broad categories – civic services and immigration services. Accordingly, the department is mandated to manage citizenship and civic status, international migration, refugee protection, and the population register. Executing its mandate allows the department to be a key enabler of national security, citizen empowerment, efficient administration and socio-economic development. These functions must be managed securely and strategically.

In fulfilling its mandate to affirm and register official identities and civic statuses, including citizenship, as well as to regulate international migration, the department contributes to the attainment of the National Development Plan's vision of building a South Africa that is safe and conducive to inclusive development. Accordingly, the department's mandate is fulfilled in terms of Priority 1 (economic transformation and job creation), Priority 5 (social cohesion and safe communities), Priority 6 (a capable, ethical and developmental state) and Priority 7 (a better Africa and world) of government's 2019 – 2024 Medium Term Strategic Framework. In line with these priorities, over the medium term, the department plans to maintain the issuance of Smart ID cards and registration of births, simplify the issuance of permits and visas in support of economic growth, continue the Information Technology (IT) Modernisation programme to expand its client interfaces, and establish the Border Management Authority (BMA) and secure international migration.

### Maintaining the issuance of Smart ID cards and registration of births

In its ongoing commitment to register official identities, the DHA plans to maintain the rollout of Smart ID cards to all eligible people. Accordingly, over the medium term, the department expects to issue nine million Smart ID cards. For this purpose, R7.5 billion is allocated over the medium term in the Service Delivery to Provinces subprogramme in the Citizen Affairs programme. Smart ID cards and other enabling documents are funded through the self-financing method, as such, revenue that is generated is appropriated to the department during the adjustments budgeting process. This revenue is projected to be R4 billion over the Medium Term Expenditure Framework (MTEF) period.

The department is also committed to ensuring that all births are registered within 30 days, as required by law, in line with government's priority to provide adequate services to all citizens. Over the medium term, the department plans to register 2.4 million births within 30 days. For this purpose, R289.9 million is allocated over the MTEF period in the Status Services subprogramme in the Citizen Affairs programme. The

programme's expenditure is expected to increase at an average annual rate of 1%, from R5.7 billion in 2019/20 to R5.9 billion in 2022/23.

### Simplifying the issuance of permits and visas

In line with the national priority of economic transformation and job creation, over the medium term, the DHA plans to promote business and leisure tourism, and economic development by improving its processing of permits and visas. This will be achieved generally by removing unnecessary barriers requirements. Accordingly, the department plans to continue implementing the simplification process, whereby selected and low-risk countries benefit from visa waivers and the relaxation of conditions as well as the rollout of the e-visa system. For this purpose, R759.5 million has been allocated over MTEF period in the Immigration Service subprogramme in the Immigration Affairs programme. The programme's expenditure is expected to increase at an annual average rate of 10.8%, from R1.3 billion in 2019/20 to R1.8 billion in 2022/23.

### Modernising the department's IT infrastructure and expanding its client interfaces

Through the IT Modernisation Programme, the department has ensured higher efficiencies and predictability in its business processes and products. The programme has enabled the department to automate its business processes that involve capturing information and images, digitising supporting documents, and issuing IDs and passports by means of the paperless live capture system. To continue with the modernisation programme, R1.9 billion is allocated in the Administration programme over the MTEF period.

To improve its reach and accessibility, the department plans to expand its public-private partnership with the banking sector, to provide services at more branches, and with other service providers. The department also plans to procure new mobile units and refurbish its existing fleet, leading to a projected increase in the number of mobile units from 100 in 2019/20 to 115 in 2020/21, at cost of R20 million. Related activities are carried out at an estimated cost of R50 million in the Office Accommodation subprogramme in the Administration

programme. The programme's expenditure is expected to decrease at an average annual rate of 1.6%, from R2.5 billion in 2019/20 to R2.4 billion in 2022/23. This is due to the shifting of R77 million over the MTEF period to the Service Delivery to Provinces subprogramme to increase IT capacity in provinces.

