



Immigration Law

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- Proposed amendments to South Africa's immigration laws and policies



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Proposed amendments to South Africa's immigration laws and policies

In April 2024, Cabinet approved the initial White Paper on Citizenship, Immigration and Refugee Protection (White Paper), which was intended to be a step towards a complete overhaul of South Africa's migration system. On 12 December 2025, the Department of Home Affairs (DHA) published its revised draft White Paper.

The revised draft White Paper reframes citizenship and immigration as both an economic enabler and a security and public interest function. The reforms proposed by the White Paper are designed to be constitutionally sound and operationally modern, using digital systems to improve both security and service efficiency.

The core objectives of the White Paper are the:

- attraction and retention of skills and investment;
- regularisation and modernisation of mobility;
- ensuring of universal and accurate civil registration of births and deaths; and
- maintenance of a humane refugee regime aligned with non-refoulement and constitutional guarantees.

Key takeaways for employers

While the revised draft White Paper outlines a range of proposed immigration law and policy reforms, this alert only highlights the key issues and proposals that are of most relevance from an employment perspective.

Citizenship status

A points-based system (PBS) is proposed for citizenship applications, which is a shift from the current system where the duration of an individual's stay in South Africa is the main qualifier. The PBS will score applicants on factors such as skills and qualifications, economic contribution (investment) and social contribution. Applications for citizenship are proposed to be overseen by a newly established Citizenship Advisory Panel (CAP).

Non-economic pathways to citizenship (e.g. for spouses/refugees) will remain in place and will require five years as a permanent residence holder. There will also be more stringent measures put in place in order to eliminate opportunistic applications and abuse of the non-economic pathway.



It is proposed that there be a ministerial discretion for the granting of citizenship (in exceptional circumstances and with a CAP recommendation) on the basis of strategic national interest, exceptional economic contribution, humanitarian grounds and/or security and special services.

In line with recent [Constitutional Court jurisprudence](#), the granting of dual citizenship is affirmed for applicants who meet all statutory and regulatory requirements prescribed by the DHA. Dual citizenship shall be subject to compliance with South African laws, ensuring that applicants uphold national obligations and responsibilities.

The revised draft White Paper is also aimed at South Africa transitioning from a basic National Population Register to an Intelligent Population Register (IPR), with biometrics for all who live in South Africa. The IPR will then form the foundation for a National Digital ID and civil registration without conferring citizenship status on individuals.

Visa and permanent residence policy reforms

The current construction of visitors' visas is proposed for reform, in terms of which the DHA will issue a renewable visitor's visa to applicants for a period to be determined by the Minister of Home Affairs (Minister) through the issuing of regulations

to the Immigration Act 13 of 2002 (Act). This revised visitor's visa will not enable foreigners to work, study or conduct business. However, work may be allowed for a period and on conditions to be determined by the Minister, in regulations to the Act, for work undertaken on behalf of a foreign employer.

The introduction of a start-up visa is proposed as a standalone class (it is currently contained as a sub-class of a business visa). These start-up visas are meant to be issued to highly skilled persons with innovative entrepreneurial ideas that will contribute to South Africa's economy. The current business visa will then be converted into an investment visa, with quotas set for the employment of citizens and foreigners and periodically gazetted capital thresholds.

An age threshold is proposed as a requirement for a retirement visa, which is currently absent from this visa category and has led to abuse (e.g. there are foreigners as young as 25 who have been issued with a retirement visa). The revised retirement visa will also have increased annuity requirements in line with the cost of living in South Africa.

It is proposed that permanent residence based on financial independence be replaced with an investment-based residence visa tied to in-country investment for a specified period.

