



AN INVESTMENT PROTOCOL FOR THE PROVINCE OF KWAZULU-NATAL



2013





Prologue

“As we rise to table the Department of Economic Development and Tourism’s Budget Policy Speech, we are acutely aware of the need for us to, in the first instance, acknowledge that the current global economic epoch is different to any we have seen in past century and, secondly, as Bob Dylan suggests, we “better start swimmin’, or we will sink like a stone for the times they’re a changing”. It is for this reason that we have themed our presentation as “This Time is Different”, for we understand that the terrain in which we operate has completely changed and, as such, we need to adopt new approaches to ensure that, in the medium-to-long term, we are able to respond to the identified triple challenges of inequality, poverty and unemployment. In order to deal with these challenges, we understand that the eyes of the people of our province are rightfully trained on what our department does to build an economy that creates opportunities for all and to make tourism work for us all.”

These are the words of the Member of Provincial Executive Council, MEC Mr Michael Mabyakhulu, in tabling the 2012/13 Financial Year Budget for the Department of Economic Development and Tourism (DEDT). As he rightly put it, the province of KwaZulu-Natal is determined to swim and avoid sinking like a stone. Trade & Investment KwaZulu-Natal,

through its Policy Advocacy Unit, is relentless in advocating for improved an investment climate in the province, which is undoubtedly a necessary condition for accelerated investment and business activity.

Trade & Investment KwaZulu-Natal is pleased to publish the second edition of the first Provincial-level Investment Protocol in South Africa, the aim of whose is to profile processes and procedures to be followed by investors wishing to make a presence in this vibrant eastern-seaboard provincial economy of the unsurpassed South Africa – Zulu Kingdom, Exceptional!

The second edition contains the same salient processes and procedures applicable for establishing a presence in KwaZulu-Natal, albeit in a more summarised format, where necessary. The aim of this publication is to inform the prospective investor of key processes, while at the same time avoiding oversharing so as to keep the reader’s interest undistracted.

While reference is made to useful website for more information, Trade & Investment KwaZulu-Natal is always available to support the investor in any way possible, on their journey to making a business presence in the province of KwaZulu-Natal and, to enjoy the rewards of being a part of this vibrant economy.

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CHAPTER 1

INTRODUCING TRADE & INVESTMENT

KWAZULU-NATAL



Our Mandate

Trade & Investment KwaZulu-Natal is a South African trade and inward investment promotion agency, established to promote the province of KwaZulu-Natal as an investment destination and to facilitate trade by assisting local companies to access international markets. The organisation identifies, develops and packages investment opportunities in KwaZulu-Natal; provides a professional service to all clientele; brands and markets KwaZulu-Natal as an investment destination; retains and expands trade and export activities and links opportunities to the developmental needs of the KwaZulu-Natal community.

Trade & Investment KwaZulu-Natal is a South African trade and inward investment promotion agency, established to:



Promote, brand and market the province of KwaZulu-Natal as an investment destination



Facilitate trade by assisting local companies to access international markets



Identify, develop and package investment opportunities in KwaZulu-Natal



Provide a professional service to all clientele



Retain and expand trade and export activities



Link opportunities to the developmental needs of the KwaZulu-Natal community

Our Vision

To contribute to economic development by promoting the Province of KwaZulu-Natal as the premier investment destination and the leader in export trade.

Our Mission

- Identify and package investment opportunities in KwaZulu-Natal;
- Brand and market KwaZulu-Natal as an investment destination;
- Link opportunities to the developmental needs of the KwaZulu-Natal community;
- Ensure easy access to investment and export trade opportunities.

Our Objectives:

Trade & Investment KwaZulu-Natal's business objectives include:

Shareholder:

- Promoting and facilitating investment as a means of increasing growth in Trade & Investment KwaZulu-Natal's contribution to fixed investment throughout the province; and
- Export market development.

Client:

- Facilitating investor after-care and retention;
- Packaging and facilitating large (>R50 million) investment sector opportunities;
- Facilitating capacity-building, thereby increasing the number of export-ready traders in KwaZulu-Natal;
- Facilitating market development so as to increase Trade & Investment KwaZulu-Natal's contribution to the value of exports; and
- Increasing awareness of Trade & Investment KwaZulu-Natal's services both locally and internationally.

Internal Process:

- Advocating for the creation of an environment conducive to trade and investment in KwaZulu-Natal through government intervention, strategic alliances and partnerships.

Organisation - Learning and Growth:

- Strengthening Trade & Investment KwaZulu-Natal's knowledge management capabilities so as to provide an effective and efficient service;
- Attaining compliance with WAIPA, MIGA, and UNCTAD best practices;
- Developing highly motivated staff and enhancing staff competencies in terms of delivering service excellence in trade and investment services; and
- Attaining compliance with Corporate Governance standards.

Our Export Development and Promotion Services

Export Training

Trade & Investment KwaZulu-Natal has tailored training and employs a team of export specialists with international business experience and international business contacts to provide export training and export capability assessment and assistance with export planning.

Export Registration

Assist KwaZulu-Natal companies to register as exporters with the South African Revenue Services.

Lead Generation

Linking KwaZulu-Natal Companies with potential buyers and also assistance with information on

possible distributors KwaZulu-Natal companies can use for their products to enter a specific market.

Export Advisory Services

On-the-ground support and advisory services for existing and emerging KwaZulu-Natal exporters with the following:

- Introductions to government and private sector contacts;
- Tariff implications for certain products;
- Trade agreements compliance requirements;
- Advice on the suitability of products and services;
- Assistance with identifying potential business partners and customers;
- Assistance with the identification of domestic suppliers of products and services; and
- Export Supply Chain advice.

Export Incentives

Assistance with accessing Department of Trade and Industry Export Incentives; and Assistance with business matching linked to incentives.

Trade Missions

Outbound Trade Missions

Through experience, Trade & Investment KwaZulu-Natal is able to assist KwaZulu-Natal exporters to directly establish contacts in targeted markets. Trade & Investment KwaZulu-Natal often leads Export

outward selling business missions and provide on-the-ground support for KwaZulu-Natal Exporters during and assist in following up export opportunities, and offers pre-export business mission preparation including country and market briefings. Trade & Investment KwaZulu-Natal also assists with in-market meetings arranged with potential customers and business partners for KwaZulu-Natal Exporters.

Inbound Trade Missions

Trade & Investment KwaZulu-Natal regularly hosts inbound trade missions which provide an ideal, cost-effective way of meeting international companies and representatives from industry. Inbound trade missions can range from a small number of companies from a specific industry sector to large multi-disciplined delegations. Trade & Investment KwaZulu-Natal arranges firm's site visits and one-on-one meetings to encourage business discussions with the delegations.

International Trade Exhibitions

Trade & Investment KwaZulu-Natal co-ordinates the participation of KwaZulu-Natal Exporters in international trade exhibitions in priority markets, providing exporters with a cost-effective international platform to promote their products and services.

CHAPTER 2

QUICK FACTS ABOUT KWAZULU-NATAL



Indicator		Size	Share of SA (rank)	SA
Population (census-2011)				
Total		10.3m	20% (2 nd largest)	51.8m
Structure	0-14 yrs	31.9%		29.2%
	15-64 yrs	63.1%		65.5%
	65+	5.0%		5.3%
Geography				
Land size (km ²)		94,361		1,220,813
Density (persons/km ²)		109		43
Main languages spoken	IsiZulu (77.8); English (13.2); IsiXhosa (3.4); Afrikaans (1.6);		IsiZulu (22.7); IsiXhosa (16.0); Afrikaans (13.5); Sepedi (9.1); Setswana (8.0); English(9.6)	
Economy				
GDP (2011)	nominal	R458.8bn (\$57.4bn)	15.7% (2 nd largest)	R2.9tr (\$402.5bn)
	real	R313.0bn (US\$43.2bn)		R1.9tr (\$262.7bn)
Per capita (2011)	real	R30 392 (\$4 190)		R36 797(\$5 073)
Growth (2011) (%)	real	3.6		3.5
Strong sectors (≥10%) 2011	FREBS* (16.5); Manufacturing (15.8); Govt services (13.3); Trade** (15.5); Logistics (11.9)		FREBS* (21.3); Manufacturing (12.8); Govt services (16.5); Trade** (15.4)	
High growth sectors (≥ 3%)	Manufacturing (3.6); Trade (5.2); Govt (3.8); FREBS (4.2)		Manufacturing (3.6); Trade (4.5); FREBS (4.0)	
Labour (Q3:2012)				
EAP ('000)		3,218		18,313
Employed('000)		2,533		13,645
Unemployed ('000)		685		4,667
Cost of living				
CPI (%) Nov – 2012		5.9		5.6
PPI (%) Nov – 2012	5.2			

* Finance, real estate and business services;

** Wholesale, retail and motor trade; catering and accommodation

Average monthly earnings per worker, formal, non-agriculture industries (TCT) Aug:2012

Industry	Nominal (R)	Annual (%)	Real * (R)	Annual (%)
Mining and quarrying	15 038	9.1	7 605	3.9
Manufacturing	12 726	10.0	6 436	4.8
Electricity, gas and water	28 150	15.1	4 237	9.7
Construction	10 476	9.9	5 298	4.7
Wholesale and retail	9 108	7.7	4 606	2.6
Transport and communication	17 719	6.7	8 961	1.6
Finance, insurance and real estate	15 165	2.1	7 670	-2.7
Community, personal and social services	16 496	11.4	8 343	6.1
Total	13 960	8.0	7 060	2.9

Source: Stats SA, Quarterly Employment Survey Sept:2012; *constant 2000 prices

Trade: KwaZulu-Natal & SA total					
	Trade (R billions)			Growth (%)	
	2009	2010	2011	2010	2011
Exports					
South Africa	507.7	580.0	691.5	14.3	19.2
KwaZulu-Natal	56.7	63.5	77.4	11.9	21.8
% share of SA	11.2%	10.9%	11.2%		
Imports					
South Africa	542.4	586.0	726.2	8.0	23.9
KwaZulu-Natal	60.0	69.6	88.4	16.0	27.0
% share SA	18.6%	18.9%	19.8%		
Trade balance					
South Africa	-34.7	-6.0	-34.7		
KwaZulu-Natal	-3.3	-6.1	-11.0		

Source: TIKZN using Quantec (2012)

Trade: KwaZulu-Natal markets

Destination markets				Source markets			
2007		2011		2007		2011	
US	12.1	USA	8.3	Japan	8.7	China	6.2
Japan	11.6	Japan	6.7	China	2.3	Japan	4.7
UK	6.3	China	6.1	Germany	7.3	Germany	5.9
Netherlands	5.4	UK	4.8	Australia	7.2	USA	5.8
Germany	3.6	India	4.4	USA	6.4	Australia	5.5
India	3.2	Korea Republic	3.8	Argentina	5.4	Thailand	5.2
Spain	2.9	Netherlands	3.8	UK	4.3	Argentina	4.6
Belgium	2.8	Malaysia*	3.3	France	4.0	France	3.3
Korea Republic	2.5	Zambia*	3.2	Thailand	4.0	Brazil*	3.2
Nigeria	2.5	Germany	3.1	India	2.9	UK	3.1
Top ten share of total							
52.9%		47.5%		72.5%		67.6%	

Source: TIKZN using Quantec (2012); * New markets

KwaZulu-Natal Unique Features

Port of Durban

- South Africa's largest seaport
- 2.6 million TEUs per annum: 64% of South Africa's total, and largest
- 4 556 vessels: 35% of South African total, and largest
- Projects are underway to expand capacity to 4,5m TEUs p.a. by 2017
- Durban Car Terminal, South Africa's largest import and export facility for the motor industry (peak 388,894 motor units in 2007-08)

Port of Richard's Bay

- South Africa's premier bulk port; 82.6 million metric tones (45% of SA total, largest)
- Home to Richards Bay Coal Terminal; Africa's largest export coal terminal (91 mtpa)

Dube Trade Port

Home to King Shaka International Airport, and Dube City

Main cities/towns

Durban (eThekweni); Pietermaritzburg (uMgungundlovu); Richards Bay (uThungulu); Ladysmith (uThukela); Port Shepston (uGu); Ballito (iLembe); Vryheid (Zululand); New Castle (aMajuba); Jozini (uMkhanyakude); Ixopo (Sisonke); Dundee (uMzinyathi)

Leisure

Blue Flag beaches

Two World Heritage Sites

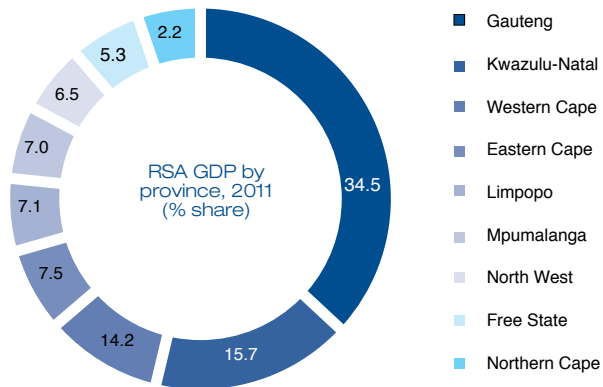
- iSimangaliso Wetlands Park and
- the Drakensberg Park

Njesuthi Mountain in the Drakensberg; highest point in South Africa (3 408 metres)

Tugela Falls; second largest fall in the world (947 meters)

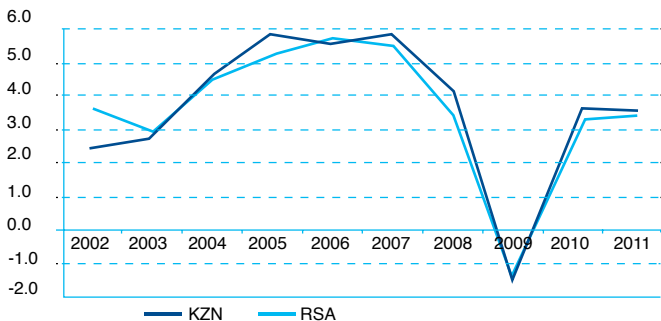
Largest domestic tourism market

Long, all-year-round warm, sandy beaches



Source: Statistics South Africa (2012), Gross domestic product Regional estimates

KwaZulu-Natal and RSA growth rates, 2002-2011



Source: Statistics South Africa (2012), Gross domestic product Regional estimates

Figure 2.1: KwaZulu-Natal real GDP-R by sector (% share & growth) 2011

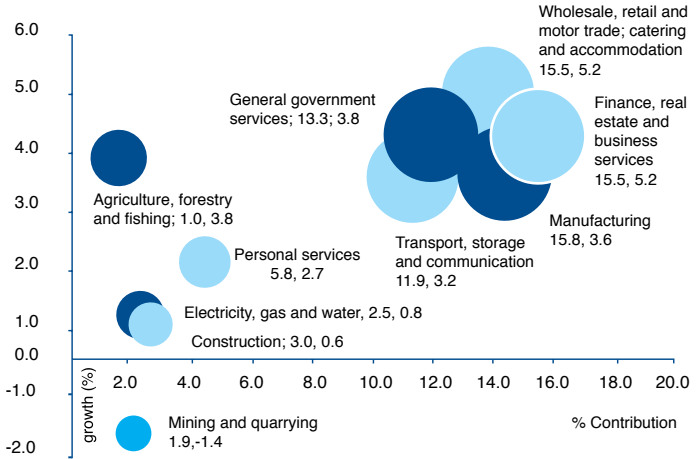
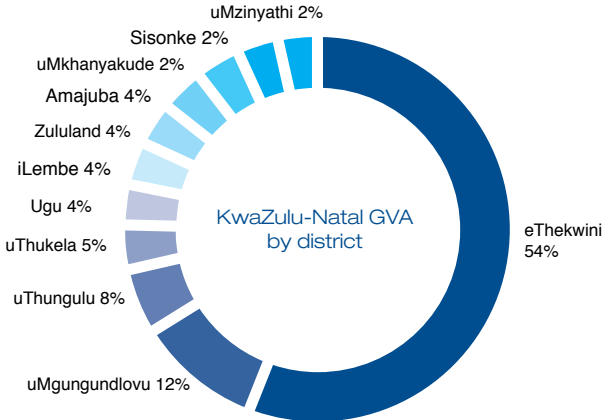
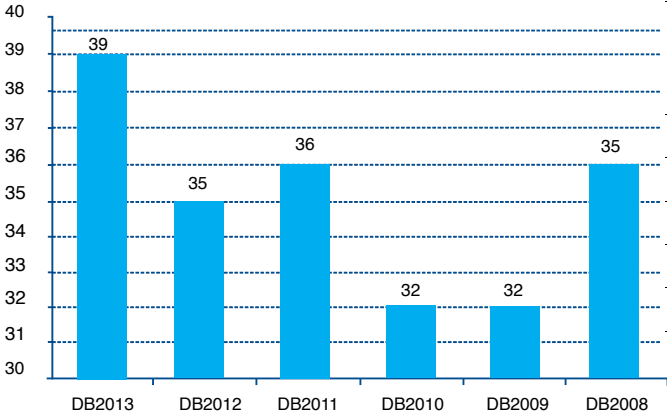


Figure 2.2: KwaZulu-Natal GVA (gross value added) by district (% share), average 2007—2011



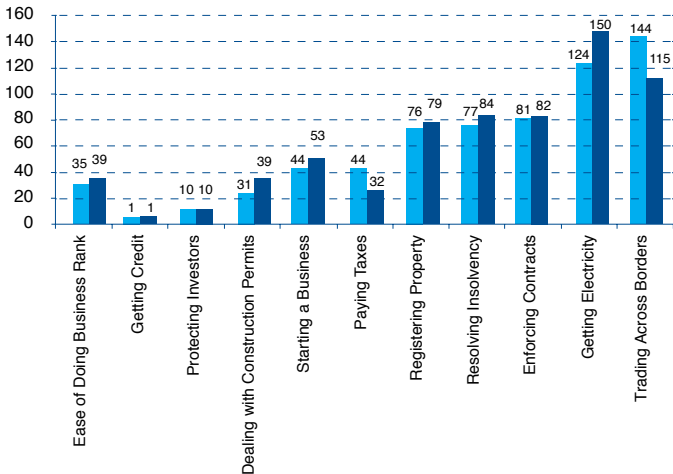
Source: Quantec, 2013 (Output and gross value added (GVA) at basic prices)

DOING BUSINESS IN KWAZULU-NATAL/SOUTH AFRICA
 South Africa, Doing Business rankings, 2008-2013



Source: World Bank, Doing Business Report (various)

DOING BUSINESS IN KWAZULU-NATAL/SOUTH AFRICA
 South Africa, Doing Business Subindices, 2012 and 2013



Source: World Bank (2011), Doing Business Report 2012

South Africa, Global Competitiveness Rankings

TABLE 1: SOUTH AFRICA GLOBAL COMPETITIVENESS INDICATORS, 2011-12

Indicator	Rank (out of 144)	Score (range 1–7)
Global Competitiveness Index (GCI) 2011-12	52	4.4
GCI 2011–12.....	50	4.3
GCI 2010–11	54	4.3
Basic requirements (40.0%).....	84	4.3
Institutions.....	43	4.4
Infrastructure.....	63	4.1
Macroeconomic environment.....	69	4.6
Health and primary education.....	132	3.9
Efficiency enhancers (50%).....	37	4.5
Higher education and training.....	84	4.0
Goods market efficiency	32	4.7
Labour market efficiency.....	113	3.9
Financial market development.....	3	5.7
Technological readiness.....	62	4.0
Market size.....	25	4.8
Innovation and sophistication factors (10.0%)	42	3.9
Business sophistication.....	38	4.3
Innovation	42	3.5

Source: World Economic Forum (2012), Global Competitiveness Report

Purpose of Investment Protocol

The KwaZulu-Natal Investment Protocol (KZNIP) serves as a guide to the regulatory environment and processes involved in the formation of fixed capital, with a focus on the ease and cost of doing business and applying both to local and foreign investors. Areas covered:

- (i) the regulatory environment.
- (ii) the processes involved in complying with the regulations.
- (iii) the cost of doing business.
- (iv) the length of time it takes to complete the compliance processes.

These processes typically include registering a new business, connecting tele-communication lines, acquiring land, concluding an environmental impact assessment (EIA) and many other related issues.

CHAPTER 3

SOUTH AFRICA ECONOMIC POLICY



3.1 The National Policy Framework

The National Industrial Policy Framework and Industrial Policy Action Plan

In January 2007, the Council of Ministers (the Cabinet) adopted a National Industrial Policy Framework (NIPF) which sets out Government's broad approach to industrialisation, encompassing the following core objectives:

- To facilitate diversification beyond reliance on traditional commodities and non-tradable services. This requires the promotion of increased value-addition, characterised particularly by transition to non-traditional tradable goods and services which compete in export markets as well as against imports;
- The long-term intensification of South Africa's industrialisation process and movement towards a knowledge economy;
- The promotion of a more labour-absorbing industrialisation path, with particular emphasis on tradable labour-absorbing goods and services and economic linkages that catalyse employment creation;
- The promotion of a broader-

based industrialisation path, characterised by the increased participation of historically disadvantaged people and marginalised regions in the mainstream of the industrial economy; and

- A contribution to industrial development on the African continent, with a strong emphasis on building its productive capacity.

The core objective of NIPF is to outline Government's approach to South Africa's industrialisation trajectory and thus assist in aligning both private and public sector efforts towards this end. Although the NIPF aimed to improve growth and employment conditions across much of the economy generally, its primary focus was on the relatively low-to-medium skill intensity industries, such as non-tradable goods and services in the primary, manufacturing and services sectors of the economy. The NIPF adopts and extends the same methodology as ASGI-SA. Rather than a 'one-size-fits-all' approach to industrialisation, it focuses on identifying and addressing the cross-cutting and sector-specific constraints and opportunities prevailing in the industrial economy through 13 strategic programmes.