### Establishing the BMA and secure international migration

As part of government's priorities to promote social cohesion and build safe communities and a better Africa and world, the DHA is committed to adopting an integrated approach to border management that is characterised by a single command-and-control structure. This is in response to Cabinet's decision to establish the BMA. The authority's work will be aimed at improving South Africa's borders and will incrementally assume responsibility for enforcing border law at ports of entry.

In this regard, the BMA Bill was introduced to Parliament in 2016 and endorsed by the Portfolio Committee on Home Affairs and the National Assembly (NA) in 2017. The Bill was adopted with the proposed amendments by the National Council of Provinces in 2019. The Bill has now been referred back to the NA for adoption and it was anticipated that it would be finalised by Parliament in 2020. An amount of R109.5 million over the medium term has been allocated from the department's baseline budget for the establishment of the BMA. In addition, functions for the authority's operations will be transferred from departments and entities with the associated funding and other resources, including assets.

As part of the iBorders Strategy, which entails a risk-based approach to the management of migration, over the MTEF period, the department plans to focus on establishing necessary systems and a legislative framework. This is aimed at implementing a passenger name record system and an advance passenger processing system. The passenger name record is used to identify unknown threats based on passenger profiles and the Advance Passenger Processing System is used to identify known suspects (for example, those on stop and watchlists). An additional R606 million over the medium term has been allocated to implement the passenger name record system and R486 million over the medium term

has been allocated for the Advanced Passenger Processing System.

The department is in the process of establishing public-private partnerships for the redevelopment and modernisation of six priority land ports of entry: Beitbridge, Maseru Bridge, Kopfontein, Lebombo, Oshoek and Ficksburg. Related activities will be carried out in the Office Accommodation subprogramme in the Administration programme at an estimated cost of R233 million over the MTEF period.

### Legislation

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

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

### Budget

During the 2019/20 financial year, the DHA received an initial budget allocation of R8.339 billion as voted funds. However, during the adjustment estimates of national expenditure, an additional funding of R1.188 billion was allocated to the department for self-financing. The self-financing mechanism was created by the National Treasury, whereby the department is allocated part of the revenue it collects during the financial year to pay for certain items of expenditure such as Smart ID cards for first-time applicants and citizens older than 60 years,

infrastructure to implement the Who Am I Online project, fees for cash-in-transit and printing costs for enabling documents. The final appropriation was R9.527 billion.

### Entities Electoral Commission

The Electoral Commission is a Chapter 9 institution that reports directly to Parliament. It was established in terms of the Electoral Commission Act, 1996 (Act 51 of 1996), which sets out its composition, powers, functions and duties. The commission is mandated to manage national and provincial, and local government elections; ensure that those elections are free and fair; and declare results within a prescribed period. The commission's ongoing focus is on strengthening institutional effectiveness, delivering free and fair elections, informing and engaging citizens and stakeholders in electoral democracy, and contributing to the enhancement of the transparency of elections and party funding.

Over the medium term, the commission will focus on preparations for the 2021 local government elections and the 2024 national and provincial elections. These preparations entail extensive activities around creating awareness among citizens, registering voters, improving technologies, and delivering elections in accordance with the commission's governing legislation and mandate. Preparations for the 2021 local government elections will begin by conducting two general voter registration events across the country over two weekends, in March and May 2021. These registration events will be followed by the 2021 local government elections, which are expected to take place between August and November 2021. Preparations for the 2024 national and provincial elections will commence in 2022/23.

Over the medium term, the commission will undertake extensive outreach activities to keep the electorate informed and attain high voter turnouts on election days. Part of this entails democracy education and communications campaigns on various media platforms. For this purpose, R615 million has been budgeted for, over the MTEF period and R826.7 million, over the same period, has been budgeted for the technology improvements to enhance its registration, voting and counting

processes, including the updating of databases in line with electoral requirements. In addition, R255 million is allocated in 2020/21 for the procurement of 60 000 new and improved voter registration and voting management devices.

Significant cost drivers associated with delivering elections are the procurement, distribution and warehousing of registration and election materials; rental and infrastructure costs associated with voting stations (approximately 23 200); the procurement of items on the bill of electoral material, including ballot papers, ballot boxes and stationery used at voting stations during electoral events; and the maintenance of addresses on the voters' roll. For this purpose, R702 million is allocated in 2021/22 for the local government elections. Allocations for the 2024 national and provincial elections will be made during the next MTEF period.