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To address the challenge of insufficient highly skilled work visas injecting skills into the economy, a new skilled worker visa pathway is proposed. This visa category will replace the long-standing general work visa and critical skills visa categories and will operate as follows:

- The skilled worker visa will be available to individuals of all backgrounds, allowing renewal if they show consistent employment in South Africa. Applications for the skilled worker visas are to be assessed through a PBS and will require proof of consistent and ongoing employment.
- Those individuals who do not renew their skilled worker visa, or who fail to meet the requirements for renewal, must depart South Africa at the conclusion of their employment in the country. Successful renewal will allow temporary residence status and a pathway to permanent residence without employer sponsorship, thereby reducing dependency on employers.
- It is envisaged that the skilled worker visa could also serve as a pathway for international students graduating from South Africa's tertiary institutions to stay in South Africa, and for the country to capitalise on their skills as they could contribute to job creation and economic growth.
- Under the skilled worker visa, dependents can also be admitted into South Africa but would need their own visa to work (e.g. spouses may apply for a work authorisation via a relaxed PBS process to avoid labour market exclusion).

Family based visa policy reforms are proposed to enable foreign spouses in possession of a relative's visa to work, conduct business and study in South Africa, which is currently not allowed.

A new visa category in the form of a sports and arts visa is proposed as a dedicated route for performing artists and sports professionals seeking residence in South Africa for professional engagements. This visa category is aimed at supporting growth in the sports and entertainment sectors.

A quota and window period based system is proposed for introduction to regulate the number of permanent residence approvals annually, aligning immigration policy with national capacity, labour market demands and socio-economic objectives. The DHA will periodically determine the quota and window period in consultation with relevant authorities. This mechanism will prevent excessive immigration backlogs and ensure sustainable population management through immigration. The quota and window period will be determined in predictable ways to ensure that applicants are not subjected to arbitrary decisions or unpredictability.

Processing, governance and enforcement enhancements

The creation of an Immigration Advisory Board (IAB) is proposed. The aim of the IAB is to oversee, guide and enhance immigration policy formulation, implementation and enforcement. It will also ensure a multi-departmental and stakeholder-driven approach to managing immigration affairs, fostering collaborative governance and addressing complex migration-related challenges.

The re-introduction of the concept of immigration practitioners is being proposed to protect the immigration industry by only allowing immigration practitioners, attorneys and advocates to act on behalf of clients. The revised draft White Paper raises a concern that allowing the immigration industry to remain unprotected (as it currently is) results in "fly by night" providers who disappear on their clients, as well as resulting in an increase in corruption risk and other forms of malpractice.





The establishment of a single Home Affairs review/appeals/waivers/exemptions authority is proposed. This authority will be established to conduct independent reviews and appeals of administrative decisions made by the DHA and its entities. It will also give any person who is aggrieved by a decision taken by the DHA an opportunity to have their decision independently reviewed/appealed. The authority will consider each case on its merits by taking a fresh look at the facts, law and policy relating to the original decision, and consider any new information. It will have the power to agree with the original decision, change it, or make a new decision. While the authority's decisions are to be binding to all DHA officers and applicants, such decisions will still be subject to judicial review in the courts. While administratively, the authority will report to the Minister, it will retain its independence in fulfilling its mandate.

The DHA recognises the need for a dedicated judicial mechanism to handle immigration-related disputes, appeals, and administrative reviews expeditiously and effectively. To address the systemic delays in immigration adjudication, it is proposed that Specialised Immigration Courts be established with integrated litigation/case-tracking information technology in order to speed up adjudication, reduce High Court backlogs and improve enforcement.

Administrative fines for overstayers are proposed for re-introduction to replace blanket undesirability bans. This would provide overstayers the opportunity to pay a fine upon re-entry into South Africa rather than being banned for up to five years and forced to apply for the upliftment of their undesirable status. This will also strike a better balance between enforcement and efficiency (by removing complex and burdensome applications/appeals from the DHA's systems) and will also create an additional revenue stream for the DHA.

Next steps

The revised draft White Paper is currently open for public comment and interested parties may deliver their written submissions (addressed to the Chief Director: Strategy & Institutional Performance) by 18 February 2026 in one of the following ways:

- by hand delivery to the DHA at 230 Johannes Ramokhoase Street, Hallmark Building (c/o old Proes and Andries Street), Pretoria, 0001 and marked for the attention of Mr Sihle Mthiyane or Ms Diketso Ratau;
- by mail to the DHA at Private Bag X 1 14, Pretoria, 0001; or
- by e-mail to whitepaper@dha.gov.za.

We will continue to monitor developments on the progress of the White Paper as and when they arise.

Lee Masuku and Taryn York

OUR TEAM

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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