Guided by the NIPF, the implementation of industrial policy has been set-out in an Industrial Policy Action Plan (IPAP). In 2007, the Cabinet approved the first 2007/8 IPAP, which reflected, chiefly, 'easy-to-do' actions. The IPAP was largely implemented and successes realised in a number of areas. However, a growing recognition that industrial policy should be scaled-up from 'easy-to-do' actions to interventions that we 'need-to-do' in order to generate a structurally new path of industrialisation has led to the development of the second phase of the IPAP, known as IPAP2.

Leading to 2012/2013, the IPAP has been reviewed and revised annually so as to ensure the plan sets policy priorities which are critical to achieving a scaled-up industrial policy and a shift towards strengthening the productive side of the economy in general. These include:

- i. Stronger articulation between macro- and micro-economic policies;
- ii. The deployment of a range of integrated and aligned incentive programmes, including the recently announced MCEP;
- iii. Industrial financing channelled to real economy sectors;
- iv. Promotion of public procurement to raise domestic production and employment in a range of sectors. This does not exclude the need for the alignment of B-BBEE and industrial development objectives and an encouragement of private procurement processes to support localisation;
- v. Developmental trade policies that deploy trade measures in a selected and strategic manner, including tariffs, enforcement and Standards, Quality Assurance, Accreditation and Metrology (SQAM) measures. These should be deployed together with stronger interventions to prevent illegal imports and customs fraud;
- vi. Competition and regulation policies that lower costs for productive investments, and for poor and working-class households;
- vii. Skills and innovation policies that are aligned to sectoral priorities;
- viii. Interventions designed to stimulate sub-regional growth, including in key sectors and value chains by way of the SEZ policy and programmes;
- ix. Interventions that give expression to Government's commitment to regional

- economic development and integration in Africa; and
- x. The deployment of these policies in general and in relation to more ambitious sector strategies, building on the significant platforms

The New Growth Path

The IPAP's policy priorities provide for continued efforts to ensure investment in high-multiplier effect sectors with the aim of sustaining the economic well-being of the country. In order to achieve these and unlock employment potential, the Government has developed a New Growth Path, which seeks to develop six priority sectors and/or activities, five of which include:

1. Infrastructure, through the massive expansion of transport, energy, water, communications capacity and housing, underpinned by a strong focus on domestic industry to supply components for build-programmes;
2. The agricultural value chain, with a focus on expanding farm-output and employment, and increasing the agro-processing sector;
3. The mining value chain, with particular emphasis on mineral beneficiation, as well as on increasing the rate of minerals extraction;

4. The green economy, with programmes in the green energy, component manufacture and services manufacturing sectors in IPAP2; and
5. Tourism and certain high-level services.

Broad-Based Black Economic Empowerment

As part of the country's growth strategy, the South African government has developed policies on Broad-Based Black Economic Empowerment (B-BBEE) which will assist in bringing the country's black majority into the economic mainstream.

Through its B-BBEE policy, the Government wishes to, among other things:

- Empower more black people to own and manage enterprises; enterprises are regarded as black-owned if at least 51% of the enterprise is owned by black persons and black people have substantial management control of the business (target 40%);
- Achieve a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises;

- Promote access to finance for Black Economic Empowerment enterprises;
- Empower rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills;
- Promote the human resource development of black people through, for example, mentorships, learnerships and internships;
- Increase the extent to which communities, workers, co-operatives and other collective enterprises own and manage existing and new enterprises, and increase their access to economic activities, infrastructure and skills;
- Ensure that black-owned enterprises benefit from the Government's preferential procurement policies;
- Assist in the development of the operational and financial capacity of Black Economic Empowerment (BEE) enterprises, especially small, medium and micro enterprises (SMMEs), and black-owned enterprises; and;
- Increase the extent to which black women own and manage existing and new enterprises and facilitate access to economic activities, infrastructure and skills training.



The B-BBEE strategy, which was released in 2003 not only defines B-BBEE and the transformation imperative, but also outlines the first broad-based scorecard, comprising the seven elements of B-BBEE. The seven elements and their respective weightings (out of 100) are as follows:

Element	Weight
Ownership	20
Management Control	10
Employment Equity	15
Skills Development	15
Preferential Procurement	20
Enterprise Development	15
Socio-Economic Development	5
TOTAL	100

There are eight levels within the BEE scorecard and these are determined according to the company's acquisition of the proportions given in the preceding table. BEE levels are as shown in the table below:

Contribution Level	Qualification
Level 1 Contributor	≥ 100 points
Level 2 Contributor	≥ 85 points but < 100 points
Level 3 Contributor	≥ 75 points but < 85 points
Level 4 Contributor	≥ 65 points but < 75 points
Level 5 Contributor	≥ 55 points but < 65 points
Level 6 Contributor	≥ 45 points but < 55 points
Level 7 Contributor	≥ 40 points but < 45 points
Level 8 Contributor	≥ 30 points but < 40 points
Non-Compliant Contributor	< 30 points

Equity Equivalent Investment Programme for Multi-nationals

The Codes of Good Practice require that all entities operating in the South African economy make a contribution towards the objectives of B-BBEE.

However, in the event that a multi-national company (MNC) has global practices preventing it from complying with the ownership element of B-BBEE through the traditional sale of shares to black South Africans, the Codes of Good Practice have made provision for the recognition of contributions in lieu of a direct sale of equity,

provided that it may be proven that such entities do not enter into any partnership arrangements in other countries globally. Such contributions are referred to as Equity Equivalent contributions, and count towards the ownership element of B-BBEE made by multi-nationals.



3.2 The Provincial Policy Framework

In terms of South Africa's Constitution, 1996 (No. 108 of 1996), provincial governments (including that of KwaZulu-Natal) share certain powers and functions with the Central Government. They also have certain areas of exclusive responsibility. The main areas of policy autonomy, as set-out in Schedules 4 and 5 of the Constitution, lie in property-related functions, agriculture, planning and environmental management, tourism, road infrastructure provision and traffic management functions, and a wide variety of local service delivery roles, many of which are delegated to Local Government. In addition, provinces play very important practical service delivery roles with respect to education and health.

The KwaZulu-Natal Provincial Growth and Development Strategy, 2006

In KwaZulu-Natal, the main economic policy is the Provincial Growth and Development Strategy (PGDS). This strategy plays a crucial role in promoting sustainable development and in giving effect to Government's concept of a developmental state through:

- Growing the economy;
- Reducing unemployment;
- Eradicating poverty; and

- Ensuring greater social inclusion and cohesion.

The PGDS is a framework for both public and private sector initiatives and provides the overarching framework for development in the province, indicating areas of investment opportunities and development priorities.

The following priority areas of the provincial economy, with existing comparative advantages, have been identified to drive the growth of the province and address unemployment and poverty:

- Agriculture – including agri-industry (with opportunities to impact considerably on the economic needs of the poor through land reform);
- Secondary industry and manufacturing;
- Tourism, including domestic and foreign tourism; and
- The services sector, including financial, social, transport, retail and government.

KwaZulu-Natal Development Priorities

In addition, the Provincial Government has committed to rallying its support around investment projects into the province which will work towards achieving the following 12 outcomes of the provincial flagship programmes:

1. Quality basic education;
2. A long and healthy life for all South Africans;
3. All people in South Africa are safe;
4. Decent employment, through inclusive economic growth;
5. Skilled and capable workforce to support an inclusive growth path;
6. An efficient, competitive and responsive economic infrastructure network;
7. Vibrant, equitable, sustainable rural communities contributing towards food security for all;
8. Sustainable human settlements and improved quality of household life;
9. Responsive, accountable, effective and efficient local government system;
10. Protect and enhance our environmental assets and natural resources;
11. Create a better South Africa, a better Africa and a better world; and
12. An efficient, effective and development-oriented public

service and an empowered, fair and inclusive citizenship.

The six broad Government programmes which these outcomes seek to achieve are:

1. Rural development/agrarian reform and food security;
2. Creating decent work and economic growth;
3. Fighting crime;
4. Education;
5. Health; and
6. Nation-building and good governance.

KwaZulu-Natal Industrial Development Strategy

The province also has an Industrial Development Strategy whose aim is to develop and strengthen the structure of the provincial economy through addressing, among other issues, the following:

- Logistics and Transport (infrastructure);
- Black and Women's Empowerment;
- SME development;
- Export Development and Support;
- Technology Design and Innovation;
- Training and skills development;
- Industrial finance;
- Investment, trade and export promotion; and
- Institutional development.

KwaZulu-Natal Investment Strategy

The KwaZulu-Natal Investment Strategy has priority sectors in which to attract investment. These include:

- Manufacturing;
- Agriculture and agro-processing;
- Transport and logistics;
- Tourism;
- Knowledge, innovation and 'green economy' sectors; and
- Cross-cutting export-oriented and high value-adding sectors.

The KwaZulu-Natal Provincial Spatial Economic Development Strategy

In order to ensure the equitable distribution of economic growth in the province, the Provincial Government has developed a Provincial Spatial Economic Development Strategy (PSEDS). Both the National Spatial Development Plan (NSDP) and the PGDS recognise that social and economic development is never evenly distributed and that spatial disparities will always exist due to the spatial distribution of natural resources, historical imperatives and cultural factors. This has resulted in a disjuncture between where people live and where social and economic opportunities are concentrated, provoking a need to

address the spatial marginalisation of the majority of the population from economic opportunities. The PSEDS therefore sets out to:

- Monitor the direction of Provincial Government investment and development initiatives to ensure sustainable and maximum impact (massification);
- Capitalise on complementarities and facilitate consistent and focused decision-making; and
- Act as a catalyst to assist Government move beyond merely focusing on integration and co-ordination procedures, to establishing processes and mechanisms which will bring about strategic co-ordination, interaction and alignment.

The PSEDS directs fixed infrastructure investments in areas of economic development potential (whether realised or dormant), and prioritises the areas of greatest need, based on poverty densities. This ensures that plans take into account the inevitable spatial disparities and ensure that optimal investment decisions are made.

Potential Investment Sectors

Guided by the national and provincial policy objectives above, the province of KwaZulu-Natal seeks to attract investment in priority sectors summarised in the table below.

Resource-based	Manufacturing	Services
Energy (including renewable and alternative energy)	Wood and wood products	ICT and BPO
	Automotive & equipment	Tourism
	Machinery and equipment	Transport and logistics
	Clothing, textiles, leather and footwear	
	Pharmaceutical manufacturing	
	Ship and boat-building	
	Electronics	
	Chemicals – including petro-chemicals	
	Agro-processing	
	Metals and minerals beneficiation	

For more information about the KwaZulu-Natal priority development corridors, please see the KwaZulu-Natal investment map:

http://www.tikzn.co.za/Investment_Map/View_Investment_Map.aspx. The investment map indicates geographical areas of the province prioritised for investment, and proposed investment activities within these corridors.

CHAPTER 4

WORKING AND OPERATING A BUSINESS IN KWAZULU-NATAL

Business operation in South Africa is regulated by the Companies Act, No. 67 of 2008. The Companies Act, which came into effect in April 2012.



4.1 The South African Companies Act

The main features of the Companies Act, 2008 are as follows:

- It has been modernised and brought into line with international best practices. This applies in particular to public companies, communications and corporate governance. The Act has also been harmonised with other South African legislation, such as the Promotion of Access to Information Act (PAIA) and the Electronic Communications and Transactions (ECT) Act.
- It has been simplified and made less prescriptive to make it easier to understand and apply, in the following ways:
 - It was drafted in plain language and the number of sections has been reduced from 450 to 225.
 - The rules relating to pre-incorporation contracts have been simplified, making it possible for any person to enter into a pre-incorporation contract.
 - Fewer statutory forms are required to incorporate a company.
 - Companies are allowed to change certain requirements according to their own circumstances – in addition to the MoI, companies can now make certain governance rules themselves.
- Different types of companies must comply with different rules. This means smaller companies have less arduous responsibilities than large public companies when it comes to corporate governance and financial reporting.
- The regulatory burden on companies has been reduced, but there are stricter accountability and transparency requirements for state-owned and public companies.
- Shareholders have extensive rights to obtain information from the company, including access to the securities register and minutes of directors meetings. Greater director accountability and the appropriate participation of all stakeholders ensure improved transparency.
- High standards of corporate governance are encouraged, with minimum accounting standards having been set for annual reports. So too, there are stricter provisions governing directors' conduct and liability, and their common law duties and liabilities have now been codified. A new feature is that an act of a company is not void solely

because the company did not have the capacity to do the act or the directors did not have the authority to perform the act on behalf of the company. No person may rely on this lack of capacity, power or authority in legal proceedings, except in certain specified circumstances. A company is specifically prohibited from reckless, negligent or fraudulent trading, and persons who were knowingly party to such conduct are guilty of an offence.

- Take-overs and fundamental transactions receive greater attention, with radical changes to the take-over provisions contained in the Companies Act, 1973. This applies particularly with regard to minority shareholding and appraisal rights for dissenting

minority shareholders.

- Capital maintenance will now be based on solvency and liquidity rather than a minimum amount of share capital consisting of par value shares and nominal value shares.
- The concept of business rescue is broadened and formalised, and provision is made for a modern business rescue regime. Schemes of arrangement are dealt with separately under the Act.
- There is a move towards the decriminalisation of company law and the establishment of bodies for the effective enforcement of the legislation. However, minority shareholders and other stakeholders, such as employees, will have better protection, powers and remedies under the Act, including the ability to bring class actions.

4.2 Opening and Registering a Business

Two types of companies may be incorporated under the Companies Act, namely non-profit companies and profit companies.

Type	Examples
Profit companies may be incorporated under the following types:	<ul style="list-style-type: none"> • Private Companies • Public Companies • Personal Liability Companies • State Owned Companies
Non-profit Companies (NPC)	<ul style="list-style-type: none"> • A company incorporated for public benefit or other object relating to one or more cultural or social activities, or communal or group interests; and • The income and property of which are not distributable to its incorporators, members, directors, officers or persons related to any of them.

Private Companies (Pty) Ltd

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

Public Companies (Ltd)

The definition of a public company is largely unchanged. The only difference is that a public company under the new Act only requires one member for incorporation compared to the 7 members under the current companies Act.

Personal Liability Companies (Inc)

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

State-Owned Companies (SOC Ltd)

A State owned company is either a company defined as a “state-owned enterprise” in the Public Finance Management Act 1 of 1999 or a company owned by a municipality. The majority of the provisions of a public company will apply to state-owned companies as well.

Foreign and External Companies

A foreign company is a company incorporated outside of South Africa, irrespective of whether it is a profit or non-profit company or carrying on business in South Africa or not. A foreign company is prohibited from offering securities to the South African public unless it follows the specific provisions of the companies Act, relating to offers to the public. A foreign company is required to register as an “external company” with the CIPC if it conducts or intends to conduct business in South Africa. The Companies Act in terms of Sect 23 lists a series of activities which will be regarded as conducting business. This list is much broader than the provision in the 1973 Companies Act relating to a “place of business” in South Africa.

Company name reservations and registration should be lodged with the Companies and Intellectual Property Commission (CIPC). More information on company regulation can be obtained from CIPC’s website (www.cipc.co.za)

Procedures and duration involved when registering a business

Procedure	Requirements	Est. time
Reserve a company name with the Registrar of Companies and pay fees	<p>The new Companies Act of 2008, just like the previous Act provides for name reservations. If a proposed name is rejected, the company may still be registered and the registration number then becomes the name of the company at incorporation, until such time as appropriate name has been reserved/ approved.</p> <p>In addition, the Act proposes reforming the criteria for acceptance in such a manner that it seeks to give maximum effect to the constitutional right to freedom of expression.</p>	1 day
Reservation process	<p>Complete form CoR 9.1 to reserve a name. A filing fee of R75 is payable if submitted manually and R50 if filed electronically. The Act restricts a company name only as far as necessary to:</p> <ul style="list-style-type: none"> • Protect the public from misleading names which falsely imply an associate that does not exist; • Protect the interest of the owners of names and other forms of intellectual property (such as trade marks) from other persons passing themselves off, or coat-tailing, on the owner's reputation and good standing; and • Protect the society as a whole from names that would fall within the ambit of expression that does not enjoy constitutional protection because of its harmful or other negative nature. <p>The applicant for the name reservation MUST be the person submitting the new company registration documents.</p> <p>A name reservation is now valid for 6 (six) months.</p> <p>Reserved names may be extended for sixty (60) business days by completing form CoR 9.2. (R50 for the manual extension and R50 for extending the reserved name electronically).</p> <p>All languages are accepted, but a name reservation in a foreign language must be accompanied by a certified translation and certificate of translation.</p>	1 day

Procedure	Requirements	Est. time
	<p>Names are allowed to be transferred from an applicant to another person by completing form CoR 11.1.</p> <p>In terms of associated names, the Commission will forthwith require proof from the associated company that a similar name is to be allowed.</p>	
<p>Reservation process New Company Registrations</p>	<p>A company is incorporated by the lodging of the following main forms:</p> <ul style="list-style-type: none"> • Notice of Incorporation (CoR 14.1) • Memorandum of Incorporation (MOI) (CoR 15.1 A-E) <p>Memorandum of Incorporation (MOI)</p> <p>The most important document governing a company is the MOI, which is a consolidation of the current Memorandum and Articles of Association of a company. The Act imposes certain specific requirements on the content of a Memorandum of Incorporation, as necessary to protect the interests of shareholders in the company, and provides for a number of default company rules / alterable provisions, which companies may accept or alter as they wish as long as it is in line with the Companies Act.</p> <p>Alterable provisions within the Companies Act, 2008:</p> <ul style="list-style-type: none"> • A company has all the legal powers and capacity of an individual, except to the extent that <ul style="list-style-type: none"> - A juristic person is incapable of exercising any such powers, or having any such capacity; or - The company's MOI provides otherwise (e.g. the MOI may state that no director may contract on behalf of the company in his/her own capacity). • Private, non-profit and incorporated companies may elect to comply with the extended accountability requirements of Chapter 3 of the Act (Sect 34(2)); • Shares within the same class has the same rights, limitations and terms, unless the MOI provides otherwise (Sect 37(1)); • MOI may exclude the right of first refusal of current shareholders of a private company in respect of shares issued by the company (Sect 39(3)); • MOI may forbid the board to render financial assistance to parties wanting to acquire shares in the company (Sect 45(2)); 	<p>5 - 7 days</p>

Procedure	Requirements	Est. time
	<ul style="list-style-type: none"> • MOI may provided for longer minimum notice periods for meetings; • Electronic notice and electronic participation in meetings are allowed unless MOI prohibits it (Sect 63(2)); • Companies may determine a higher number of minimum directors than what the Act prescribes (Sect 66(2)). <p>Unalterable provisions are provisions of the Act which the company may not change, such as directors' duties and responsibilities and enhanced accountability requirements for public and state owned companies.</p> <p>In instances where the MOI is in conflict with the Act, the Companies Act will prevail. In addition, the Act allows for companies to add provisions to address matters applicable to that company, not addressed in the Act itself, but all provisions of the MOI must be consistent with the Act.</p> <p>The Memorandum of Incorporation CoR 15.1A-E (whichever is applicable) contains the following information:</p> <ul style="list-style-type: none"> • Detail of Incorporators • Number of directors and alternate directors • Share capital (maximum issued) <p>Content of MOI</p> <p>The Notice of Incorporation (CoR 14.1), which must be lodged together with CoR 15.1 contains the following information:</p> <ul style="list-style-type: none"> • Type of company • Incorporation date • Financial year end • Registered address (main office) • Number of directors • Company name - Whether company name will be the registration number; - The reserved name and reservation number; - List of 4 (four) names to be checked by the Commission 	1 day
Open a bank account	In order to open a bank account, the applicant needs to provide proof of entity Directorship and original company documents.	1 - 2 days

Procedure	Requirements	Est. time
Register with the office of the local South African Revenue Service (SARS) for income tax, VAT and employee withholding tax (PAYE and SITE).	<p>Businesses with annual taxable income in excess of R1 million need to register for VAT. Once a company is incorporated, the relevant SARS office is advised and an income tax number is allocated to the entity.</p> <p>The company also has to register as an employer by means of an "EMP 101e" form that caters for the necessary registration of all withholding taxes applicable to the taxpayer, including Pay as You Earn, (PAYE, i.e.: employee tax) or SITE (inclusive of employee tax), Unemployment Insurance Fund (UIF) and Skills Development Levy (SDL) according to S4 of the Income Tax Act (ITA).</p>	12 days
Register with SARS or the	In terms of Section 10 of the Unemployment Insurance Contributions Act (UICA), where an employer is liable to pay contributions, the employer must register with SARS or the UIF office (whichever is applicable to such employer) for the payment of the contributions.	4 days, or simultaneous
Department of Labour for Unemployment Insurance and any other obligations	<p>Registration with UI Commissioner's office: The following employers must register at the UI Commissioner for purposes of paying UIF contributions :</p> <ul style="list-style-type: none"> • An employer who is not required to register for employees' tax purposes at SARS; • An employer who has not registered voluntarily as an employer for employees' tax purposes at SARS; and • An employer who is not liable for the payment of Skills Development Levy. <p>Registration with SARS: Any employer who is liable to register with SARS for the payment of employees' tax and/or Skills Development Levy or has voluntarily registered with SARS for employees' tax purposes is also required to register with SARS for purposes of paying UIF contributions.</p> <p>NB: An employer does not have any discretion as to whether to register with either the UI Commissioner or SARS. The liability of the employer to register and pay employees' tax and/or Skills Development Levy will determine with whom an employer must be registered for UIF purposes.</p>	4 days, or simultaneous

An investor can also purchase a shelf company, whose name has been procured and secured.