To carry out preparations for the local government elections and the national and provincial elections; and operations for the 2021 local government elections, R614 million is allocated for the appointment of approximately 350 000 fixed-term and temporary electoral employees to work during registration and election periods. This allocation is also expected to enable the improvement of training programmes.

Expenditure is expected to decrease at an average annual rate of 7%, from R2.2 billion in 2019/20 to R1.7 billion in 2022/23, mainly as a result of capital expenditure amounting to R735.2 million over the MTEF period for the acquisition of a building. Revenue is expected to increase at an average annual rate of 6.5%, from R2.1 billion in 2019/20 to R2.5 billion in 2022/23. The commission derives 99% (R7.1 billion) of its revenue from transfer payments from the DHA.

### Government Printing Works

The GPW is mandated to provide security printing and ancillary services to all organs of state in all spheres of government. It was converted to a full government component in 2009 in terms of the Public Service Act, 1999 (Act 5 of 1999), enabling it to operate on sound business principles. The entity fulfils its mandate subject to policies as prescribed by the Minister of Home Affairs. Accordingly, the entity's ongoing objectives are to provide secure printing services to South Africa and some

countries in the Southern African Development Community (SADC), produce secure documents for identification and effective border security, and establish itself as the security printer of choice in the region. Over the medium term, the entity will focus on replacing old equipment and machinery, refurbishing its production facility, and developing and attracting specialised skills.

The equipment recapitalisation plan is expected to cost R1.9 billion over the medium term. An existing building in Pretoria has been identified for refurbishment to serve as the entity's new headquarters from 2020/21. The total cost in 2020/21 for refurbishing the building is estimated at R107 million. As a significant portion of the entity's personnel are nearing retirement, the number of personnel in the entity is expected to decrease from 884 in 2019/20 to 874 in 2022/23.

Expenditure is expected to increase at an average annual rate of 10.1%, from R1.5 billion in 2019/20 to R2.0 billion in 2022/23. Revenue is expected to increase at an average annual rate of 8.1%, from R1.6 billion in 2019/20 to R2.1 billion in 2022/23. The entity is set to generate 94.4% (R5.4 billion) of its revenue over the medium term through business operations.

### 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 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

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 United Nations' (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. Currently the DHA is registering approximately 85% of births within 30 calendar days.

### 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.

The Immigration Policy aims to:

- discourage illegal migration into South Africa by encouraging foreign nationals to apply for relevant 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;
- temporary and permanent residence permits issue as expeditiously as possible and according to simplified procedures;
- ensure that security considerations are fully satisfied 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 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.

The Immigration Services Branch 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 permits.

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.

An inspectorate function 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 for persons who may be detained and are awaiting deportation, and this facility has been opened to inspection by international bodies such as the UN High Commissioner for Refugees 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).

The management of migration is an international phenomenon that provides opportunity for growth, expansion and economic investment to flourish, but it also poses risk to security of citizens and the sovereign integrity of the State if it is not well managed. Since 2008, immigration has adopted a risk-based approach in the execution of its mandate, applying a model that is based on a concentric elimination of risks through application of systems, country profiling, and analysis through liaison, applied business processes and placement of key resources within key international hubs.

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 in turn 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 (such the COVID-19 pandemic). A risk-based methodology is thus underpinned by a seamless interface of technology, reporting systems and proactive management by Immigration Services.

### Streamlining and securing international migration

The *2017 White Paper on International Migration* (WPIM) provides a policy framework giving a comprehensive review of immigration and related legislation. Elements of the WPIM that require only administrative action are already being implemented. However, those elements of the WPIM that require major changes could not be implemented immediately pending the finalisation of new legislation.

Following Cabinet's approval of the WPIM in March 2018, the DHA started a process of drafting legislation which was finalised in the 2019/20 financial year, having followed an extensive round of consultation across inter-departmental and external stakeholders. The legislative amendments as proposed will undergo the required parliamentary processes in 2020/21.