4.3 Utility Connections

Water Connection

South Africa is a water-scarce country with an annual per capital water availability of approximately 1,200 m³ per capita per annum (15% of which is supplied by government-owned water resources). Average annual rainfall is 497 mm, compared to a world average of 860 mm and this rainfall is unevenly distributed, with 65% of the country receiving less than 500 mm annually and 21% receiving less than 200 mm. There are also frequent droughts that may last for several years. This picture is compounded by high annual potential evaporation of up to 3000 mm in some areas. As a result of the country's topography and rainfall, 60% of river flow comes from 20% of the land. However, South Africa has a relatively well-developed water infrastructure, with a network of dams and inter-basin transfer schemes across the country.

Per capita storage is considerably higher than for any other African country.

This infrastructure has allowed the country to maintain agricultural irrigation through dry periods. Nonetheless, many of the catchments in the country are facing water stress, with water demand reportedly exceeding supply. The local municipalities generally provide water connections. Connection times are usually fast, with the exception of those sites not already serviced.

- The time required for connection to serviced sites ranges from one day to two weeks; and
- Times required for connection to sites that are not serviced, range from one month to one year or even more.

The following table is an extract of rates for the 2012/2013 tariff year, applicable to local the Durban Metropolitan Municipality. The rates are exclusive of VAT.

Industrial, Commercial and Non-residential Users	
Monthly consumption charge	R14.79 per kilolitre (kl)
Monthly fixed charge	Varies with connection size

Electricity rates for Durban as at 1st July 2012 (excluding VAT):

Industrial, Commercial and Non-residential Users	
Monthly consumption charge	R14.79 per kilolitre (kl)
Monthly fixed charge	Varies with connection size

	Low Demand Season Peak, Standard, Off-peak High Demand Season Peak, Standard, Off-peak Service Charge Network Demand Charge Network Surcharge (Only applicable if kVA equal to or greater than 110 KVA)	99.48; 78.51; 44.04 cents per unit 242.68; 101.38; 46.53 cents per unit R205.00 per month R35.00 kVA 15% - applicable on energy and demand components
Large Power Users	Low Demand Season Peak, Standard, Off-peak High Demand Season Peak, Standard, Off-peak Service Charge Access Charge Maximum Demand Voltage Discount	63.25; 42.02; 31.75 cents per unit 205.38; 59.48; 35.58 cents per unit R2158.32 R18.72 R61.69 Depending on Supply Voltage

REFUSE COLLECTION AND DISPOSAL

Sanitation charges for Durban with effect from 1st July 2012: Business Tariffs

Business (Commercial)	(1) A volume charge of R80.53 + VAT per cubic Metre (2) A monthly hire charge for wheeled container (240 litre) of R18.16 + VAT or "bag supply surcharge" of R17.19 + VAT (per m ³ = 12 bags)
Business (Industrial)	Calculated separately for each enquiry (service and location dependent)

RATES

EThekweni Municipality, property rates 2012/2013

Property Category	(General Randage (cents per rand)
Residential (urban & rural)	0.914
Agricultural	0.228
Industrial	2.674
Business and Commercial	2.072
Public Service Infrastructure	0.228
Vacant Land	4.376
Unauthorised or Illegal Development / Use	4.376

The table above shows eThekweni Municipality property rates for 2012/2013. The rates are calculated on an annual basis, based on the value of the property (as determined by the municipality for rating purposes), but are payable at a monthly rate. However, businesses may decide to prepay the annual rates.

For instance, an industrial building valued at R1 million will have a rates bill of 2.674 cents per rand, an equivalent of R26,740 per annum. The municipality rates cover services such as waste collection, street lighting and grass-cutting (if required). Multiple-use properties are usually dealt with in accordance with the Municipality's Rates Policy.

Electricity Connection

Eskom, a state-owned enterprise, generates approximately 95% of the electricity produced in South Africa, and 45% of electricity used in Africa. Eskom sells electricity to local authorities, who act as redistributors. The local redistributors, in turn, supply the majority of electricity to end users. Eskom also sells directly to the end-user:

- When the local redistributor is unable to meet the needs of heavy electricity users (20 kilowatts or more); or
- When no local redistributor has jurisdiction over a particular geographic area.

The application and installation procedures are simple and swift for a site with an existing structure

and an adequate electrical supply already in place, i.e. where no equipment upgrades or added infrastructure are required. An application for the supply of electricity should be submitted to the nearest Eskom sales office at least seven days prior to the requested connection date. Connection fees vary, depending on the category of service (standard users, off-peak users or peak users). A cash deposit or bank guarantee may also be required to cover costs in the event of non-payment.

Eskom is also able to meet the needs of investors who require capacity upgrades, such as energy-intensive factories. For capacity upgrades, the waiting time depends on the availability of the size of transformer required. Costs also depend on the size of the upgrade.

The utility is also able to supply power to 'greenfield' sites in serviced areas. However, investors should prepare their applications well in advance. Installation can take up to 24 months for large projects, as some of the connection activities may require a separate Environment Impact Assessment process, and or application for land rezoning. Investors may submit an application for the supply of electricity or a letter of requirements to the nearest Eskom office. Eskom will provide an estimated quote of installation costs, which is negotiable, within 14 days of the initial application.

	Service charge [R/POD/day]	Network charge [R/POD/day]	Energy charge [c/kWh]	Environmental levy charge [c/kWh]	
				Apr to Jun	Jul to Mar
Business rate 1	R 12.94	R 15.01	83.11	2.28	3.99
Business rate 2	R 12.94	R 25.32	83.11	2.28	3.99
Business rate 3	R 12.94	R 43.74	83.11	2.28	3.99
Business rate 4			211.45	2.28	3.99

Source: ESKOM (2012): 2012/2013 tariffs

Different rates apply to non-local authority redistributors; however, in most cases local authorities assume the responsibility. Municipalities differ in their energy pricing; they are also generally willing to negotiate rates

with investors.

Below is an extract of the eThekweni metropolitan municipality electricity connection fees for the 2010/2011 financial year .

Urban Connection Fees

eThekweni Municipality connection fees - 2012/2013

Capacity	Rate (Rand, including VAT)
230V to 80A (single phase)	7 520
Up to 80A (three phase)	13 710
81A to 100A	21 930
101A to 120A	46 740
121A to 150A	55 520
151A to 200A	117 690
201A to 250A	146 440
251A to 300A	175 250
301A to 400A	263 380
401A to 450A	314 980
451A to 800A	342 564
801A to 1200A	362 570
1201A to 1600A	296 776
1601A to 2400A	717 764
2401A to 3200A	826 869

Source: eThekweni municipality (2010), Tariffs 2012/2013

More information on connection fees can be accessed from: http://www.durban.gov.za/Resource_Centre/Services_Tariffs/Electricity%20Tariffs/Proposed%20Connection%20Costs%20-%202012%202013.pdf

Telkom Connection Fees for Businesses

Telkom usually provides a telephone line within one week if connection lines are in place. The company will usually dispatch a sales representative for any request for more than three lines. An investor must provide a surety from a South African citizen, failing which the investor will be required to pay a deposit.

If an equipment upgrade is required, Telkom can upgrade a facility within four months, depending on the need. No additional fees are required unless the upgrade is not in Telkom's

strategic plan. If the upgrade is not within its strategic plan, Telkom will base its fees on a cost recovery basis. No special forms are required to be completed.

Telkom business connection fees for 2011/2012 range from R521 for an analogue line to R49 030 for ISDN (integrated services digital network). Special rates exist for longer-term contracts, with a one-year minimum rental period for a single link costing R37 091 and a 5-year minimum rental period costing R14 837. Owing to scale economies, multiple links within the various contract periods are less costly.

Estimated duration of landline and internet application

Procedure	Estimated duration
Complete application form	2 days
Credit vetting	5 days
Approval of order	2 days
Other value add services (ADSL line)	14 days

Telkom provides different means by which an investor can receive telecommunication services in an unserved area, but it requires approximately two to four months, depending on the type of solution. Radiophone systems are installed in a number of remote areas around South Africa, and KwaZulu-Natal.

Telkom call rate charges, 2011/2012

	Minimum charge Rand (incl VAT)	Rand Per second (incl VAT)	Minimum charge Rand (incl VAT)	Rand Per second (incl VAT)
	Standard Time: Mon – Fri, 07:00 to 19:00		Call more time: Mon – Fri, 19:00 to 07:00, and Fri, 19:00 – Mon 07:00	
Conventional calls (the minimum charge will not apply to on-net dial-up internet calls to ISPs)				

Local (0 - 50km)	0,650	0,00724	0,650	0,00344
Long distance (>50km)	0,650	0,01083	0,650	0,00542

Source: Telkom (2010), 2011/2012 price list

For full details, please go to: http://www.telkom.co.za/general/pricelist/downloads/tarifflist_Aug11.pdf

4.4 Property Rentals and Purchases

Rentals

Property rentals in KwaZulu-Natal are among the most affordable in the country. The table below shows comparative rentals in KwaZulu-Natal cities and other provinces. Of the three leading provinces in the country - Gauteng, KwaZulu-Natal and Western Cape - KwaZulu-Natal housing prices are the most affordable.

In conjunction with lower property rentals, these make the province a sure destination for profit-oriented businesses. In KwaZulu-Natal, some Ithala Bank factory space rental is as low as R6,00/m².



Business Space Rental Rates in South Africa's Big Cities

Province	Type of Business Space and rental range (R/m ² per month, excl VAT)							
	Office		Retail		Factory		Warehouse	
	Min	Max	Min	Max	Min	Max	Min	Max
Eastern Cape	38	85	44	130	25	44	35	63
Gauteng / Pta	33	95	75	85	32			
Jhb	28	60	30		28	52	30	60
KwaZulu-Natal	70	646	44	285	45		10	67
Western Cape	45	105	35	45	30	50	28	38

Source: The Just Property Group; www.justcommercial.co.za

(accessed June 25, 2012). URL: <http://www.justpropertygroup.co.za/>

House Purchase Prices

Nominal house prices for the middle-segment housing category in the first quarter of 2012, in comparison to the last quarter and corresponding quarter of 2011, are shown in the table below

	Small: 80m ² – 140m ²	Medium: 141m ² – 220m ²	Large: 221m ² – 400m ²

Eastern Cape property rentals based on Port Elizabeth and Warren. Choice of city based on data availability – modal areas chosen, and outliers omitted.

This applies to all provinces represented

Gauteng rentals cover Pretoria and East Rand

KwaZulu-Natal rentals cover Durban, Berea, Shallcross (retail), Durban North & uMhlanga (offices), and New Germany (warehouses & factories)

Western Cape rates cover Southern Suburbs

	Price	q/q % Δ	y/y % Δ	Price	q/q % Δ	y/y % Δ	Price	q/q % Δ	y/y % Δ
South Africa	636 544	-8,4	17,2	966 943	-2,2	0,1	1 487 260	-1,5	0,7
Eastern Cape	506 945	-3,3	-25,5	828 840	-0,9	-7,6	1 362 810	2,2	2,1
Gauteng	630 452	12,3	-21,8	959 946	-1,8	1,4	1 569 736	0,2	4,0
KwaZulu-Natal	567 370	-9,7	-15,7	878 495	-2,1	-4,9	1 395 958	-2,4	-3,2
Western Cape	755 110	-5,0	-13,9	1 192 104	2,1	0,1	1 662 744	-4,6	-1,

4.5 Human Resources/ Labour Costs

Labour rates vary considerably from industry to industry, as well within professional categories of various industries. Generic professions such as managers, senior managers, accountants, engineers, technicians and the like, tend to compete with each other across sectors and

therefore the cost to company would be in a relative narrow band. According to labour law, industries may create bargaining councils whereby a specific industry will form such a council, and on a regular basis, agree on labour rates for specific jobs within that industry.

Average monthly earnings at current prices per sector, Aug:2012

Industry	Average Montly(R) earnings
Mining and quarrying	15 038
Manufacturing	12 726
Electricity, gas and water	28 150
Construction	10 476
Wholesale and retail	9 108
Transport and communication	17 719
Finance, insurance and real estate	15 165
Community, personal and social services	16 496
Total all informal non-agricultural Industries	13 960

The table above is indicative of earnings in certain sectors in the first quarter of 2012. This is, however, crude, as the method of calculation is based on the number of persons employed in a sector and the amount paid out as

remuneration.

It therefore provides an unweighted average and does not indicate the earnings and numbers of highly paid professionals or low wage unskilled labour.

4.6 Importing and Exporting

Import Permits

Most goods may be imported into South Africa without restriction. However, the importation of certain goods specified by government notice is only permitted subject to the issuance of an import permit.

All second-hand goods, including waste and scrap of whatever nature, require an import permit; importers must be in possession of the required permit before the shipment date of goods subject to restriction.

The International Trade Administration Commission (ITAC) of South Africa controls the issuing of permits, but additional and prior authorisation may be required from other departments with jurisdiction over the control of the goods in question. The permit can be acquired within three days, depending on the nature of the application.

For a complete list of goods currently subject to import control, an importer is advised to approach ITAC. There is no fee applicable. Permits are valid from the date of issue until the end of the calendar year. Applications should be filed at least two weeks prior to the date of shipment in order to ensure approval in time for shipment.

Export Permits

A number of products are currently subject to export control and licencing. Exporters should apply directly to the government agency that controls the specific permit in question. Currently, restrictions exist on strategic goods (exhaustible resources), agricultural products administered by control boards, and metal waste and scrap. Metal scrap must first be offered to downstream manufacturers at a discount to the price at which it can be exported (15% discount for non-ferrous metals and 7,5% for ferrous metals).

If manufacturers turn down the offer, an export permit may be issued.

Registration as Importer/Exporter

All importers and exporters in South Africa are required to register with the Commissioner for Customs and Excise. Form DA185 covers importers and exporters, as well as clearing agents and warehouse licencees. Forms are submitted to the SARS Customs Commissioner's Office in Durban, and the following documents must accompany this application:

- Certified copy of the first page of the ID document of one member of the close corporation or one Director of the Pty (Ltd) to be registered;
- Original Tax Clearance Certificate/VAT Registration certificate as issued by SARS;
- Certified registration certificate of business or CM2 as received from CIPC; and
- Proof of physical address in the form of a utilities bill from local municipality, with physical address on the bill (the same as the one completed in the DA185).

Upon registration, applicants are issued with a Customs code number. The registration process takes 4 – 6 weeks.

4.7 Customs Clearance Procedures

Import Process

The clearance of imported goods generally takes a maximum of 24 hours for airfreight and two to three days for sea freight, depending on the port of entry. All required documentation must be submitted to Customs and Excise before goods can be cleared. Most transactions are covered by a Single Administration Document (SAD500). Other required documentation includes:

- Commercial invoice;
- Prescribed certificate of origin when preferential duty rates are claimed;
- Negotiable copy of bill of lading or equivalent document;
- Import permit, if required;
- Rebate permit, if applicable (for raw materials to be processed and re-exported); and
- Payment by a bank-guaranteed cheque, for all applicable duties and taxes (including VAT), if the importer does not qualify for a deferment.

Import shipments may be cleared through Customs prior to the goods arriving at a South African port. In order to avoid unnecessary delays, an importer may wish to submit an application for a tariff heading. These can be acquired from the Commissioner of Customs in Pretoria.

In the case of sea freight, once Customs have been cleared, the importer must pay dues to Harbour Revenue and receive a wharfrage order. The importer then pays the operator and receives a release. At this point, the importer can go to the terminal and collect the goods.

Use of a freight-forwarder is strongly recommended by Customs. Freight-forwarders commonly apply for all licences and registration numbers. They can apply for tariff headings and provide assistance in accurately classifying goods. Through the use of technology, they can clear goods more quickly than an individual importer and provide ground transport for the goods to reach the investor.

Export Process

As with imports, all required documentation must be submitted to Customs and Excise before goods can be cleared through Customs. Most transactions are covered by an SAD500. Customs can process application within 24 hours, only if the Customs brokers use the SARS Electronic Data Interchange system. All exporters have a minimum of 180 days to pay, under the Foreign Exchange Act and this must reflect payment from the receiver of the goods. Exporters must complete form F-178, available at commercial banks, for all transactions over R50 000,00.

Other required documentation includes:

- Export invoice; and
- Export permit, if required.

Deferment-of-payment Scheme

A Deferment Scheme is available to qualifying importers. It allows the deferment of applicable import duties, surcharges and VAT Payment is generally deferred for 30 days, with seven days to settle the account. Importers may apply for deferment at the local Customs controller.

Required documentation includes:

- Application for deferment;
- Statement of income; and
- Balance sheet.

The local controller will make its recommendation to the Commissioner of Customs and Excise. Following approval, the applicant will be required to submit additional documentation, including a signed agreement and any required surety bond.

Duty Drawback Scheme

A Duty Drawback Scheme provides refunds for import duties paid on materials, used in the production of an export. Manufacturers may apply for refunds upon export of the final product. Manufacturers must provide proper documentation to reconcile imported materials with exports.

Bonded Warehouses

Secure bonded warehouse facilities are available at all points of entry

and may be used to store imported goods without payment of duties until required for use, resale or re-export. Goods withdrawn from a bonded warehouse are liable for duties only if cleared out of bond for home consumption.

Manufacturing-under-rebate Programme

South African Customs and Excise also administers a programme for manufacturing under rebate. Manufacturers may claim a rebate on imported materials used in the production of exports. Imported materials must be used within 12 months. This facility is exclusively export-driven, and qualifying manufacturers must have secure facilities on their premises for the storage of dutiable materials. The premises are subject to inspection by Customs.

It is recommended that building plans be submitted to Customs prior to construction to ensure that all requirements are met. Upon approval, manufacturers are also required to draw up a bond.

The entire process can take from two weeks to two months, depending on the length of time required to obtain the bond. If the process needs to be accelerated, Customs will accept a cash deposit until the bond is obtained. Manufacturers are required to submit reconciliation statements to Customs within a period of 12

months of the date of importation of imported materials.

Clearing Agents

Clearing agents/Customs brokers are available at all KwaZulu-Natal ports of entry to attend to all formalities necessary for the clearance of goods through Customs, including any required permits, documentation, payment of duties, port charges, and forwarding and transport costs. In addition to registering for a Customs code, Clearing agents are required to put up a bond.

4.8 Taxes

Tax Registration for Businesses

New enterprises must file with the South African Revenue Service (SARS) for the following taxes:

- Provisional income tax;
- Value-added tax (VAT), and
- Employees' tax (namely:

Standard Income Tax on Employees (SITE) and Pay As You Earn (PAYE)).

For corporate entities, the Registrar of Companies or close corporations notifies SARS of the incorporation of a new business enterprise once the registration procedures with the relevant Registrar's office have been processed. The business entity is then automatically registered as a provisional taxpayer and issued with a registration number. Every enterprise must appoint a public officer within one

month after commencing business activities in order to represent it in all dealings with the revenue authorities. The public officer is designated as representative taxpayer in respect of the income and related tax obligations of the entity. The public officer appointee must reside in South Africa and approval of the appointment should be obtained from the Commissioner for SARS.

Reporting

Business entities are required to file annual income tax returns with SARS. In KwaZulu-Natal, this can be done with the South African Revenue Service at any of the five regional offices:

- Durban;
- Mount Edgecombe;
- Umlazi;
- Pinetown;
- Pietermaritzburg;
- Richards Bay; and
- Port Shepstone.

If the SARS office is not equipped to handle a certain volume of business, they will refer the investor to the nearest office that can.

Each business entity may select its own financial year-end. Ordinary persons are not entitled to this privilege – their tax year runs from 01 March to 28 February. Two provisional tax payments based on an estimate of annual income are made during each financial year. The first provisional payment is made after

six months of the current financial year have elapsed and the second at the end of the financial year.

For the first payment, the estimate of taxable income may not be less than the 'basic amount', which is the taxable income reflected in the most recent assessment received from the South African Revenue Service. In the case of a new enterprise, the basic amount will be nil. If, at the time of making the second provisional payment, the estimate of taxable income is less than 90% of the actual taxable income for the year and less than the basic amount, the taxpayer will be liable for an additional penalty tax of 20% of the difference between the actual tax paid and the lesser of the tax on the basic amount, and the tax on 90% of the actual taxable income. To avoid this, it is best to base the estimate for the second provisional payment on the basic amount.

A third payment may be made six months after the financial year-end for corporate entities and seven months thereafter in the case of ordinary persons, to reconcile estimated income with actual income. Interest accrues

from the due date of the third payment on any underpayment of tax for the year concerned. For corporate entities, a copy of the audited financial statements of the enterprise, signed by the auditor and the public officer of the enterprise, must accompany the return, as well as any other documentation necessary to support the information contained in the return. The aim of SARS is to issue assessments within three months after the filing of returns. The investigation division of SARS assesses all income tax returns referred to it by the local tax offices. It also conducts detailed tax audits on a random basis and in circumstances where it is suspected that a return contains material irregularities or omissions.

Taxable Income

Income tax is calculated on an enterprise's taxable income, earned from South African as well as foreign sources. Tax is residence-based.

Tax rates applicable for the years of assessment ending February 2014

Tax rates for individuals and special trusts

Taxable (Y)	Rate of tax
$\leq R165\ 600$	$18\% * Y$
$R165\ 600 < Y \leq R258\ 750$	$R29\ 808 + 25\% * (Y - R165\ 600)$
$R258\ 750 < Y \leq R358\ 110$	$R53\ 096 + 30\% * (Y - R258\ 750)$
$R358\ 110 < Y \leq R500\ 940$	$R82\ 904 + 35\% * (Y - R358\ 110)$
$R500\ 940 < Y \leq R638\ 600$	$R132\ 894 + 38\% * (Y - R500\ 940)$
$Y > R638\ 600$	$R185\ 205 + 40\% * (Y - R638\ 600)$

Tax rates for registered micro business

Taxable (Y)	Rate of tax
$\leq R150\ 000$	$0\% * Y$
$R150\ 000 < Y \leq R300\ 000$	$1\% * (Y - R150\ 000)$
$R300\ 000 < Y \leq R500\ 000$	$R1\ 500 + 2\% * (Y - R300\ 000)$
$R500\ 000 < Y \leq R750\ 000$	$R80\ 100 + 35\% * (Y - R346\ 000)$
$R484\ 000 < Y \leq R617\ 000$	$R5\ 500 + 4\% * (Y - R500\ 000)$
$Y > R750\ 000$	$R15\ 500 + 6\% * (Y - R750\ 000)$

Tax rates for small business corporations

Taxable (Y)	Rate
$\leq R67\ 111$	$0\% * Y$
$R67\ 111 < Y \leq R365\ 000$	$7\% * (Y - R67\ 111)$
$R350\ 000 < Y \leq R550\ 000$	$R20\ 852 + 21\% * (Y - R365\ 000)$
$Y > R550\ 000$	$R59\ 702 + 28\% * (Y - R550\ 000)$

Tax rates for registered micro business

Taxable Y from benefits	Rate
$\leq R22\ 500$	$0\% * Y$
$R22\ 500 < Y \leq R600\ 000$	$18\% * (Y - R22\ 500)$
$R600\ 000 < Y \leq R900\ 000$	$R103\ 950 + 27\% * (Y - R600\ 000)$
$Y > R900\ 000$	$R184\ 950 + 36\% * (Y - R900\ 000)$

Rates for retirement lump sum benefits

Taxable Y from benefits	Rate
$\leq R315\ 000$	$0\% * Y$
$R315\ 000 < Y \leq R630\ 000$	$18\% * (Y - R315\ 000)$
$R630\ 000 < Y \leq R945\ 000$	$R56\ 700 + 27\% * (Y - R630\ 000)$
$Y > R945\ 000$	$R141\ 750 + 36\% * (Y - R945\ 000)$

Tax rates for trusts: 40% of all taxable income

Tax for companies: 28% of all taxable income

Non-resident companies: 33% of all taxable income from a South African source

Foreign Dividends

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 15%. No deductions are allowed for expenditure to produce foreign dividends.

Dividends Tax

Dividends tax is imposed at 15% on dividends declared and paid by resident companies and by non-resident companies in respect of shares listed on the JSE. Dividends are tax exempt if the beneficial owner of the dividend is a South African company, retirement fund or other exempt person. The tax is to be withheld by companies paying the taxable dividends or by regulated intermediaries in the case of dividends on listed shares.

Taxation of Capital Gains

Capital gains on the disposal of assets are included in taxable income. The maximum effective rate of tax is as follows:

- Individuals – 13.3%
- Companies – 18.6%
- Trusts – 26.6%

Events that trigger a disposal include a sale, donation, exchange, loss, death and emigration.

The following are some of the

specific exclusions from the Capital Gains Tax, on ordinary persons:

- R2 million gain/loss on the disposal of a primary residence or the disposal of a primary residence;
- Most personal use assets such as motor vehicle, caravan, artwork, furniture and appliances;
- Retirement benefits;
- Proceeds from original long-term insurance policies;
- Annual exclusion of R30 000 capital gain or capital loss is granted to individuals and special trusts;
- Small business exclusion for individuals (at least 55 years of age) of R1.8 million when a small business with a market value not exceeding R10 million is disposed of; and
- Instead of the annual exclusions, the exclusion granted to individuals is R300 000 in the year of death.

Value-Added Tax

VAT is levied at the standard rate of 14% on the supply of goods and services by registered vendors. A vendor making taxable supplies of more than R1 million per annum must register for VAT and a vendor making taxable supplies of more than R50 000, but not more than R1 million per annum may apply for voluntary registration. Certain

supplies are subject to a zero rate or are exempt from VAT.

Registration for VAT must be effected either at the end of any month in which the total value of taxable supplies made by the enterprise for the preceding 12-month period exceeds R1 million, or at the commencement of any month, in which it is reasonable to conclude that the total value of supplies to be made in the approaching 12 months will exceed R1 million. The enterprise must have an active bank account before registering.

VAT returns normally cover a two-month period and account for VAT on the supply of goods or services on an invoice basis. They must be submitted to SARS together with payment of any VAT due by the 21st day of the month following the end of the return period. A VAT vendor who is a natural person or an unincorporated body of natural persons, the taxable supplies of whom do not exceed R2,5 million annually, may apply to account for VAT on the payment basis as opposed to the invoice basis.

SARS conducts VAT audits on randomly selected vendors.

Employee Tax (Standard Income Tax on Employees and Pay As You Earn)

All enterprises with employees must register as employers and

account for employees' tax in the form of SITE, and PAYE.

The main exception to this is Directors of private companies, whose remuneration is not subject to employees' tax and who are required to register as provisional taxpayers.

SITE is a tax on net remuneration. Where an employee's net remuneration is R60 000 or less, only SITE is payable, otherwise employee's tax will comprise both SITE and PAYE. Such employees are required to render tax returns and are subject to assessment.

The employees' tax withheld by the employer will be credited against the tax assessed. In the event of the assessed tax being less than the SITE paid, no refund of SITE will be made, although overpaid PAYE will be refunded. Employers must register with their local SARS office, and the registration must be effected within 14 days after the liability to pay any amount by way of remuneration arises.

Employers are required to deduct employees' tax from employees' remuneration on a monthly basis. Employers must pay the tax to SARS within seven days of the end of the month in which the tax was withheld. The tax withheld represents an advance payment of normal income tax on behalf of the employees concerned. Employers are also required to annually file a

tax reconciliation form, IRP501, with SARS and issue a tax certificate, IRP5, to each employee on an annual basis.

Other Taxes, Duties and Levies

Transfer Duty

Transfer duty is payable at the following rates, on transactions which are not subject to VAT (e.g. acquisition of property by natural persons):

Rates for retirement lump sum benefits

Taxable Y from benefits	Rate
$\leq R600\ 000$	$0\% * Y$
$R600\ 000 < Y \leq R1\ 000\ 000$	$3\% * (Y - R600\ 000)$
$R1\ 000\ 000 < Y \leq R1\ 500\ 000$	$R12\ 000 + 5\% * (Y - R1\ 000\ 000)$
$> R1\ 500\ 000$	$R37\ 000 + 8\% * (Y - R1\ 500\ 000)$

Estate Duty

Estate duty is levied at a flat rate of 20% on all property of residents and South African property of non-residents. A basic deduction of R3,5 million is allowed in the determination of an estate's liability for estate duty, as well as deductions for liabilities, bequests to public benefit organisations and property accruing to surviving spouses.

Donations Tax

- Donations tax is levied at a flat rate of 20% on the value of property donated;
- The first R100 000 of property donated in each year by a natural person is exempt from donations tax;

- In the case of a taxpayer who is not a natural person, exempt donations are limited to casual gifts not exceeding R10 000 per annum in total; and
- Dispositions between spouses and donations to certain public benefit organisations are exempt from donations tax.

Securities Transfer Tax

The tax is imposed at a rate of a 0,25% per cent on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Tax on International Air Travel

The tax rate is R190 per passenger departing on international flights,

excluding flights to Botswana, Lesotho and Swaziland, in which case the tax is R100.

Skills Development Levy

A Skills Development Levy (SDL) is payable by employers at a rate of 1% of the total remuneration paid to employees. Employers paying annual remuneration of less than R500 000 are exempt from the payment of Skills Development Levies.

Unemployment Insurance Contributions

Unemployment insurance contributions are payable monthly by employers on the basis of a

contribution of 1% by employers and 1% by employees, based on employees' remuneration below a certain amount. Employers not registered with SARS for PAYE or SDL purposes must pay contributions to the Unemployment Insurance Commissioner.

More information on tax liability and registration procedures for tax purposes may be obtained from the South African Revenue Services website: www.sars.co.za



CHAPTER 5

THE REGULATORY ENVIRONMENT

There exist regulations governing the conduct of business in various sectors of the economy, such as banks and other financial institutions, medicine, manufacturing, mining, energy and transport. Quality and the standard of corporate operation are also regulated to ensure sustainable economic growth.



5.1 Business Regulatory Bodies

The national Department of Trade and Industry (the dti) develops and reviews regulatory systems in the areas of competition, consumer protection, company and intellectual property, as well as public interest regulation. It also oversees the work of national and provincial regulatory agencies mandated to assist the dti in providing competitive and socially responsible business and consumer regulations, for easy access to redress and efficient markets. The dti works hand-in-hand with regulatory institutions within government to achieve its mandate of providing sound, coherent, predictable and transparent business regulatory solutions. These institutions include the following:

- The National Consumer Tribunal (NCT), which adjudicates on credit and consumer matters, to ensure equity in the credit market and balances the rights and responsibilities of credit providers and consumers;
- The National Credit Regulator (NCR), which regulates the consumer credit industry, to improve consumer protection in the end-user credit market and provide effective debt counselling and review mechanisms;
- The National Gambling Board (NGB), which provides a regulatory framework for gambling practices and monitors the socio-economic effects of gambling on citizens;
- The Competition Commission, which is responsible for the investigation, control and evaluation of prohibited practices, exemption applications, mergers and acquisitions;
- The Competition Tribunal, which is an adjudication body responsible for promoting and maintaining competition through the implementation of the Competition Act;
- The World Intellectual Property Organisation (WIPO), which facilitates South Africa's contribution to an international regime for IP;
- The Estate Agency Affairs Board (EAAB), whose main role is to regulate the activities of estate agents and protect the public against unscrupulous members of this profession;
- The National Lotteries Board (NLB), whose role is to regulate the lotteries regime and facilitate the distribution of lottery funds for worthy causes and developmental purposes;
- The Companies and Intellectual Property Commission, which deals with registration of companies, adherence to

- financial standards, provision of business rescue interventions and enforcement of non-compliance;
- The Companies and Intellectual Property Tribunal, which is responsible for adjudicating matters arising from the Companies Act;
 - The Takeover Regulation Panel and the Financial Reporting Standards Council, which will also be established pursuant to the Companies Act and assume responsibility for regulating affected transactions and the issuance of standards; and
 - The National Consumer Commission, which ensures well-functioning markets that are fair, competitive and responsible to consumers. The Companies and Consumer Protection Acts (2008) brought about five additional regulatory agencies, as per the above list:
 - Companies and Intellectual Property Commission;
 - Companies and Intellectual Property Tribunal;
 - Take-Over Regulation Panel;
 - Financial Reporting Standards Council; and
 - National Consumer Commission. Some of the regulatory bodies responsible for these objectives include:
 - The Financial Services Board (FSB) is a statutory body

charged with supervising the activities of financial institutions, including financial services and banking services. The FSB acts in an advisory capacity to the Minister of Finance and its powers include the suspension and withdrawal of authorisations to provide financial services;

- The Securities Regulation Panel (SRP) is a statutory body established to investigate insider trading and to regulate acquisitions and takeovers where there is a change in control over public companies and private companies and the shareholders' interests exceed a prescribed limit. The SRP has the power to compel the making of like offers to minorities or to reverse transactions which have been implemented. In appropriate circumstances, the SRP will grant exemption from compliance with any or all of the provisions of the Code and Regulations;
- The South African National Accreditation System (SANAS) is recognised by the South African Government as the single National Accreditation Body which provides formal recognition that laboratories, certification bodies, inspection bodies, proficiency testing scheme providers and Good

- Laboratory Practice (GLP) test facilities are competent to carry out specific tasks. SANAS certificates provide a formal recognition that an organisation is competent to perform specific tasks;
- The South African Bureau of Standards (SABS) is a statutory body responsible for the promotion and maintenance of standardisation and quality in connection with commodities and the rendering of services. SABS publishes national standards, provides information on national, as well as international standards, tests and certifies products and services to standards, develops technical regulations (compulsory specifications) based on national standards, monitors and enforces compliance with such technical regulations, monitors and enforces legal metrology legislation, promotes design excellence and provides training in aspects of standardisation;
 - The National Regulator for Compulsory Specifications (NRCS) protects the right of the public to health, safety and environmental protection, entrenched in the Constitution, by administering and enforcing compulsory specifications in the interest of public health, safety and protecting the environment (SHE standards);
 - The Financial Surveillance Department (formerly Exchange Control Department) of the South African Reserve Bank (SARB), imposes exchange controls on South African residents in terms of the Exchange Control Regulations, 1961, issued under the Currency and Exchanges Act, 1933 (No. 9 of 1933). The department's main functions are to implement, administer and monitor the provisions of the Exchange Control Regulations, as well as to collect, analyse and disseminate information relating to exchange control of cross-border foreign exchange flows. Authorised dealers in foreign exchange (the commercial banks), who have been appointed by Treasury, carry out the day-to-day administration of exchange control; and
 - There are also a number of other regulatory bodies responsible for implementation of standards in specific sectors of the South African economy. For a comprehensive list of these bodies, please visit the South African Government Information website (www.gov.za).

5.2 Regulations

This section introduces pieces of South African legislation which are of relevance to the investor. The list is not exhaustive and investors are encouraged to visit the Government website (www.gov.za) or Creamer Media's Polity (www.polity.gov.za) for more information.

The regulations covered herein include labour regulations, laws governing immigration of foreign nationals to South Africa, environmental and property development laws and competition laws.

5.2.1 Labour Laws

Two of the most important labour regulations in South Africa are the Labour Relations Act, 1995 (No. 66 of 1995) and all its subsequent amendments, and the Basic Conditions of Employment Act, 1997 (No. 75 of 1997). Other laws include the Skills Development Act, 1998 (No. 97 of 1998), the Skills Development Levies Act, 1999 (No. 9 of 1999), the Employment Equity Act, 1998 (No. 55 of 1998), the Occupation Health and Safety Act, 1993 (No. 85 of 1993) and the Compensation of Occupational Injuries and Diseases Amendment Act, 1993 (No. 181 of 1993). These laws have been introduced to:

- Regulate the relationship between employers and employees;

- Provide basic employment standards for employees;
- Advance historically disadvantaged employees in the workplace;
- Improve the skills of employees; and
- Provide for compensation for disablement caused by occupational injuries or diseases.

Labour Relations Act, 1995

The Labour Relations Act (LRA) applies to all employers and employees in South Africa, except members of the essential services departments, such as the National Defence Force, the National Intelligence Agency and the South African Secret Service, or unpaid volunteers working for charity. The LRA encourages and regulates collective bargaining between employers and trade unions. Bargaining councils may be formed by agreement between registered trade unions and registered employers' organisations.

A bargaining council's primary function is the conclusion of collective agreements between employers' organisations and trade unions. Employees have the right to engage in industrial actions on matters of mutual interest, such as wages and conditions of work.

They cannot engage in these actions on dismissals. The Act also sets down a process which must be followed before the right

to participate in industrial actions may be exercised. These are then regarded as procedural, and workers who participate cannot be dismissed for doing so.

The LRA regulates unfair dismissal and sets-up the Commission for Conciliation, Mediation and Arbitration (CCMA) and the Labour Court as dispute resolution bodies. The CCMA handles the bulk of dispute resolutions, as almost all disputes are mediated by the CCMA first. The Labour Court, on the other hand, has exclusive jurisdiction to deal with matters such as retrenchments, strike interdicts and the review of CCMA decisions. Appeals against decisions of the Labour Court lie with the Labour Appeal Court.

Dismissal of Employees

In South Africa an employee may be dismissed if there is a fair reason for the dismissal and a fair procedure is followed before the employee is dismissed. Fair reasons for dismissal include:

- Misconduct on the part of the employee;
- Incapacity of the employee (unable to perform duties properly owing to illness, ill-health or inability); and
- Operational reasons (retrenchment).

In all the above instances, the procedures contained in the LRA, as well as in a company's own disciplinary procedures, must be

followed before an employee may be dismissed.

Retrenchment

Before an employer is able to retrench employees, the employer must consult with the employees concerned or their trade unions on, amongst other things:

- The reasons for retrenchment;
- The number of employees affected; and
- The proposed methods of selecting the employees to be retrenched and severance pay.

Disputes about Dismissals

- Disputes over unfair dismissals must first be referred to the relevant bargaining council or the CCMA for conciliation;
- If conciliation fails, the dispute may be referred for arbitration or to the Labour Court, depending on the type of dispute; and
- The process of dispute resolution is speedy. Disputes must be referred within 30 days of their occurrence and are usually also set-down for conciliation within 30 days.

Basic Conditions of Employment Act, 1997

The new Basic Conditions of Employment Act (BCEA) covers the basic rights of South African employees. These conditions are the minimum conditions and may be varied and improved upon by collective bargaining through

plant or company-level collective agreements or sectoral bargaining councils. They may also be varied through ministerial determination. The BCEA places obligations on employers in respect of:

- Working hours;
- Leave – annual, maternity and/or family responsibility; and
- Leave and overtime pay for employees.

The BCEA provides special protection to night workers and shift workers and also prohibits child and forced labour. The Act prohibits the employment of any child under the age of 15 years. In addition, a child between the ages of 15 and 18 may not be in employment:

- That is inappropriate for the

child; and

- That places at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.

It is a criminal offence to employ a child in contravention of the BCEA.

The Basic Conditions of

Employment Act applies to all employers and workers, but not

- members of the
 - National Defence Force,
 - National Intelligence Agency, or
 - South African Secret Service; or
- unpaid volunteers working for charity

Key Provisions of the BCEA

Working time	Conditions	
	When to work/Number of hours	Pay rate
Normal working time	<ul style="list-style-type: none"> • 45 hours in any week; • 9 hours per day for employees who work five or fewer days a week; • 8 hours per day for employees working more than five days per week; and • Any time worked in excess of these limits is overtime. 	<ul style="list-style-type: none"> • 100% of ordinary hourly rate for all hours completed.
Overtime	<ul style="list-style-type: none"> • An employee's ordinary hours of work may, by agreement, be extended by up to 15 minutes a day to enable the employee to continue serving members of the public after the completion of ordinary hours of work; and 	<ul style="list-style-type: none"> • 1,5 times the employee's ordinary hourly wage; • An employee may, however, agree to take paid time off instead of being paid for overtime work; and

Working time	Conditions	
	When to work/Number of hours	Pay rate
		on Sundays (i.e. an employee who works for one or two hours on a Sunday must be paid at least his or her ordinary daily wage for that work).
Overtime	<ul style="list-style-type: none"> This must not exceed a limit of 3 hours a day or 10 hours a week. 	<ul style="list-style-type: none"> The paid time off must be granted to the employee within one month of the employee becoming entitled to it.
Sundays	<ul style="list-style-type: none"> Only if there is an agreement to this effect; and Such an agreement may be general or apply to a particular Sunday only. 	<ul style="list-style-type: none"> Double normal hourly rate if the employee does not usually work on Sundays; 1,5 times normal hourly rate for employees who do not usually work on Sundays; and At a minimum, at least the ordinary daily wage for employees who usually work
Public holidays	<ul style="list-style-type: none"> An agreement, or contract of employment may state that an employee will work on some or all public holidays; and In the absence of such an agreement, the employer will have to secure the employee's agreement to work on any public holiday. 	<ul style="list-style-type: none"> If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay— <ul style="list-style-type: none"> (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day; (b) an employee who does work on the public holiday— <ul style="list-style-type: none"> (i) at least double the amount referred to in paragraph (a); or (ii) if it is greater, the amount referred to in paragraph (a) plus the amount earned by the employee for the time worked on that day

There are 12 officially recognised public holidays in South Africa:

New Year's Day	01 January
Human Rights Day	21 March
Good Friday	Friday before Easter Sunday
Family Day	Monday after Easter Sunday
Freedom Day	27 April
Workers' Day	01 May
Youth Day	16 June
National Women's Day	09 August
Heritage Day	24 September
Day of Reconciliation	16 December
Christmas Day	25 December
Day of Goodwill	26 December

There are four categories of leave to which employees are entitled:

Leave category	Leave management		
	Who is entitled	Prescribed length	When to be taken
Annual	<ul style="list-style-type: none"> All employees, except employees who work for an employer for less than 24 hours per month. 	<ul style="list-style-type: none"> At least 21 consecutive days (three weeks) leave in respect of each year of employment; and An employee is entitled to consecutive days and may insist on a three-week period of unbroken leave each year. 	<ul style="list-style-type: none"> Must be granted within six months after the end of each annual leave cycle; Timing of leave should be agreed upon between employer and employee; If no agreement can be reached, employer is entitled to decide when leave may be taken; and An employee may not take annual leave during any other period of paid leave, such as sick leave, or during any period of notice of termination.