### 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 African Union (AU): AU Summit of Heads of States and Government (presidential invites).
  - The International Organisation for Migration: Migration Dialogue for Southern Africa (The last one was held from 25 to 28 June 2019 in Namibia).
  - 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, recognises that the free movement of people and the African Passport, as identified in Agenda 2063 as part of the first 10 years flagship projects, should be accelerated for implementation.

The free movement of people and implementation of the African Passport are regarded as some of the pillars of African integration and accelerated growth of intra-African trade which aims at transforming Africa's laws, through removal of visa requirements, promoting the issuance of a single visa by member states and ultimately, a single African Passport.

### 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. The Administration of Refugees and Asylum Seekers section has four directorates within the Immigration Branch. They are:

- Business Operational Support.
- Information and Cooperation Management (Country of origin reports).
- Repatriation and Integration.

- Stakeholder Management.

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 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 SCRA;
- referring unfounded decisions to the Refugee Appeal Board (RAB);
- processing failed asylum seekers through the Immigration Act of 2002;
- extending permits of clients awaiting final decisions;
- preparing and communicating SCRA and RAB 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 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).

Following the implementation of the referred amendments to the Refugees Act of 1998, the business unit has observed a drastic decline in the number of new asylum applicants as more efficiencies at RROs, the RAA and the SCRA were starting to make an impact. The first three months of 2020 recorded only 2 414 new asylum applicants; most of them dependents born in the country and dependents that have reached the age of maturity, in comparison to the same period in 2019 where the unit recorded 5 118 newcomers.

### Management of the inspectorate

The Administration of the Inspectorate section has two directorates within the Immigration Branch – Deportations and Central Law Enforcement.

The Deportation 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, prohibitions and to consider applications seeking upliftment of status.

Within the mandate of Central Law Enforcement, officials undertake special investigations and joint operations within the security cluster and participating enforcement arms. This includes 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. The 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 regard to issuing of temporary residence visas and permanent residence permits.

Permitting renders a critical function supporting macro-economic investment and attraction of 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 and simplification of the visa regime through 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. The DHA is in the process of reviewing the current Critical Skills List. Academic assistance has been requested from the Department of Higher Education and Training to help with a research-based methodology that will ensure that the final list is informed by thorough research.

Permitting supports inter-governmental 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; and remove the costs of overlapping regional memberships by harmonising integration programmes.

To promote investment and economic opportunity, the DHA has established a partnership with the Gauteng Provincial Government's Gauteng Growth and Development Agency (GGDA) and Visa Facilitation Services (VFS) to serve corporate clients at the DHA Premium Visa and Permit Services Centre, at GGDA's Gauteng Investment Centre in Sandton, whilst similar initiatives have also taken place in the Western Cape and

KwaZulu-Natal in partnership with VFS and the Department of Trade, Industry and Competition (dtic). 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.

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 thus 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 Director-General (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 achievement 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. The DHA has approved special dispensations for approved categories of Zimbabwean and Lesotho nationals (and partially to Angolan cessation categories).

### Management of Port Control

The mandate of the Port Control section is to facilitate the legal entry and departure of all persons into and out of South Africa through designated ports of entry.

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.

To provide understanding of demand and volumes to be processed at designated ports of entry, it is relevant to note that approximately 42 million traveller movements occur through the country's ports of entry within an annual period.

### National Targeting Centre (NTC)

The BMA Bill, 2016 entrusts the BMA Commissioner with the mandate of establishing and maintaining the effective functioning of an intelligence-driven NTC. The NTC is envisaged to have the capability to integrate/coordinate border law enforcement intelligence and operations, manage border risks holistically and operate a national risk management tool. As the NTC is a key component in the establishment of the BMA, a business case for the establishment of the BMA has therefore been developed. It is anticipated that the NTC will be rolled out in six phases in alignment with the BMA roll out phases.

### 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, the Minister of Home Affairs designated six priority ports to be targeted for infrastructure improvement. These are Beit Bridge, Lebombo, Maseru Bridge, Kopfontien, 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.

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 and will be concluded in the current financial year. 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 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 foreign nationals at ports of entry. The visa becomes a permit upon entry; therefore, no additional permit will be issued.