Leave category	Leave management		
	Who is entitled	Prescribed length	When to be taken
Sick	<ul style="list-style-type: none"> All employees, except employees who work for an employer for less than 24 hours per month. 	<ul style="list-style-type: none"> Calculated over three-year sick-leave cycle; During each cycle an employee is entitled to receive paid sick leave for the number of days that the employee usually works during a six-week period (e.g. an employee who works 5 days per week for his/her employer, is entitled to 30 days paid sick leave over the three-year cycle). 	<ul style="list-style-type: none"> Anytime an employee requires the attention of a medical practitioner.
Maternity	<ul style="list-style-type: none"> All (child-bearing) employees, except those who work for an employer for less than 24 hours per month 	<ul style="list-style-type: none"> Four consecutive months maternity leave. 	<ul style="list-style-type: none"> May be taken at any time from four weeks before the expected date of birth of the child; and It is not compulsory for an employee to stay away from work for the full four-month period; she may choose to return earlier, however, she is not permitted to work during the first six weeks after the birth of her child, unless a medical practitioner or midwife declares that she is fit to do so;

			<ul style="list-style-type: none"> • An employee must give an employer at least four weeks' notice before she starts her maternity leave or when she intends to take the maternity leave and return to work; and • A pregnant or breast-feeding employee is not permitted to perform work that is hazardous to the health of the employee or the child.
Family responsibility	<ul style="list-style-type: none"> • All employees who work for an employer for four or more days a week. 	<ul style="list-style-type: none"> • Three days paid family responsibility leave during each annual leave cycle. 	<ul style="list-style-type: none"> • When the employee's child is born; • When the employee's child is sick; and • In the event of a death within the employee's immediate family.

The section of the Act that regulates working hours does not apply to:

- Workers in senior management;
- Sales staff who travel and regulate their own working hours;
- Workers who work less than 24 hours in a month;
- Workers who earn more than R115 572 per annum; and
- Workers engaged in emergency work (those excluded from certain provisions).

Employment Equity Act, 1998

The Employment Equity Act (EEA) prohibits discrimination at the workplace and promotes employment equity. Employees who are discriminated against on a wide range of grounds, including race, gender and disability, are entitled to declare a dispute against their employer. Such disputes are

reconciled, or, if not, may either be arbitrated or sent to the Labour Court for adjudication.

Employers who employ more than 150 employees are obliged to report their progress on employment equity to the Department of Labour on an annual basis and are obliged to develop employment equity or affirmative action plans.

Skills Development Act, 1998 and Skills Development Levies Act, 1999

The Skills Development and Skills Development Levies Act oblige all employers to prioritise training and education. All employers are obliged to contribute an amount equivalent to 1% of their pay roll to an assigned industry-controlled Sector Education and Training Authority (SETA). Employers who submit and implement a credible training plan will be eligible to receive a refund on the percentage of their contributions.

Occupational Health and Safety Amendment Act, 1993

The object of this act is to provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery, the protection of persons other than those at work exposed to elements hazardous to health and safety, arising out of or in connection with the activities of persons at work, to establish an advisory council for occupational health and safety and to provide for matters connected therewith.

Compensation for Occupational Injuries and Diseases Act, 1993

The object of this Act is to provide for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their

employment, or for the death resulting from such injuries or diseases and to provide for matters connected therewith.

Compensation for occupational injuries is based on the degree of disablement. Workers may be entitled to increased compensation if their disablement is caused by the carelessness of their employer or a co-worker.

The Compensation for Occupational Injuries and Diseases Act applies to:

- All employers; and
 - Casual and full-time workers who, as a result of a workplace accident or work-related disease:
 - Are injured, disabled, or killed; or
 - Become ill.
- This excludes -
- Workers who are totally or partially disabled for less than three days;
 - Domestic workers;
 - Anyone receiving military training;
 - Members of:
 - The South African National Defence Force, or
 - The South African Police Service;
 - Any worker guilty of willful misconduct, unless they are seriously disabled or killed;
 - Anyone employed outside the Republic of South Africa for 12 or more continuous months; and

- Workers working mainly outside the Republic of South Africa and only temporarily (less than 12 months) employed in the Republic of South Africa.

Intellectual Property Regulations
South Africa has a developed system of intellectual property (IP) law covering patents, industrial designs, copyright and

trademarks. The South African IP law has been amended and consolidated in accordance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) requirements and the International Convention for the Protection of Performers, Products of Phonograms and Broadcasting Organisations.

Applicable Intellectual properties (IPs):

IP and Qualifying Products and Registration Process	Duration
<p>Patents These are granted for inventions that have not been previously known and that differ adequately from what was previously done along the same lines. It takes 12 to 18 months to obtain a patent in South Africa. The applicant must conduct a novelty search to ensure they are not infringing on existing patent rights. The Registrar examines the complete patent application and, if found to be in order according to the requirements of the SA Patent Act, it is published in the Patent and Trademark Journal. According to the International Patent Convention, an applicant can file an application in another country and claim a priority date, which will then be dated the same as the original South African application.</p>	<p>Patents last for 20 years from the date of application, subject to renewal.</p>
<p>Designs Designs incorporating the visual or aesthetic appearance of an article are protected and registered in terms of the Designs Act, No. 195 of 1993, provided that it is new in comparison to that previously known on articles of a similar nature. Designs are divided into aesthetic and functional designs.</p> <ol style="list-style-type: none"> 1. An aesthetic design: <ol style="list-style-type: none"> a. Has to be new and original; b. Beauty is in its shape, configuration or ornamentation; c. Must be able to be produced by an industrial process. 2. A functional design: 	<p>15 years for aesthetic designs and 10 years for functional designs. Registered designs to be renewed annually before the expiration of the third year, from the date of lodgement</p>

IP and Qualifying Products and Registration Process	Duration
<p>a. Has to be new and not commonplace; b. Where the shape or configuration is necessitated by the function. c. Must be able to be produced by an industrial process</p>	<p>Patents last for 20 years from the date of application, subject to renewal.</p>
<p>Copyright</p> <p>The following works are eligible for copyright, if they are original.</p> <ul style="list-style-type: none"> • Literary works e.g. books and written composition novels; • Musical works e.g. songs; • Artistic works e.g. paintings and drawings; • Cinematograph films e.g. programme-carrying signal that has been transmitted by satellite; • Sound recordings; • Broadcasts e.g. broadcasting of films or music; • Programme-carrying signals e.g. signals embodying a programme; • Published editions e.g. first print by whatever process; and • Computer programmes. <p>For a work to be eligible for copyright protection, it must be written down, recorded and be reduced to material form.</p> <p>Copyright is different from other forms of intellectual property in that it exists automatically and no steps need to be taken in South Africa to register it.</p> <p>Non-South Africans can obtain copyright protection provided the country they are a national of is part of the Berne Convention .</p>	<p>Depends on the type of work protected:</p> <p>For literacy works: 50 years after death of the writer.</p> <p>For computer programmes: 50 years after first copies were made available to the public.</p> <p>For sound recordings: 50 years from the day the work was first broadcast.</p> <p>For films: 50 years from when first made/shown.</p>
<p>Trademarks</p> <p>Being registered as a trademark protects the name or logo in association with which an article is marketed or a service is rendered and even the shape of a special container.</p> <p>Trademarks may be registered under the Trademarks Act, No. 194 of 1993.</p> <p>A thorough preliminary trademark search is needed to guard against possible conflicts.</p> <p>Approval requires at least two years, but a business may trade during that period.</p>	<p>A registered trade mark can be protected forever, provided it is renewed every 10 years, upon payment of a renewal fee.</p>

The South African Financial Surveillance Department has amended regulations for exports of intellectual properties. The export of these henceforth will require prior approval by the Department.

5.2.2 Environmental Law

Environmental legislation is receiving increasing attention in South Africa. Since 1994, various pieces of legislation have been introduced to protect the environment and promote its sustainable use. Some of these are:

- The National Environment Management Act (NEMA), No. 107 of 1998, the principal Act which provides a legal framework for decision-making on matters affecting the environment;
 - Environmental Impact Assessments (EIAs) at national and provincial level for listed (identified) activities which may have a detrimental effect on the environment;
 - The Department of Environmental Affairs has revised regulations for EIAs to, inter alia, make them more streamlined and provide for more effective public participation. The new EIA Regulations 2010 (GN No. R543 of 2010) came into effect in August 2010;
- The National Environmental Management: Biodiversity Act, 2004 (No. 10 of 2004), which provides a regulatory framework to protect South Africa's valuable species, eco-systems and biological wealth and The World Heritage Convention Act, 1996 (No. 49 of 1999), which covers the management, protection and sustainability of the country's world heritage sites;
- The National Environmental Management: Air Quality Act, 2004 (No. 39 of 2004), which provides a regulatory framework for air quality management in order to protect the environment and provide reasonable measures for the prevention of air pollution while promoting ecologically sustainable development;
- The National Environmental Management: Waste Act, 2008 (No. 59 of 2008), which provides a regulatory framework for the management of waste in order to protect human health and the environment by providing measures for the protection of pollution and ecological degradation and to secure environmentally sustainable development.

The Environmental Impact Assessment (EIA)

The purpose of the EIA Regulations is to regulate the application process to obtain environmental authorisation for listed activities as contemplated in chapter five of NEMA. This includes the procedure for submission, assessment, public participation and decisions on EIA applications prior to the

commencement of development projects in order to avoid detrimental impacts on the environment. Where detrimental impacts cannot be avoided, measures to ensure adequate mitigation of impacts must be put in place.

The competent authority is the organ of state charged by NEMA to evaluate and take decisions on EIA applications. For applications in KwaZulu-Natal the competent authority is the KwaZulu-Natal Department of Agriculture, Environmental Affairs and Rural Development. The exception is the following, for which the Minister of Water and Environmental Affairs is the competent authority:

- a. Activities that have implications for international environmental commitments;
- b. Specified activities within an area protected by an international environmental instrument;
- c. Activities with a development footprint within more than one province;
- d. Activities undertaken by a national department or provincial department responsible for environmental affairs (or an organ of state reporting to the MEC for that provincial department) or a statutory body performing an exclusive competence of the national sphere of Government; and

- e. Activities in a national protected or conservation area.

The Minister and the KwaZulu-Natal MEC for Agriculture, Environmental Affairs and Rural Development may, however, agree that the applications for activities for which the Minister is the competent authority be reviewed by the MEC or vice versa.

The Competent Authority in KwaZulu-Natal

The KwaZulu-Natal Department of Agriculture, Environmental Affairs and Rural Development (DAEA&RD), which is the CA in the province, is divided into two regions for the purposes of EIA and other departmental mandates. The two regions are the North (Richards Bay office) in the uThungulu District, and the South (Hilton office) in uMgungundlovu District.

While the regional offices are responsible for the receipt of all applications for authorisation, decisions are issued by the relevant district office in which the activity is proposed. Accordingly, the EAP will submit the application for authorisation to the relevant regional office which will forward all relevant documents to the EIA official in the district office within whose jurisdiction the proposed project will be undertaken.

Upon receipt of the application, the official at the district office will follow the prescribed EIA process and review the reports, carry out

site visits and draft a decision for finalisation by the District Manager. The provincial regions demarcated in respect of the EIA process are listed in Table 8.1

Applications for Environmental Authorisation

Applications for environmental authorisation are either subject to a basic assessment process or scoping and environmental impact report, and this is determined by the Listing Notice under which an activity is published. The applicant may not proceed with a listed activity before obtaining an environmental authorisation from the competent authority.

The Basic Assessment

The basic assessment process applies to activities listed in Listing Notice 1 (GN No. R544 of 18 June 2010). These are smaller scale activities, the impacts of which are generally known, and are considered less likely to have significant environmental impacts and can be easily managed. For these activities a basic assessment report must be submitted to the KwaZulu-Natal DAEA&RD for

consideration and approval/rejection of the application for authorisation.

The basic assessment process also applies to activities described in Listing Notice 3 (GN No. R546 of 18 June 2010), which provides details of activities for which an EA must be obtained prior to those activities taking place. Activities in Listing Notice 3 are described for specified geographical areas only.

Listing Notice 2 (GN No. R545 of 18 June 2010) lists the activities for which an application for environmental authorisation, subject to a scoping and environmental impact report, must be conducted. These are activities associated with more significant impacts and generally higher thresholds than those in Listing Notices 1 and 3 and for which specialist studies must be undertaken to determine the potential impacts of proposed activities and provide recommendations on mitigation measures to minimise such impacts.

The Basic Assessment (BA) Application Process (Listing Notice 1 & 3)

EAP

The EAP submits application form to CA

- Declaration of interest
- Written notices and proof of serving notices to land owner or minder – if not Applicant
- Prescribed fee, if any

Conducts the prescribed public participation process
 Opens and maintains register of all I&APs
 Considers all comments & representations from I&APs
 Prepares BAR
 Give I&APs opportunity to comment on BAR

Submits BAR (5 copies) to CA, where applicable within time-frames
 Plus any representations, comments & views from I&APs
 Minutes of meetings, reflecting views of I&APs and other role-players
 Responses by EAP to representations, comments and views

Subject application to S&EIR

Resubmit BAR
 Include comments from I&APs

Within 12 days and in writing, applicant must notify all registered I&APs of application outcome & reasons for decision
 Draw I&AP's attention to availability of appeal
 Draw I&AP's attention to how they may access decision

Appeal decision within 20 days

KWAZULU NATAL DAE&RD

Acknowledge receipt of BAR, in writing, within 14 days

Within 30 days, accept or reject BAR (Rejection grounds: BAR content or process)
 Suggestions:

- Submit additional info;
- Submit report on specialist study/process;
- Suggest/consider comments on feasible and reasonable alternatives; and
- Subject application to S&EIR.

Proceed as in step 3 (or extend decision period for 60 days)

Within 30 days, grant or refuse authorisation;
 Notify applicant, in writing, within 2 days

Content of the Scoping Report (SR)

A scoping report must contain all the information necessary for a sound understanding of the nature of issues identified during scoping. The contents of a scoping report include:

- a) Details of the EAP who prepared the report and his/her expertise;
- b) A description of the proposed activity;
- c) A description of any feasible and reasonable alternatives which have been identified;
- d) A description of the property on which the activity is proposed;
- e) A description of the environment which may be affected by the activity;
- f) Details of all legislation and guidelines that have been considered in the preparation of the report;
- g) A description of environmental issues and potential impacts, including cumulative impacts, which have been identified;
- h) Details of the public participation process;
- i) A description of the need and desirability of the proposed activity;
- j) A plan of study for environmental impact assessment which sets out the proposed approach to the environmental impact assessment of the application, which must include:
 - i. A description of the tasks that to be undertaken as part of the

environmental impact assessment process, including any specialist reports or specialised processes, and the manner in which such tasks will be undertaken;

- ii. An indication of the stages at which the competent authority will be consulted, a description of the proposed method of assessing the environmental issues and alternatives, including the option of not proceeding with the activity; and
- iii. Particulars of the public participation process to be conducted during the environmental impact assessment process.
- k) Any specific information required by the competent authority and other information required in terms of sections 24(4)(a) and (b) of NEMA.

Content of the Environmental Impact Assessment Report (EIAR)

An EIAR must contain all information necessary for the competent authority to consider the application and to reach a decision and must include:

- (a) An indication of the methodology used in determining the significance of potential environmental impacts;
- (b) A description and comparative assessment of all alternatives identified during the EIA process;

- (c) A summary of the findings and recommendations of any specialist report or report on a specialised process;
- (d) A description of all environmental issues identified during the EIA process, an assessment of the significance of each issue and an indication of the extent to which the issue could be addressed by the adoption of mitigation measures;
- (e) An assessment of each identified potentially significant impact, including:
 - (i) Cumulative impacts;
 - (ii) The nature of the impact;
 - (iii) The extent and duration of the impact;
 - (iv) The probability of the impact occurring;
 - (v) The degree to which the impact can be reversed;
 - (vi) The degree to which the impact may cause irreplaceable loss of resources; and
 - (vii) The degree to which the impact can be mitigated;
- (f) An environmental impact statement which contains
 - (i) a summary of the key findings of the EIA; and (ii) a comparative assessment of the positive and negative implications of the proposed activity and identified alternatives;
- (g) Copies of any specialist reports and reports on specialised processes;
- (h) The EAP must provide detailed and written proof that an investigation of the potential consequences or impacts of the alternatives to the activity, including the option of not implementing the activity as required by section 24(4)(b)(i) of NEMA, together with a motivation, is required if no reasonable or feasible alternatives exist.

Content of Environmental Authorisation

- (1) An environmental authorisation must specify:
 - (a) The name, address and telephone number of the person to whom the authorisation is issued;
 - (b) A description of the activity that is authorised;
 - (c) A description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is:
 - (i) A linear activity, a description of the route of the activity; or
 - (ii) An ocean-based activity, the coordinates within which the activity is to be undertaken;
- (d) The conditions subject to which the activity may be undertaken, including conditions determining:
 - (i) The period for which the environmental authorisation is valid, if granted for a specific period;

- (ii) Requirements for the management, monitoring and reporting of the impacts of the activity on the environment throughout the life-cycle of the activity, as contained in the approved environmental management programme; and
- (iii) The transfer of rights and obligations when there is a change of ownership in the property on which the activity is to take place; and
- (e) Where applicable, indicate the manner in which and when the competent authority will approve the environmental management programme; and
- (f) The frequency of updating the environmental management programme requirements and the manner in which and the frequency in which the environmental management programme will be approved, amended or updated.

Application for Amendment of an Environmental Authorisation

Environmental authorisation may be amended on application by the authorisation holder or on the initiative of the KwaZulu-Natal DAEA&RD. The holder of an environmental authorisation may

apply for this amendment if:

- (a) There is a material change in the circumstances which existed at the time of the granting of the environmental authorisation;
- (b) There has been a change of ownership in the property and transfer of rights and obligations must be provided for; or
- (c) A condition contained in the environmental authorisation must be amended, added, substituted, corrected, removed or updated.

Amendment to Environmental Authorisation on initiative of the KwaZulu-Natal DAEA&RD

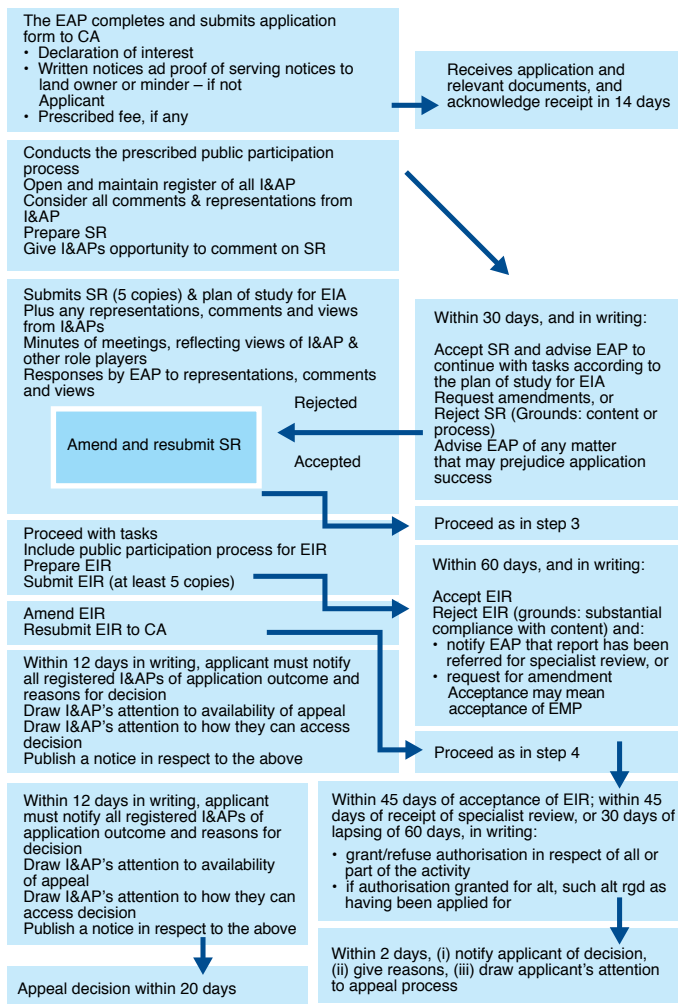
The KwaZulu-Natal DAEA&RD, as the relevant CA in the province, may on its own initiative, amend an environmental authorisation if it is necessary or desirable:

- a) To prevent deterioration or further deterioration of the environment;
- b) To achieve prescribed environmental standards; or
- c) To accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands.

The S&EI Application Process

EAP

KWAZULU - NATAL DAE&RD



Applications for Exemption from Provisions of the NEMA

Any person to whom a provision of these Regulations applies may, subject to the provisions of section 24M of the NEMA, 1998, apply to the KwaZulu-Natal DAER&RD, the Minister of Water and Environmental Affairs, where appropriate, for an exemption from any provision of the Act as it relates to environmental impact assessment or from any provision of these regulations.

The application must, as a minimum, contain:

- (a) The provisions from which exemption is applied for;
- (b) The manner in which and the person to whom comments on the application for such exemption must be submitted; and
- (c) The date on which comments on the application for exemption must be submitted.

Upon receipt of an application, the competent authority (the KwaZulu-Natal DAER&RD or the Minister of Water and Environmental Affairs) may request the applicant to furnish additional information or may advise the applicant of any matter that may prejudice the success of the application.

The CA must consider the application, any additional information and any comments, and reach a decision within 30 days of receipt of all information, except where an application for exemption relates to an action to be taken after the granting or refusal of the environmental authorisation, in which case the decision on the exemption and environmental authorisation may be combined.

If an application is approved, the CA must issue a written exemption notice to the applicant, stating:

- (a) The name, address and telephone number of the person to whom the exemption is granted;
- (b) The provision of these Regulations from which exemption is granted;
- (c) The conditions subject to which exemption is granted, including conditions relating to the transfer of the written exemption notice; and
- (d) The period for which exemption is granted, if the exemption is granted for a period.

The CA must notify the applicant within two days of deciding on the application.

Legal recourse

If at any stage of the application processes the KwaZulu-Natal DAER&RD fails to consider, decide upon the application or inform the applicant/EAP of the outcome of the stage, the Promotion of Administrative Justice Act (PAJA) (No. 3 of 2000) becomes applicable and the applicant has a right to seek recourse from the Department of Justice and Constitutional Development.

Combination of Applications

If an applicant intends undertaking more than one activity of the same type at different locations in the same province, different applications in respect of the different locations must be submitted, but the competent authority may, at the written request of the applicant, grant permission for the submission of a single application in respect of all those activities, whether or not the application is submitted on one or more application forms.

If the competent authority grants permission to combine the applications, the application will have to be dealt with as a consolidated process in respect of all the activities covered by the application, but the potential environmental impacts of each activity must be considered in terms of the location where the activity is to be undertaken.

Suspension of Environmental Authorisation

The KwaZulu-Natal DAEA&RD may, by written notice provide the reasons for the suspension,

to the holder of an environmental authorisation and suspend with immediate effect an environmental authorisation if:

- (a) There are reasonable grounds for believing that the contravention or non compliance with a condition of the authorisation is causing harm to the environment; or
- (b) Suspension of the authorisation is necessary to prevent harm or further harm to the environment; or
- (c) A condition of the authorisation has been contravened or is not being complied with;
- (d) The authorisation was obtained through:
 - (i) Fraudulent means; or
 - (ii) The misrepresentation or non-disclosure of material information; or
- (e) The activity has permanently or indefinitely been discontinued; or
- (f) Unforeseen circumstances lead to potential significant detrimental effects on the environment or on human rights.

Please Note:

- Comments from other relevant State departments that administer a law related to a matter affecting the environment relevant to an application for environmental authorisation will be requested by KwaZulu-Natal DAEA&RD;
- Comments from relevant State departments to be made and submitted within 40 days of receiving documents from the EAP or applicant;
- Once a decision is signed by the KwaZulu-Natal DAEA&RD, it must be issued within two days;
- The period between 15 December and 02 January is not included in any time-frame prescribed in the EIA Regulations 2010. This is in addition to Saturdays, Sundays and public holidays;

- Costs of the EIA process will vary according to the process. Details of EIA consultants are available on the KwaZulu-Natal DAEA&RD database if required by an applicant;
- Some of the relevant departments include: the Department of Water Affairs, Department of Mineral Affairs, and the local municipalities.

Source: KwaZulu-Natal Department of Agriculture, Environmental Affairs & Rural Development (KwaZulu-Natal DAEA&RD)

The KZN Planning and Development Act, 2008 (No. 6 of 2008)

KwaZulu-Natal is the first province to have its own Planning and Development Act (PDA); the KwaZulu-Natal Planning and Development Act, 2008 (Act No. 6 of 2008). The object of the KwaZulu-Natal PDA is:

- To provide for the adoption, replacement and amendment of schemes;
- To provide for consent in terms of schemes;
- To provide for the sub-division and consolidation of land;
- To provide for the development of land outside schemes;
- To provide for the phasing or cancellation of approved layout plans for the sub-division or development of land;
- To provide for the alteration, suspension and deletion of restrictions relating to land;
- To provide for the permanent closure of municipal roads or public places;
- To provide for enforcement measures;
- To provide for compensation in respect of matters regulated by the Act;

- To establish the KwaZulu-Natal Planning and Development Appeal Tribunal;
- To provide for provincial planning and development norms and standards; and
- To provide for matters connected therewith.

The purpose of a scheme is to regulate land use and to promote orderly development in accordance with the municipality's integrated development plan. A scheme must -

- (a) be shown on maps with accompanying clauses and any other information that the municipality considers necessary for illustrating or explaining the extent, content, provisions and effect of the scheme;
- (b) define the area to which it applies;
- (c) define the terminology used in the maps and clauses; and
- (d) specify –
 - (i) kinds of land uses and development that are permitted and the conditions under which they are permitted;
 - (ii) kinds of land uses and development that may be

- permitted with the municipality's consent in terms of the scheme, including –
- (a) the criteria that will guide the municipality in deciding whether to grant its consent;
 - (b) the controls which will apply if the municipality grants its consent;
 - (c) consents in terms of the scheme for which notice in a local newspaper in terms of items 6(1)(c) and 15(1)(c) of Schedule 1 is not required;
 - (iii) kinds of land uses and development that are not permitted;
 - (iv) the extent to which land that was being used lawfully for a purpose that does not conform to the scheme maybe continued to be used for that purpose and the extent to which buildings or structures on that land may be altered or extended; and
 - (v) areas or zones where the giving of public notice is required for the subdivision of land.

Application Procedures

Applications for the adoption, replacement or amendment

of a scheme and for consent in terms of a scheme may be

- a) combined with an application –
 - (i) to subdivide or consolidate land;
 - (ii) to alter, suspend or delete restrictions relating to land,
 - (iii) for the permanent closure of a municipal road or a public place; and
- (b) processed as one application.

- “(1) An application must be lodged with a municipality in whose area that land is situated for –
- (a) the amendment of a scheme;
 - (b) consent in terms of a scheme;
 - (c) the subdivision or consolidation of land ;
 - (d) the development of land situated outside the area of a scheme;
 - (e) the alteration, suspension or deletion of restrictions in relation to land; or
 - (f) the permanent closing of a municipal road or a public place.

Process	Requirements
Lodging the application and the accompanying documents	<p>Applications must be completed with inputs from organs of state, including components of the municipality which is responsible for the provision of engineering services. Some of the main relevant departments are the local municipality within whose jurisdiction the project will take place, the KwaZulu-Natal Department of Agriculture, Environmental Affairs and Rural Development (KwaZulu-Natal DAEA&RD), the KwaZulu-Natal and the South African Departments of Transport, the South African National Roads Agency (SANRAL); Transnet Limited; the Department of Water Affairs and the Department of Minerals & Energy.</p> <p>The application must be handed in to the municipality in whose area the land is situated.</p> <p>Application must include:</p> <ul style="list-style-type: none"> • the application form; • written motivation by the applicant in support thereof; • proof of registered ownership and a copy of the property diagram, unless the application relates to a general amendment of the municipality's scheme; • the written consent of the registered owner of that land, if the applicant is not the owner thereof, unless the application relates to a general amendment of a scheme; • in the case of an application for the subdivision or consolidation of land, or the development of land situated outside the area of a scheme, copies of the layout plan or general plan which may be required by the municipality; and • any other plans, diagrams, documents, information or fees that the municipality may require.
Records of receipt of application and the request for further documents	<p>Once the application is lodged, the municipality must: record the receipt of an application in writing on the day of receipt; and notify the applicant in writing within 28 days after receipt of an application, or such further period as agreed upon, which may not be more than 56 days after receipt of an application –</p> <ul style="list-style-type: none"> (i) that the application is complete; or (ii) of any additional plans, documents other information or fees that it may require. <p>(1) An applicant must provide the municipality with the additional information required for the completion of the application contemplated in item 2(1)(b) within 90 days, or such further period as agreed upon in writing, which may not be more than 180 days from the request for additional information.</p>

Process	Requirements
	<p>(2) The applicant may decline in writing to provide the additional information required, in which case the municipality must proceed with the processing of the application.</p> <p>(3) A municipality may decide to refuse an application on the ground that the information which was not provided after the municipality requested it was necessary in order to make an informed decision as contemplated in section 6(2)(e)(iii) of the Promotion of Administrative Justice Act.</p> <p>(4) An application lapses if an applicant failed to submit plans, documents or information to the municipality as contemplated in item 3, unless the applicant declined in writing to provide the additional plans, documents or information before the application lapsed.</p> <p>A municipality must notify the applicant in writing within 14 days after receipt of the additional plans, documents or information required by it –</p> <p>(a) that the application is complete; or</p> <p>(b) that the additional plans, documents or information do not meet the requirements of the municipality.</p> <p>If the time in which the applicant must provide the additional plans, documents or information has not yet expired, the applicant may resubmit the improved plans, documents or information, in which case the procedure in subitem (1) must be repeated.</p> <p>(3) An application is regarded as a complete if a municipality did not notify the applicant in writing within 14 days that the application is complete or that the additional plans, documents or information do not meet the requirements of the municipality.</p>
Giving public notice	<p>Within 14 days of notifying the applicant that the application is complete, the municipality must give notice.</p> <p>The notice must, among other things, identify the land to which the application relates, the purpose of application, invite members of public to cause written comments, the manner in which these can be lodged and deadlines for submissions.</p>
Manner of public notice	<p>The Municipality must:</p> <ul style="list-style-type: none"> • Display a notice on the land; • Serve notice to interested parties: owners of adjacent erven, home-owners of adjacent erven, occupants with long-term leases and the municipal councillor of the respective ward, as well as any organ of state that may be affected by the application; • Publish a notice in a newspaper distributed within the area concerned; and • convene public meetings, if notice displays are not plausible.

Process	Requirements
Petitions and delivery of groups	When responding to a joint petition, the municipality must reply to the designated person and if no-one is specifically identified, then the first person on the petition list. This action will constitute as a notice to each person on the petition.
Deciding on an application	<p>Before considering the application, the municipality should obtain from a registered planner:</p> <ul style="list-style-type: none"> - A written evaluation and recommendation on the proposal; and - A certificate confirming that the application complies in all respect, or certification stating that the application is defective, providing details of the defect.
Amendments to application prior to approval	The applicant may amend the application any time after the notice has been published, but before approval. Any person who has commented when the notice was published must be notified of the amendments and given a further 14 days to comment. If the amendments are material, the municipality must re-issue the notice allowing 30 days for comment.
Applicant's right to reply	Copies of all comments made to the municipality must be given to the applicant within 7 days of the closing date for comment. The applicant may reply in writing to every person who made comment, within 60 days. An applicant who does not want to respond to comments may waive the right to reply to save time.
Site inspection	<p>The municipality must decide to conduct a site inspection within 14 days of:</p> <ul style="list-style-type: none"> • expiry of 30 days for lodging comments; • expiry of 60 days of the applicant's response to comments, if the applicant did not reply; • receipt of the applicant's reply; • receipt of the waiver of the right to reply by the applicant. <p>The municipality must:</p> <ul style="list-style-type: none"> • Notify the applicant and agree on a time and date for the inspection; and • Secure the property after the site inspection if the owner or occupier is not present. <p>A person who has entered the property must treat all information irrelevant to the application as confidential. Disclosure of such information is an offence.</p> <p>No person may obstruct a person from entering the property during a site inspection.</p>
Public hearing	A municipality may decide whether or not to conduct a public hearing within 14 days of the waiver or comment. If the municipality decides to hold a hearing, this must take place within 60 days. All parties then have a right to attend the hearing in order to state their case, call witnesses, cross-examine any person and have access to all documents.

Process	Requirements
Period for municipality to make a decision	A municipality must decide on the application within 60 days of the closing date for comments, if there is no hearing or within 30 days of the hearing.
Failure of municipality to observe the periods	<ul style="list-style-type: none"> • An application lapses if the municipality failed to decide an application within the specified period. • The applicant may claim the cost of having to make a new application in terms of this Act and new applications in terms of any other law, including the cost of public consultation, as a result of a municipality's failure to decide an application before an application lapsed

NB: Calculation of Number of Days

The number of days must be calculated by excluding the first day as well as every public holiday, and by including the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the days must be calculated by including the first working day immediately following that Saturday or Sunday or public holiday.

5.3 Land Acquisition

There are currently very few restrictions on the purchase of property by non-residents, but there are procedures and requirements which must be complied with in certain circumstances. For example, entities registered outside South Africa who intend to purchase property in South Africa must be registered here and must appoint a South African-resident public officer for a local company whose shares are owned by a non-resident. In the event that a non-resident plans to purchase property in South Africa with the intention of residing here for longer periods, he or she will have to apply for permanent residency in accordance with the given requirements and procedures of South African law.

The South African Reserve Bank (SARB) refers to foreigners as non-residents (regardless of whether they are natural persons or legal entities) whose normal place of residence, domicile or registration is outside the common monetary area of South Africa. If the non-resident intends paying cash for the property, the transaction can be processed without intervention from the South African Reserve Bank.

Property in South Africa is usually purchased through a registered broker or real estate agent, who would be registered as such with the Estate Agency Affairs Board (EAAB).

It will be safe for the parties to allow approximately three months

for registration to take place. This can be shorter, but the exact time span depends on various factors which may cause delays out of the Conveyancer's control, such as the following:

- (i) If the Purchaser is buying a freestanding house, the Conveyancer has to obtain a Rates Clearance Certificate from the relevant Municipality; it is not possible to lodge the deeds in the Deeds Office without this Certificate.
- (ii) The deeds may also only be lodged in the Deeds Office after the Conveyancer receives a Transfer Duty Receipt from the South African Revenue Service as proof that transfer duty has been paid. Should the Receiver have any queries regarding a tax issue, it can also cause a delay as they will not issue the Transfer Duty Receipt unless the matter has been resolved.

Sources: ReMax.co.za; propertyclassifieds.co.za

Purchasing Property in South Africa as a Foreigner

Non-residents purchasing a property in South Africa may borrow up to a maximum of 50% of the purchase price in South Africa; the other 50% of the funds must be brought into the country by the purchaser and transferred from a recognised foreign bank to a bank in South Africa. The total amount that may be

borrowed is at the discretion of the commercial bank offering the loan. A non-resident must open a 'non-resident' account at a South African commercial bank, to facilitate loan repayments. This account would normally be funded from abroad or from rentals received on the property purchased, subject to the bank holding the account being provided with a copy of any rental agreement.

However, the Exchange Control Authority allows a non-resident desirous of obtaining permanent residence status in South Africa to be dealt with as a South African 'resident' for exchange control purposes. This takes place upon completion of an 'Immigrant's Declaration and Undertaking' issued by South African banks.

Once such a Declaration has been completed, the applicant will be eligible to borrow 100% of the purchase price of the property. However, it will then be incumbent upon such person to actually apply for and obtain permanent residence within a reasonable period.

Non-residents who are in possession of a valid South African work permit are considered as residents for the duration of their work permits and are therefore not subject to borrowing restrictions placed on non-residents without work permits.

Acquiring and Disposing of Land

Investors face a wide array of possibilities when selecting land for development in South Africa. Private, state, provincial, municipal and parastatal landholdings are all potentially available for commercial development – each with its own application process. The specific details of this process are determined and administered by the municipality concerned. Commercial real estate is well developed in South Africa, with private landholdings in both urban and outlying areas. The availability of industrially-zoned and serviced land varies by location. However, the KwaZulu-Natal PDA exists to assist investors in applications for rezoning of land, should a need arise.

Acquiring State Land

All purchases or leases of state land are subject to tender. Two scenarios exist for the acquisition of state land:

- Application by an investor or developer for the use of a particular plot of state land; and
- A response by an investor to an invitation by the government for bids to develop land.

Land belonging to many agencies and institutions is subject to a fall-back clause; for example, should any piece of land owned by an institution, such as a university, be used for any purpose other than intended, the title reverts to the

state. This can cause delays for an investor who wishes to acquire land from government organisations.

Provincial Land

In most cases, any sale of provincial land requires a tendering procedure. An investor may identify a site and submit a letter of application for use of the site. The investor must supply the following information:

- What the land will be used for;
- Background of the company;
- Shareholding of the company; and
- Company's financial projections.

The land is then advertised for tender, and a provincial committee evaluates the responses.

Responses are usually judged on project viability, social impact, environmental impact and best use of the land. The process can take 6 – 18 months.

Municipal Land

Local authorities are major holders of public land, with most land developments falling under the jurisdiction of the municipal councils. In terms of legislation, some municipalities permit the direct negotiation of land sales, while others require tendering in some, or all cases. Tendering typically requires a period of 12-18 months. However, the process can be completed in as little as six months, while direct negotiation tends to be significantly quicker. However, a period may also be

allowed for communities to lodge objections and/or appeals against such agreements.

Transfer of Land

Whether land is purchased from private or public sources, the process of transfer of ownership is the same. Property can be owned individually, jointly in undivided shares, or by an entity such as a company, close corporation or trust, or a similar entity registered outside South Africa.

The role of the Deeds Office in the transfer process is two-fold:

- To guarantee the title deed; and
- To maintain a registry of deed holdings.

There are ten regional Deeds Offices throughout South Africa. In KwaZulu-Natal, the Deeds Office is located in Pietermaritzburg. The investor has no direct interaction with the Deeds Office; conveyancers handle the transfer of ownership. It is accepted practice in South Africa that the seller appoints the conveyance, who attends to the transfer of the legal title in the name of the purchaser and has the responsibility to protect the interests of both the seller and the purchaser.

The conveyancer draws up a deed of transfer based on the existing owner's title deed and attends to the registration of the final document with the Deeds Office. The conveyancer must submit the following to the Deeds Office for

registration:

- Deed of transfer;
- Title deed (from owner);
- Power of attorney;
- Rates clearance certificate, if applicable; and
- Transfer duty receipt or exemption certificate.

The purchaser pays the costs of transfer, including the conveyancer's fee. Should a mortgage bond be registered over the property as security for the advancement of the purchase price, the bank or financial institution will instruct its conveyancer to register the mortgage bond.

The bank's conveyancer will lodge the following documents to be registered simultaneously with the transfer documents:

- Mortgage bond; and
- Power of attorney.

The mortgagor pays the costs of registering the bond, as well as the stamp duty. Should the property being transferred be encumbered by an existing mortgage bond, the financial institution in whose favour it is registered, will, after the necessary financial arrangements have been made with the seller, instruct its attorney to cancel the mortgage bond. This is done simultaneously with the registration of transfer of the property. The costs relating to the cancellation are payable by the seller.

Fees, Taxes and Transfer Duties

Whereas the rate of transfer duty payable used to depend on the nature of the purchaser, and this is paid at the flat rate of 8% of the purchase price if the purchaser is a non-natural person, and on a sliding scale if the purchaser was a natural person, the South African Revenue Services (SARS) has revised the transfer duty structure. The new structure applied to both natural and non-natural persons, and ranges on a sliding scale from 3% to 8% of the purchase price, depending on the value of the property being transferred (more information on this and other taxes can be accessed from the next chapter).

Should the seller be registered for VAT, and is, for example, a developer, no transfer duty will be payable by the purchaser, as the seller would have to include the VAT amount in the purchase price. In this case, the conveyancer will obtain a transfer duty exemption certificate from the SARS for lodgement with the documents.

Deeds Office and conveyancing fees

The Deeds Office will charge the conveyancer a registration fee for each transaction registered. This fee is included in the conveyancer's account to the purchaser and varies from R55 to R500, depending on the nature and value of the transaction. The average time required for

the complete transfer process – including bond approval (if required), the drafting of the deed and registration with the Deeds Office – is approximately 2 – 3 months.

The purchaser must provide the conveyancer with the transfer duty payable to SARS prior to registration of the transfer, and the conveyancer will obtain a receipt for the payment of the transfer duty from SARS, for lodgement with the transfer documents at the Deeds Office.

Conveyancers' charge fees for the work they conduct at the Deeds Office on behalf of their clients. The fees charged are in accordance with guidelines laid down by the Association of Law Societies.

5.4 The KwaZulu - Natal Ingonyama Trust Land

Of all the provinces in South Africa, KwaZulu-Natal has a unique administrative orientation. In addition to provincial, metropolitan, district and local government administrations which parallels other provinces, a significant part of the province is ruled by Amakhosi (traditional leaders). The traditional rule in the province is so important that the Royal Household is recognised as an independent department in terms of provincial budget allocations.

Land-falling within the jurisdiction of the traditional leaders belongs entirely to them and their subjects. Consequently, sales, acquisition and/or development of this type of land must follow the provisions of the Ingonyama Trust Board. The Board is the land-owner-in-law of some 2 700 000 hectares (27,000km²) of land spread throughout the province. Land-owners cannot sell or lease their property without prior approval of the Ingonyama Trust Board. This ensures protection of both land-owners and investors against abuse of land rights and inconsistent arrangements.

Sales of Trust Land

The Board does not usually agree to the sale of land, as this is viewed as potentially diminishing the area of land in black ownership. Occasionally however, where the circumstances indicate that a sale is the logical approach and with the consent of the relevant Traditional Council (if any), land is sold. In the very few instances where land is sold, the Board is committed to getting the best possible price so as to maximise the benefits to the beneficiaries of the Trust.

Leases of Trust Land

In most cases the Board prefers to enter into leases for the use of Trust land. Ownership thus remains with the Trust for ultimate transfer in due course to its beneficiaries.

It is standard policy, in the case of undeveloped sites, to issue a short term lease for up to two years to enable would-be developers to obtain planning and environmental consents and to secure finance for the development. Thereafter, a lease for a term of up to forty years, with an option to renew for a further forty years, is normally granted once the requirements of the short-term lease have been met.

Shorter term leases are, however, granted for agricultural uses and for short to medium-term developments. Unless there are exceptional cases, the Board charges a market-related rent and lessees are responsible for all outgoings, including assessment rates and other municipal charges and for obtaining any necessary environmental or development planning consents.

Permission to Occupy

In addition to applications for commercial and agricultural purposes, the Board processes many applications for residential sites. Many of these sites are the subject of 'Permissions to Occupy', which were granted up until 1 April 2007. Permissions to Occupy are no longer issued, except in exceptional circumstances, as they afford limited security for funding and are not registerable interests.

Servitudes

The Board has a considerable amount of public infrastructure on its land, such as roads, transmission lines, pipelines, bulk water and railway lines. It is the standard policy of the Trust for such infrastructure to be evidenced by a registered deed of servitude.