In November 2019, requirements for children travelling to or from South Africa were revised to give effect to the Children's Act, 2005 (Act 38 of 2005). Under the regulations, 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 his /her 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 of 2005. Where the DHA has issued a child passport containing the particulars of the parents, a birth certificate is not required.

In respect of inbound travellers (international visitors) where visas are required, provision of original birth certificates or certified copies of required documents would be continued during the visa application process, as this is in line with practice in many other countries.

The DHA outsourced the handling and processing of visa applications to VFS Global. The company has opened 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 in South Africa 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, Eastern Cape
- Johannesburg, Gauteng
- Kimberley, Northern Cape
- Nelspruit, Mpumalanga
- Port Elizabeth, Eastern Cape
- Pretoria, Gauteng
- Polokwane, Limpopo
- Rustenburg, North West.

Asylum and refugee cases are directly handled by the DHA. The VFS does not have the authority to grant or refuse visas as that decision still lies with the DHA.

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. Life partners will need to attend separate but simultaneous interviews to determine the authenticity of the existence of their relationship.

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 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 no longer possible to change from a visitor's visa to another visa category within South Africa.

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 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 in South Africa by air, sea or land have to pass through customs control, where they may be questioned and their baggage scanned or searched for dutiable, restricted or prohibited goods. Visitors found with undeclared, restricted or prohibited goods could be fined or may face prosecution.

South Africa acceded to the Admission Temporaire/Temporary Admission (ATA) Convention in 1975, which means foreign visitors' companies and individuals can approach their local chambers of commerce for advice regarding the issuing of an ATA Carnet for the temporary import of certain goods in a simplified method. An example would be broadcasters or sponsors of international sporting events taking place in South Africa.

### Court 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

The Zimbabwean Special Dispensation Permit (ZSP) replaced the Dispensation for Zimbabwe Project (DZP) which officially closed on 31 December 2014.

Under the DZP, Zimbabwean nationals, who were in the country illegally, were granted an opportunity to legalise their stay. The special dispensation was introduced in 2009 to regulate the stay of Zimbabweans working illegally in South Africa because of the political and socio-economic situation in their country.

Approximately 295 000 Zimbabweans applied for the permit. Just over 245 000 permits were issued, with the balance being denied due to lack of passports or non-fulfilment of other requirements. The ZSP was accepted by Cabinet in August 2014. Zimbabwean nationals who were in possession of the DZP permits were eligible to apply for the ZSP if they wished

to extend their stay in South Africa. Certain conditions applied, which included a valid Zimbabwean passport; evidence of employment, business, or accredited study, and a clear criminal record.

The ZSP allowed permit-holders to live, work, conduct business and study in South Africa for the duration of the permit, which would be valid until 31 December 2017.

In August 2017, Cabinet approved the reopening of the application process for the current ZSP holders, under certain conditions. The ZSP allows applications from Zimbabweans with a valid Zimbabwean passport, evidence of employment, business or accredited study and a clear criminal record and if successful, grants them a permit to stay and work, study or run a business in South Africa.

VFS Global managed applications for ZSP permits while the DHA adjudicated applications. VFS Global opened four new offices in provinces where it was anticipated that there would be large numbers of applicants. These were Gauteng, Western Cape, Limpopo and Mpumalanga. The offices were in addition to the 11 offices already opened, all of which dealt with ZSP applications.

ZSP permit-holders, who wished to stay in South Africa after the expiry of their permits, would need to return to Zimbabwe to apply for mainstream visas and permits under the Immigration Act of 2002.

In January 2016, the Lesotho Special Permit (LSP) was launched. The purpose of the programme was to regularise the stay of Lesotho nationals residing in South Africa illegally.

It was meant to document Lesotho nationals who are working, studying or running businesses in South Africa, without appropriate documentation. A total of 90 314 permits were issued.

The special permits were valid for four years, until 31 December 2019. In November 2019, the DHA introduced the new Lesotho Exemption Permit which replaces the LSP. The new dispensation was only applicable to existing holders of the LSP and is valid for four years. Online applications opened on 18 November 2019 and closed on 31 March 2020.