Applications for Tenure Rights

Applicants for tenure rights on Trust land are required to complete and return a Tenure Option Application Form, downloadable from the trust website (www.ingonyamatrust.org.za). The Board attempts to process these applications as timeously as possible but delays may occur if the information requested has not been fully supplied or where a site survey is required. The Board meets

approximately every six weeks to formulate policy issues and approve land rights for new developments.

Traditional Council Consent

It is a requirement of the Ingonyama Trust legislation that the formal consent of the relevant Traditional Council be obtained before a tenure rights application can be processed. This should be in the form of the draft pro-form ITB2, downloadable from the same website. This formal consent is only required where the subject site falls within a proclaimed Traditional Council area. Applicants should confirm this with the Board's Secretariat before approach is made to a Traditional Council.



5.5 Other Relevant Legislation for Investors

Competition Law

The Competition Act (No. 89 of 1998), which came into effect on 01 September 1999, fundamentally reformed South African competition law and has significant implications for conducting business in South Africa. The Act enables competition authorities to take into account both competitiveness and public interest issues, which include, inter alia, Black Economic Empowerment (BEE). The Act substantially strengthens the powers of the competition authorities on similar lines to EU, Canadian and USA models, by granting them, inter alia, powers of search and seizure.

Significant penalties for contravention of the Act include:

- Divestiture of assets;
- Declaring agreements void, in whole or in part;
- Ordering a party to supply goods and services to another party; and fines of up to 10% of a firm's annual turnover in and/or exports from South Africa.

Immigration Regulations

Non-South African residents wishing to seek or take up employment in South Africa need to obtain a work permit. Work permits are issued only to foreigners, where South African citizens with the

relevant skills are not available for appointment. These permits are open-ended and applications must be made at any regional office of the Department of Home Affairs or nearest South African embassy, mission or consulate abroad.

General Work Permits

General work permits are valid for the duration of the contract of employment. To apply, the following documentation has to be submitted:

- A duly completed application form signed by the applicant;
- A passport valid for no less than 30 days after the expiry of the intended visit;
- Payment of the prescribed fee (R1 520);
- A vaccination certificate, if required by the Act;
- Proof of financial means to cover envisaged living expenses in the Republic until the applicant receives a salary. This should be in the form of:
 - bank statements;
 - cash available; or
 - travellers' cheques.
- Medical and radiology reports;
- A police clearance certificate from each country in which the applicant resided for 12 months or longer since the age of 18 years;
- A cash deposit equivalent to the value of a return or an undertaking from the employer;

- A contract of employment signed by both the applicant and the employer;
 - Original proof of qualifications and evaluation thereof by the South African Qualifications Authority. (If the qualifications are in a foreign language, the applicant must have the documents translated into one of the official languages by a sworn translator (and provide proof of registration of the translator);
 - The original advertisement of the post/position as it appeared in the national print media;
 - Proof that all short-listed candidates have been interviewed in terms of regulation 16(4)(d);
 - A letter of motivation from the employer as required in regulation 16(4)(d);
 - A letter of registration, if required by a law, from the relevant professional body/ board/ council or an undertaking to register with the relevant professional body, board or council in the Republic of South Africa, where applicable;
 - Full particulars of the employer, including proof of registration with the Registrar of Companies;
 - A certificate by the Department of Labour or an extract from the database of a benchmarking organisation, stipulating the salary earned by employees occupying similar positions in the Republic of South Africa; and
 - All required documentation for a spouse and/or children if they intend to accompany the applicant.
- A general work permit shall lapse if within six months of issuance, and, if every year thereafter, the holder fails to submit satisfactory proof to the Director-General that he/she is still employed, along with proof of the terms and conditions of the job, and the job description.

Exceptional Skills Work Permits

In addition to the first eight standard requirements above, applicants of exceptional skills work permits are required to produce:

- A letter from a foreign or South African organ of State, or from an established South African academic, cultural or business body, confirming the applicant's exceptional skills or qualifications;
- Testimonials from previous employers, if applicable, and a comprehensive curriculum vitae;
- Other proof to substantiate the exceptional skills or qualifications, such as publications and testimonials;
- A letter of motivation indicating that the applicant's exceptional skills will be to the benefit of the South African environment in which they intend to operate; and

- All required documentation for a spouse and/or children if they intend to accompany the applicant.

Intra-company Transfer Work Permits

Occasionally, multi-national companies may decide to transfer an existing employee from a foreign branch to a branch in South Africa. These employees must apply for intra-company transfer work permits. In such cases, no proof of steps taken to obtain the services of a South African citizen/permanent residence will be required.

Intra-company transfer work permits are valid for two years only and cannot be renewed or extended. To apply for one, the applicant must submit all the documentation as per application for general work permit above, plus all required documentation for a spouse and/or children if they intend to accompany the applicant.

Corporate Work Permit

Companies with a proven ongoing need for foreign employees can obtain a so-called corporate permit. This permit is issued not to the individual worker, but to the employer and allows him/her to employ a specific number of foreigners in specific positions on an ongoing basis.

A corporate permit allows a corporate entity (e.g. a mine group, farmer, etc) to employ a

pre-determined number of skilled/semi-skilled/unskilled workers. There is no fixed validity period for such permits, as the validity period is determined and stipulated by the corporate entity upon application. Applications must be made at any regional office of the Department of Home Affairs or nearest South African embassy, mission or consulate abroad.

To apply for a corporate permit, the corporate entity will have to:

- Submit duly completed application forms signed by the applicants;
- Provide a corroborated statement demonstrating the need to employ foreign workers and the number of foreigners to be employed;
- Provide a job description and remuneration for each foreign worker;
- An undertaking to ensure that:
 - The foreign workers have valid passports;
 - The foreign workers will be employed only in the specific positions for which the permits are issued;
 - The foreign workers will leave South Africa on completion of their duties.
- A cash deposit or guarantee for the foreign workers may be payable by the corporate entity or by the workers in the case of skilled workers.

Before the permit may be issued, the Department of Home Affairs must refer the application to the Department of Labour as well as the Department of Trade and Industry, who will then approve the number of foreign workers who can be employed by the entity making the application. Upon receipt of the approved number of workers, the Department of Home Affairs will issue the corporate permit and authorisation certificates for each worker in terms of regulation 18(2) (b); the corporate entity may then begin recruiting workers.

Business Permits

Foreigners who are contemplating investing in the South African economy by establishing a business or by investing in an existing business in the country must apply for a business permit. The applicant will be required to invest a prescribed financial capital contribution.

To invest in or open a business in South Africa, the applicant will need to, along with Form BI-1738, submit a certificate issued by a chartered accountant registered with the South African Institute of Chartered Accountants to the effect that the applicant has:

- At least R2,5m (two and a half million Rand) in cash;
- A capital contribution of at least R2,5 million, or;
- At least R2 million in cash and a capital contribution of at

least R500 000 that originated from abroad and is available to be invested as part of the book value of the business;

- A business plan outlining the feasibility of the business, both in the long and the short-term;
- Proof or an undertaking that at least five citizens or permanent residents shall be permanently employed;
- An undertaking to register with SARS;
- Proof of registration with the relevant trade body, board or council (where applicable);
- A police clearance certificate from each country where the applicant resided since the age of 18 years, including the Republic of South Africa;
- A yellow fever vaccination certificate if the applicant has travelled or intend travelling through a yellow fever endemic area;
- A repatriation deposit equivalent to the value of a return ticket to the applicant's country of origin/permanent residence, which is refundable after their final departure or after they have acquired a permanent residence permit; and
- Medical and radiology reports.

The capital requirements above may be reduced or waived in respect of the following types of industries/businesses:

- Information and Communication Technology;
- Clothing and textile manufacturing;
- Chemicals and bio-technology;
- Agro-processing;
- Metals and minerals refinement;
- Automotive manufacturing;
- Tourism; and Crafts.

Business permit applications made for existing businesses require the following documents (in addition to all those listed above) to be submitted with the temporary residence application form:

- Financial statements for the preceding financial year; and
- A partnership agreement.

These applications cost R1 520 each and take 4 weeks to be processed. The applicant may not proceed to take up employment in South Africa until such time that they have been informed in writing that the work permit has been approved.

Exchange Control Regulations

The Financial Surveillance Department (formerly the Exchange Control Department) of the South African Reserve Bank imposes exchange controls on South African residents in terms of the Exchange Control Regulations (1961), issued under the Currency and Exchanges Act (No. 9 of 1933). The South African government remains committed to the gradual relaxation of exchange controls, but the existing exchange controls are strictly enforced, particularly in the current uncertain financial environment.

Investment in New South African Entity

1. There is no restriction on the amount that a non-resident may invest in the capital of an entity. However, funds must be transferred to South Africa from a non-resident source to take up ordinary share capital in a company, member's contribution in a close corporation, as a donation to a trust or into a capital account

For noting:

All applications can be made with the Department of Home Affairs Consulate or High Commission in the country of origin of the immigrant prior to entering South Africa. However, if the applicant was in South Africa on any other visitor's permit, these applications may be lodged with the Department of Home Affairs in KwaZulu-Natal, 30 days before the expiry of the current permit.

The Department has offices in all provinces, and each province has regional and other offices. In KwaZulu-Natal, there are 10 regional offices, 13 district offices, and 35 permit service centers.

More information can be obtained from the department's website:
www.home-affairs.gov.za

- of a partnership. Proof of this inward transfer of the funds must be given to the entity's banker to retain in an exchange control file. An Authorised Dealer (AD) is required to endorse the share certificates "non-resident".
2. If the investment is to be acquired by any method other than the transfer of funds, e.g. the transfer of capital equipment or stock, Reserve Bank approval would be needed. Such approval is normally granted subject to the bank endorsing the import documentation "no exchange to be provided".
 3. The investment must be an arm's length transaction. There may be no direct or indirect South African interest whatsoever in the foreign investing entity. The foreign investor may not be a front for a South African resident. The bank would require a letter on the letterhead of the foreign investing entity, confirming that there is no South African interest whatsoever, direct or indirect, in that entity. The letter must also state whether the entity, or its ultimate shareholder, is quoted on a foreign stock exchange. If the foreign investor is an individual, we would require a letter from the individual, together with a copy of his/her passport, confirming either that he/she has never been a permanent resident of South Africa or, if a former resident, advising when his/her emigration was placed on record with the Reserve Bank and which AD attended to the Exchange Control formalities.
 4. The acquisition of preference share capital would need Exchange Control approval as the Reserve Bank regards preference shares as loans.
 5. Any foreign loans, whether from a shareholder or a third party, require Exchange Control approval.
- Acquisition of an Existing Entity in South Africa**
- The rules applicable to the investment in a new entity also apply to the acquisition of an existing entity. However, as the entity is operating, it is unlikely that the value of the shares, member's contribution, and the like, would be the face value. Therefore the AD would need to view an auditor's certificate confirming that the transaction was concluded on an arm's length basis and the price was market related.
- Non-resident Shareholder's Loans**
- a) Exchange Control authority is required for all foreign loans.
 - b) A loan must be an arm's length transaction – the introduction of genuine foreign money. There may not be any direct or indirect South African interest in the foreign lender.

- c) There are no longer any Exchange Control requirements regarding the ratio of capital to shareholder's loan funds. However, tax advice should be obtained, regarding thin capitalisation .
- d) Interest payments should be supported by a calculation of the amount due at the approved interest rate. Interest may not be capitalised without specific Reserve Bank approval.

General

- 1) South African residents, including local entities which are foreign-owned, are subject to the Exchange Control Regulations.
- 2) A South African resident selling an interest in a local entity may not grant terms to the non-resident without Exchange Control approval.
- 3) A South African company needs approval to accept loans from any non-resident.
- 4) A local entity which is 75% or more non-resident owned or controlled is an "affected person" . Affected persons may avail of local financial assistance for working capital without restriction. However, where funds are required for financial transactions or purchase of residential property, local borrowing restrictions will apply. Further information will be supplied on request.
- 5) If non-residents hold all the ordinary shares in a company and South African residents hold only preference shares, it is likely that the company will be deemed to be 100% "affected" and the preference shareholding held by the residents will be considered to be local borrowings. Exchange control authority would have to be sought for residents' preference shares to be regarded as capital rather than local borrowings. Similarly, if the shareholders' loan funding is not pro rata, the company may be deemed to be an "affected person".
- 6) Dividend/profit/income distributions may be remitted in proportion to the non-resident investor's percentage shareholding/owners, provided the payment will not place the entity in an over-borrowed position in terms of the formula requirements. The AD would require such payments to be supported by documentary evidence of the declaration of the dividend/profit distribution.
- 7) Disinvestment proceeds (sale of shares, member's contribution, capital account, and the like) are transferable, provided the transaction was concluded at arm's length at a market related price. The AD would call for an auditor's certificate.
- 8) Repayment of a shareholder's loan requires Exchange Control approval.

CHAPTER 6

INVESTMENT INCENTIVES



Owing to its commitment to improving the business environment and attracting investment, the government of South Africa offers a range of generous investment incentives for new and expansion projects in the country and provinces. The provinces do not normally have their own incentive packages, but do have full access to the nationally-offered assistance through solid relationships between the Provincial Investment Promotion Agencies (IPAs) and the Department of Trade and Industry, and relevant development finance institutions (DFIs) in the country. The DFIs, such as the Industrial Development Cooperation (IDC) and the Development Bank of Southern Africa (DBSA) also offer attractive incentives. In KwaZulu-Natal, there exists the KwaZulu-Natal Growth Fund (KZNGF) and the iThala Bank, which provide bridge finance for projects that would otherwise not get financial assistance from the larger DFIs, mainly due to loan size. As a contribution to improving

the investment climate in country, the provincial government of KwaZulu-Natal usually amends and enhances the pieces of legislation under its jurisdiction. Also through relevant channels to the national government, the province has a platform to influence review of national legislation so as to improve relevance and investor-friendliness, while also ensuring and encouraging sustainable development through protection of natural and depletable resources.

The local government (district and local municipalities in the province) do also have personalized offerings to investors, depending on the size of the project. These would normally be discounts on the cost of economic infrastructure services the municipalities offer to investors and traders.

Below follows a summary of some of the investment incentives offered by the dti. More detailed information on these and other incentives offered by the dti may be accessed from the dti website (www.thedti.gov.za).

6.1 National Incentive Programmes

Description	The South African government implemented a Business Process Outsourcing & Off-shoring (BPO&O) incentive programme as from July 2007. Between July 2007 and March 2010, the incentive resulted in the creation of at least 6,000 new jobs and attracted R303 million in direct investment. As part of a process of improving South Africa's position as an investment destination, a systematic review of the BPO&O incentive programme was undertaken with the private sector resulting in a revised BPS incentive.
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Objectives	The BPS aims to attract investment and create employment in South Africa through off-shoring activities.
Benefits	<ul style="list-style-type: none"> • A base incentive as a tax exempt grant paid over three years for each offshore job created and maintained. • A graduated bonus incentive paid as follows: <ul style="list-style-type: none"> - 20% bonus for more than 4000 but less than 8000 offshore jobs paid once off in a year in which the bonus is reached; - 30% bonus for more than 800 offshore jobs paid once off in the year in the year in which the bonus level is reached.
Eligible enterprises	<p>The dti will determine whether an applicant is eligible to benefit from the BPS incentive, based on the requirements that an applicant (legal entity):</p> <ul style="list-style-type: none"> • must be performing BPS activities; • may be involved in starting a new operation or expanding an existing operation in order to perform BPS activities, which may be operated from more than one physical location in South Africa; • must, by the end of three years from the start of operation of the new project or the expansion, have created at least 50 new off-shore jobs in South Africa; • must commence its commercial operations no later than six months from the date on which the BPS incentive grant was approved; and • if in a joint venture arrangement, must have at least one of the parties registered in South Africa as a legal entity.

Clothing and Textile Competitiveness Improvement Programme (CTCIP)

Description	<p>The Clothing and Textile Competitiveness Improvement Programme (CTCIP) aims to build capacity among manufacturers and in other areas of the apparel value chain in South Africa, to enable them to effectively supply their customers and compete on a global scale. Such competitiveness encompasses issues of cost, quality, flexibility, reliability, adaptability and the capability to innovate.</p> <p>The CTCIP aims to assist companies to attain:</p> <ul style="list-style-type: none"> • increased (maintained) market share/penetration, increased labour or capital productivity, and increased skills levels of employees • improved product/service quality, uniformity and reliability, Improved product design, packaging design, etc., and improved reliability and response times to client orders and order changes. • introduction or adoption of new technologies or techniques that result in the diversification or extension of the cluster's range of sellable products or services.
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Critical Infrastructure Programme (CIP)

Description	<p>The Critical Infrastructure Programme (CIP) is a cost sharing grant for projects designed to improve critical infrastructure in South Africa. The grant covers qualifying development costs from a minimum of 10% to a maximum of 30% towards the total development costs of qualifying infrastructure. It is made available to approved eligible enterprise upon the completion of the infrastructure project concerned.</p> <ul style="list-style-type: none"> • Support competitiveness by lowering business costs and risks; • Provide targeted financial support for physical infrastructure; and • Stimulate upstream and downstream linkages.
Benefits	<ul style="list-style-type: none"> • A cash grant to a maximum of 30% capped at R30 million of the development cost of qualifying infrastructure.
Eligible enterprises	<ul style="list-style-type: none"> • Public sector entities such as municipalities; • Private investors / companies.

The Production Incentive (PI)

Description	<p>The Production Incentive (PI) forms part of the overall Clothing and Textile Competitiveness Programme (CTCP) and flows from the implementation, by the Department of Trade and Industry (the dti), of customised sector programmes (CSPs) for the clothing, textiles, footwear, leather and leather goods industries. The incentive consists of two components, namely (i) an upgrade grant facility, which is meant to focus on competitiveness improvement, and (ii) an interest subsidy for working capital facility, whose aim is to support working capital requirements resulting from past and future upgrading interventions.</p>
Objectives	<p>The PI is aimed at structurally changing the clothing, textiles, footwear, leather and leather goods manufacturing industries by providing funding assistance for these sectors to invest in competitiveness improvement interventions.</p>
Benefits	<p>The PI is available to the following (collectively referred to as the "the sector"):</p> <p>Clothing manufacturers; Textile manufacturers; Cut, Make and Trim (CMT) operators;</p> <p>Footwear manufacturers; Leather goods manufacturers and Leather processors (Specifically for Leather Goods and Footwear industries).</p> <p>Design Houses (Provided the design house partners with one or more CMT's)</p> <p>NB: The PIP specifically excludes goods manufactured for the automotive sector which qualifies for any incentive programme offered for that sector.</p>

Eligible enterprises	<p>Registered legal entities in South Africa in terms of the Companies Act, 1973 (as amended) or the Close Corporations Act, 1984 (as amended). Section 21 companies or 'not-for-profit-or-gain' organisations are specifically excluded from applying. The operations of the company applying must be classifiable as manufacturing (SIC code 3) in terms of the 'Standard Industrial Classification of all Economic Activities'.</p> <p>Design Houses are, however allowed to participate in the programme.</p> <p>The applicant must be a taxpayer in good standing and must, in this regard, provide a valid tax clearance certificate.</p>
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More information on how the PI is designed may be obtained from the CTCP desk or website www.ctcp.co.za

Sector Specific Assistance Scheme (SSAS)

Description	<p>The Sector Specific Assistance Scheme (SSAS) is a reimbursable 80:20 cost-sharing grant offering financial support to export councils, joint action groups and industry associations. The scheme comprises two sub-programmes, namely (i) Generic Funding and (ii) Project Funding for Emerging Exporters (PFEE).</p>
Objectives	<ul style="list-style-type: none"> • Develop an industry sector as a whole; • Develop new export markets; • Stimulate job creation; • Broaden the export base; • Propose solutions to factors inhibiting export growth; and • Promote broader participation of black-owned business and SMMEs in the economy.
Benefits	<ul style="list-style-type: none"> • Travel and accommodation, transport of samples and marketing materials, exhibition costs. • Maximum allocation per project is R1.5 million.
Eligible enterprises	<p>Non-profit business organisations in sectors and sub-sectors of the industry prioritised by the dti, in respect of (i) generic funding and (ii) project funding</p>

Seda Technology Programme (STP)

Description	<p>Seda Technology Programme (Stp) is a division of Seda (Small Enterprise Development Agency) focusing on technology business incubation, quality & standards and technology transfer services & support to small enterprises.</p> <p>Stp seeks to stimulate economic growth and development through facilitating technological innovation increasing the accessibility to, and utilisation of technology and technical support for small enterprises, whilst at the same time improving the sustainability and international competitiveness of small enterprises supported through the programme. Stp, as a programme of the Department of Trade and Industry (the dti), is therefore responsible for the provision of both financial and non-financial technology transfer, business incubation and quality support services for small enterprise.</p>
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Objectives	<p>Stp provides a range of services that assist small enterprises, particularly enterprises in the 2nd economy, to access and acquire technology. "2nd economy", as defined by stp, broadly refers to small enterprises (registered or not registered) that are marginalised with respect to all or most of the following: Access to funds; Access to markets; Limited business skills; Limited technical know-how; and Access to appropriate technology.</p> <p>The Technology Transfer Unit (TTU) of stp has two main objectives, namely:</p> <ol style="list-style-type: none"> 1. To provide technology transfer services to small enterprises; and 2. To provide specific technology support to women-owned enterprises.
Benefits	<p>The following are some of the categories that are eligible to qualify for Technology Transfer Fund (TTF), provided they are related to the product and/or process technology is being transferred:</p> <ul style="list-style-type: none"> • Design, formulation, materials and methods transfer, including design improvement and optimisation; • Know-how, knowledge, skills and expertise transfer, including training and mentoring; • Designs, equipment, systems, machinery and tooling directly related to the product and process technology being transferred; • The know-how, knowledge, skills and expertise required to operate and maintain the equipment, systems and machinery, including training and mentoring; • Expert labour costs regarding the technology, where such costs do not exceed 20% of the total approved TTF funding provided by Stp; • Intellectual Property payments (e.g. Licensing Agreements) and expertise transfer payments to enable the TTF transaction. • Travelling and subsistence claims; • Legal and expert resource expenses regarding the negotiations, agreement and transfer of the technology; • Business training, development and mentoring; and • General business services, e.g. equipment, machines, facilities or processes that are utilised to provide repairs, examinations, overhauls, support or assistance in some form or other, as well as specialised equipment, machines or processes are utilised to provide support for manufacturing, mining, agro-processing or service enterprises.
Eligible enterprises	South African enterprises in the 2 nd economy

Support Programme for Industrial Innovation (SPII)

Description	The Support Programme for Industrial Innovation (SPII) is designed to promote technology development in South Africa's industry, through the provision of financial assistance for the development of innovative products and/or processes.
	<ul style="list-style-type: none"> To contribute to the increase in the number and quality of South Africans with appropriate skills in the development and management of technology for industry; To promote increased interaction among researchers and technology managers in industry, higher education, and Science, Engineering and Technology Institutions (SETIs), to develop skills for the commercial exploitation of science and technology, and promote the mobility of trained people among these sectors; To stimulate industry and government to increase their investment in research, technology development, technology diffusion, and the promotion of innovation; To promote increased collaboration between large and small enterprises, higher education institutions and SETIs by conducting research and development activities leading to technology transfer and product or process development; and To promote large (thematic) collaborative research and development projects in the dti priority areas.
Benefits	The SPII offers three schemes namely, the: <ul style="list-style-type: none"> SPII Product Process Development (PPD) Scheme; SPII Matching Scheme; and SPII Partnership Scheme.

The product process development scheme:

Applicant	Scheme limit	0% – 25% BEE ownership	25.1% – 50% BEE ownership OR >50% ownership by women/ disabled persons	>50% BEE ownership
Provides financial assistance to small, very small and micro-enterprises and individuals in the form of a non-repayable grant. A percentage of 'qualifying' costs incurred in the pre-competitive development activities associated with a specific project.	R2 million (maximum grant)	50% of 'qualifying' costs incurred	75% of 'qualifying' costs incurred	85% of 'qualifying' costs incurred

The matching scheme:				
A percentage of 'qualifying' costs incurred in the development activities of a specified development project.	R 5 million (maximum grant)	50% of 'qualifying' costs incurred	65% of 'qualifying' costs incurred	75% of 'qualifying' costs incurred
The matching scheme:				
The levy-based grant is based on a percentage of sales over a fixed number of years. The levy percentage and repayment period are established at the time of the grant.	R 10 million (minimum contribution)	50% of 'qualifying' costs incurred	50% of 'qualifying' costs incurred	50% of 'qualifying' costs incurred
Qualifying costs:				
Personnel Related Costs; Travel Expenses (defined maximum); Direct Material; Capital Items and Tooling (pro rata); Software (not general software); Documentation; Testing and Trials; Licensing Costs; Quality Assurance and Certification; Patent Costs; and Subcontracting and Consulting.				

Technology and Human Resources for Industry Programme (THRIP)

Description	The Technology and Human Resources for Industry Programme (THRIP) is a partnership programme funded by the Department of Trade and Industry (the dti) and managed by the National Research Foundation (NRF). On a cost-sharing basis with industry, THRIP supports science, engineering and technology research collaborations focused on addressing the technology needs of participating firms and encouraging the development and mobility of research personnel and students among participating organisations.
Objectives	<ul style="list-style-type: none"> • To contribute to the increase in the number and quality of South Africans with appropriate skills in the development and management of technology for industry; • To promote increased interaction among researchers and technology managers in industry, higher education, and Science, Engineering and Technology Institutions (SETIs), to develop skills for the commercial exploitation of science and technology, and promote the mobility of trained people among these sectors; • To stimulate industry and government to increase their investment in research, technology development, technology diffusion, and the promotion of innovation; • To promote increased collaboration between large and small enterprises, higher education institutions and SETIs by conducting research and development activities leading to technology transfer and product or process development; and

Benefits				
Industry partner (s)	*THRIP contribution (R)	*Large industry contribution (R)	Small & Medium Enterprise Contribution	**Very small enterprise contribution
Large company/ies only	1	3	N/A	N/A
Large company/ies, plus a minimum of 25% by a group of SMMEs (e.g. consortia with 1, 2 or 3 large companies must have at least SMME partner)	1	2	5% of highest contribution	No financial contribution
All SMME's	1	N/A	1	No financial contribution
All SMME's and all BEE enterprises	1	N/A	1	No financial contribution
Eligible enterprises	<p>THRIP requires that projects meet three main criteria to be eligible for consideration, linked to its mission statement. These include:</p> <ol style="list-style-type: none"> 1. Projects must promote and facilitate scientific research, technology development, and technology diffusion, or any combinations of these; 2. All projects funded by THRIP must include a human resource development component; and 3. The choice of technological focus for the activities is to be left to the industry participants and their partners, although preference is given to the following industrial and growth sectors of the dti: <p>Agro-processing; Automotive; Biotechnology; Business Process Outsourcing (BPO); Capital equipment and capital goods; Chemicals; Clothing and textiles; Creative industries; Cultural industries; Forestry and timber; Information and Communications Technology; Metals; Pharmaceuticals; and Tourism.</p> <p>THRIP eligibility criteria:</p> <ul style="list-style-type: none"> • Be a high-quality innovative science, engineering and/or technology research whose outputs could make a significant contribution towards improving the industrial partner's competitive edge. • At least one registered South African student (at 4th Year level or higher) must be involved and trained through the research per R200 000 THRIP investment. In addition, non-South African students can qualify for R85 000. 			

	<ul style="list-style-type: none"> • Projects must have clearly defined scientific and/or technology outputs, plus human resources outputs expected for each year of support. • Research must lead to the development of a prototype (product, process, technique or methodology) that will benefit the industry partner(s). • Project leaders should have full-time employment status at the HEI or SETI. • At least one HEI and one industrial partner must be involved. • A clear indication that the project will directly support a specific company, by the industrial partner. • Clear demonstration of commitment from the industry partner in terms of investment in the project. • Arrangement for ownership and exploitation of Intellectual Property arising from the project must be agreed upon between the HEI/SETI and the industry partner before commencement of the project. • An indication of how South Africa stands to benefit from the technology outcomes resulting from the collaboration, in the case of a foreign industrial partner
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*Projects are funded per the following ratios: R1:R3, R1:R2, R1:R1 or R2:R1, depending on the company's size as defined by the National Small Business Act, 1996 (Act No. 102 of 1996).

**A 'very small enterprise' is defined by the National Small Business Act as a separate and distinct business entity with the following criteria: Total full-time equivalent of paid employees: less than 20; Total annual turnover: less than R4 million; and Total gross asset value (fixed property excluded): less than R1.5m.

The Manufacturing Competitiveness Enhancement Programme (MCEP)

Description	<p>The Manufacturing Competitiveness Enhancement Programme (MCEP), one of the key action programmes of the Industrial Policy Action Plan (IPAP) 2012/13 – 2014/15, will provide enhanced manufacturing support to encourage manufacturers to upgrade their production facilities in a manner that sustains employment and maximises value-addition in the short to medium term.</p> <p>The MCEP comprises two sub-programmes: the Production Incentive (PI) and the Industrial Financing Loan Facilities, which are managed by the dti and the Industrial Development Corporation respectively.</p>
Benefits	<p>The grant will be capped according to the applicant's enterprise size as follows:</p> <ul style="list-style-type: none"> • Applicants with total assets with a historical cost below R5 million may qualify for 15% of MVA (manufacturing value added); • Applicants with 100% black shareholding may qualify for 15% of MVA; • Applicants with total assets with a historical cost of at least R5 million but less than R30 million may qualify for 12% of MVA; • Applicants with total assets with a historical cost of at least R30 million but less than R200 million may qualify for 10% MVA; and • Applicants with total assets with a historical cost of R200 million and above may qualify for 7% of MVA

Eligible enterprises	<p>South African-registered entities engaged in manufacturing Standard Industrial Classification (SIC 3), engineering services that support manufacturing, and conformity assessment agencies (SIC 88220) servicing the manufacturing sector.</p> <p>Projects falling under the following (SIC) codes 3231 (manufacture of pulp, paper and paperboard), 332 (petroleum refineries/ synthesisers), 3330 (processing of nuclear fuel), 334 (manufacture of basic chemicals), 351 (manufacture of basic iron and steel) and 352 (manufacture of basic precious and non-ferrous metals) will only be considered provided the investment in the intended project will result in direct quantifiable jobs in downstream industries; and/ or provide benefits for other applicants in the value chain such as access to new markets, introduction of new products and processes currently not available or performed in South Africa, and/or that the sector is experiencing cyclical distress.</p> <p>Projects falling under the automotives and clothing, textiles, leather and footwear sectors that qualify for support under the AIS, APDP and MIDP, CTCP and CTCIP, and projects receiving benefits from NIPP do not qualify for support under the MCEP, with exceptions.</p>
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Tourism Support Programme (TSP)

Description	<p>The TSP is a reimbursable cash grant that aims to support the development of tourism enterprise that will stimulate job creation and increase the geographic spread of tourism investment.</p> <p>The grant is for the establishment or expansion of tourism operations such as: accommodation services; passenger transport services; tour operators; and cultural services and recreational entertainment services.</p>
Objectives	<ul style="list-style-type: none"> • Stimulate job creation; • Encourage the geographic spread of tourism activities; and • Promote Broad-Based Economic Empowerment (B-BBEE).
Benefits	<ul style="list-style-type: none"> • Investment grant of 30% of the investment cost of qualifying assets for new or expansion projects below R5 million; • Investment grant of between 15% to 30% of the investment cost of qualifying assets for new or expansion projects above R5 million; and • Qualifying assets: furniture, equipment, buildings and tourism vehicles for new establishments or expansions.
Eligible enterprises	Investors in new and expanding projects in the South African tourism industry

Trade, export and investment

Automotive Investment Scheme (AIS)

Description	<p>The Automotive Investment Scheme (AIS) is an incentive designed to grow and develop the automotive sector through investment in new and/or replacement models and components that will increase plant production volumes, sustain employment and/ or strengthen the automotive value chain.</p>
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Objectives	<ul style="list-style-type: none"> Strengthen and diversify the sector through investment in a new and/or replacement models and components. Increase plant production volumes. Sustain employment and/or strengthen the automotive value chain.
Benefits	<ul style="list-style-type: none"> The AIS provides for a taxable cash grant of (20%) of the value of qualifying investment in productive assets as approved by the dti. An additional taxable cash grant of 5 or 10% may be available to projects that are found to be strategic by the dti. An additional taxable cash grant of five to ten percent (5% - 10%) may be made available for projects that maintain their base year employment figure throughout the incentive period, and achieve at least two (2) of the following economic requirements: <ul style="list-style-type: none"> - Tooling; - Research and development in South Africa; - Employment creation; - Strengthening of the automotive value chain; and - Value addition. To qualify for an additional grant of five to ten percent (5% - 10%), the project must demonstrate the following: <ul style="list-style-type: none"> - In respect of light motor vehicle manufacturer: a specified increase in unit production per plant; and - In respect of component manufacturers: a specified increase in turnover and manufacturing of components that are currently not being manufactured in South Africa.
Eligible enterprises	<ul style="list-style-type: none"> Light motor vehicle manufacturers that have achieved, or can demonstrate that they will achieve, a minimum of 50 000 annual units of production per plant, within a period of three (3) years; or Component or deemed component manufacturers that are part of the Original Equipment Manufacturer (OEM) supply chain; or Will achieve at least 25% of total entity turnover or R10 million by the end of the first full year of commercial production as part of a light motor vehicle manufacturer supply chain, locally and / or internationally.

Capital Projects Feasibility Programme (CPFP)

Description	The Capital Projects Feasibility Programme (CPFP) is a cost-sharing programme that contributes to the cost of feasibility studies likely to lead to projects outside South Africa that will increase local exports and stimulate the market for South African capital goods and services.
Objectives	<ul style="list-style-type: none"> Increase SA exports stimulate growth for local capital goods and services sector and allied industries; Attract higher levels of domestic and foreign investment; Strengthen the international competitiveness of South African enterprises; and Create jobs.

Benefits	The size of the grant must fall within the range of R100 000 to R5 million to a maximum of 55% of the total cost of the feasibility study for projects outside Africa.
Eligible enterprises	<ul style="list-style-type: none"> • South African enterprises; • Studies that fulfill the following criteria will be eligible to apply for a grant through the programme: <ul style="list-style-type: none"> - must be undertaken by South African companies although it should be aimed at achieving local content of 50% in the feasibility study and project in terms of goods and professional services. • The project must fulfill the following non-financial criteria: <ul style="list-style-type: none"> - new projects, expansion of existing projects and rehabilitation of existing projects; - all capital goods sectors are eligible for programme funding; - the project that is anticipated to lead from the study must fulfill the objectives of the programme; - the minimum local content of the project should be 50%, but in cases where this is not achieved, the application will be evaluated as described in the programme guidelines; - projects can be situated anywhere in the world (excluding South Africa), while projects in Africa will be encouraged; and - the project must have an adequate chance of being declared a success.

Critical Infrastructure Programme (CIP)

Description	The Critical Infrastructure Programme (CIP) is a cost sharing grant for projects designed to improve critical infrastructure in South Africa. The grant covers qualifying development costs from a minimum of 10% to a maximum of 30% towards the total development costs of qualifying infrastructure. It is made available to approved eligible enterprise upon the completion of the infrastructure project concerned.
Objectives	<ul style="list-style-type: none"> • Support competitiveness by lowering business costs and risks; • Provide targeted financial support for physical infrastructure; and • Stimulate upstream and downstream linkages.
Benefits	<ul style="list-style-type: none"> • A cash grant to a maximum of 30% capped at R30 million of the development cost of qualifying infrastructure.
Eligible enterprises	<ul style="list-style-type: none"> • Public sector entities such as municipalities; • Private investors / companies.

Export Marketing and Investment Assistance (EMIA)

Description	The Export Marketing and Investment Assistance (EMIA) scheme aims to develop export market for South African product and services and to recruit new foreign direct investment into the country. The purpose of assistance under the scheme is to partially compensate exporters for costs incurred in respect of activities aimed at developing export market for South African product & services and to recruit new foreign direct investment into South Africa.
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Objectives	<ul style="list-style-type: none"> • Provide marketing assistance to develop new export markets and grow existing export markets; • Assist with the identification of new export markets through market research; • Assist companies to increase their competitiveness by supporting patent registrations, quality marks and product marks; • Assist with facilitation to grow FDI through missions and FDI research; and • Increase the contribution of black-owned businesses and SMMEs to South Africa's economy.
Benefits	<p>Individual Exhibition Participation: Transport of samples; Rental of exhibition space; Construction of stands; Interpretation fees; Internet connection; Telephone installation; Subsistence allowance per day; Return economy-class airfare; and Exhibition fees up to a maximum of R45 000.</p> <p>Primary Market Research & Foreign Direct Investment: Exporters will be compensated for costs incurred recruiting in new FDI into South Africa through personal contact by visiting potential investors in foreign countries. Return economy-class airfare; Subsistence allowance per day; Transport of samples; and Marketing material.</p> <p>Individual Inward Missions: Assistance is provided to South African entities organising an inward buying investor, to make contact with them to conclude an exporters order or to attract foreign direct investment. Registration of a patent in a foreign market: 50% of the additional costs capped at R100 000 pa; Return economy class-airfare; Subsistence allowance per day; and Rental of exhibition space.</p>
Eligible enterprises	<ul style="list-style-type: none"> • South African manufactures and exporters; • South African export trading houses representing at least three SMMEs or businesses owned by Historical Disadvantaged Individuals (HDIs); • South African commission agents representing at least three SMMEs / HDI-owned businesses; and • South African exports councils, industry associations and JAGs representing at least five South African entities.

Film Incentive (FI)

Description	<p>The film incentive seeks to promote its film production and post-production industry. The incentives consist of the Foreign Film and Television Production and Post-Production incentive to attract foreign-based film productions to shoot on location in South Africa and conduct post-production activities, and the South African Film and Television Production and Co-Production incentive, which aims to assist local film producers in the production of local content.</p>
Foreign Film and Television Production and Post Production Incentive	

Objectives	To encourage and attract large-budget films and television productions and post-production work that will contribute towards employment creation, enhancement of international profile, and increase the country's creative and technical skills base.
Benefits	<ul style="list-style-type: none"> • Shooting on location in South Africa, the incentive will be calculated as 20% of the Qualifying South African Production Expenditure (QSAPE). No cap will apply for this incentive. • Shooting on location in South Africa and conducting post-production with a Qualifying South African Post-Production Expenditure (QSAPPE) of R1,5 million in South Africa, the incentive will be calculated at 22,5% of QSAPE and QSAPPE (an additional 2,5%, cumulative 22,5%) • Shooting on location in South Africa and conducting post-production with a QSAPPE of R3 million and above in South Africa, the incentive will be calculated as 25% of QSAPE and QSAPPE (an additional 5%, cumulative 25%). • Foreign post-production with QSAPPE of R1,5 million, the incentive is calculated at 22,5% of QSAPPE. • Foreign post-production with QSAPPE of R3 million and above the incentive is calculated at 25% of QSAPPE.
Eligible enterprises	<p>Foreign-owned qualifying productions and South African qualifying post-production work with:</p> <ul style="list-style-type: none"> • QSAPE of R12 million and above, provided that at least 50% of the principal photography schedule is filmed in South Africa, for a minimum of four weeks. • QSAPPE of R1,5 million and above, provided that 100% of the post-production is conducted in South Africa, for a minimum of two weeks. • An applicant must be a Special Purpose Corporate Vehicle (SPCV) incorporated in the Republic of South Africa solely for the purpose of the production and/or post-production of the film or television project. • An applicant must be the entity responsible for all activities involved in the production and/or post-production in South Africa and must have access to full financial information for the whole production and post-production worldwide. • Only one entity per production and/or post-production for film, animation and television drama or documentary series is eligible for the incentive. • The applicant must comply fully with its obligations in terms of the Legal Deposit Act 54 of 1997.
SA Film & TV Production and Co-production	
Objectives	To support the local film industry and to contribute towards employment opportunities in South Africa.
Benefits	<ul style="list-style-type: none"> • The rebate is calculated as 35% of the first R6 million of QSAPE and 25% of the QSAPE on amounts above R6 million.

Eligible enterprises	<ul style="list-style-type: none"> • Special Purpose Corporate Vehicles (SPCV) incorporated in the Republic of South Africa solely for the purpose of the production of the film or television project. The SPCV and parent company(ies) must have a majority of South African shareholders of whom at least one shareholder must play an active role in the production and be accredited in that role. • An applicant must be the entity responsible for all activities involved in making the production in South Africa and must have access to full financial information for the whole production. • Only one film production, television drama or documentary series per entity is eligible for the incentive. • The following formats are eligible: feature films, tele-movies, television drama series, documentaries and animation. • The incentive is available only to qualifying South African productions with a total production budget of R2,5 million and above.
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Manufacturing Investment Programme (MIP)

Description	The MIP is a reimbursable cash grant for local and foreign-owned manufacturers who wish to establish a new production facility; expand an existing production facility; or upgrade an existing facility in the clothing and textiles sector.
Objectives	<ul style="list-style-type: none"> • Stimulate investment in manufacturing; • Increase employment opportunities; and • Sustain enterprise growth.
Benefits	<ul style="list-style-type: none"> • Investment grant of 30% of the investment cost of qualifying assets for new or expansion projects below R5 million. • Investment grant of between 15% to 30% of the investment cost of qualifying assets for new or expansion projects above R5 million. <p>Qualifying assets: machinery and equipment, buildings, and commercial vehicles.</p>
Eligible enterprises	Investors in new and expansion projects in the South African manufacturing industry.

Section 12I Tax Allowance Incentive (12I TAI)

Description	Section 12I of the Income Tax Act is a tax allowance programme based on investment in new manufacturing assets and training, provided to employees in the project. The 12I Tax Incentive aims to accelerate economic growth in the industrial sector and support the Industrial Policy Action Plan (IPAP 2), particularly in terms of job creation, training and energy efficiency. The two components of the programme comprise an investment allowance of up to a maximum of R900 million, and a training allowance of up to a maximum of R30 million per project, dependent on compliance with certain criteria. Both allowances are deductible from the taxable income of the applicant company, thereby reducing their tax liability.
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Objectives	<ul style="list-style-type: none"> Investment in manufacturing assets, to improve the productivity of the South African manufacturing sector; and Training of personnel, to improve labour productivity and the skills profile of the labour force.
Benefits	<ul style="list-style-type: none"> R900 million in the case of any Greenfield project with a preferred status; R550 million in the case of any other Greenfield project; R550 million in the case of any Brownfield project with a preferred status; R350 million in the case of any other Brownfield project; An additional training allowance of R36 000 per employee may be deducted from taxable income; and A maximum total additional training allowance per project, amounting to R20 million, in the case of a qualifying project, and R30 million in the case of a preferred project. <p>According to the point system, an Industrial Policy project will achieve 'qualifying status' if it achieves at least five (5) of the total 10 points, and a 'preferred status' if it achieves at least eight (8) of the total 10 points.</p>
Eligible enterprises	<p>The investment must be:</p> <ul style="list-style-type: none"> Greenfield project (new project); Brownfield project (expansion or upgrade); or Classified under 'Major Division 3: Manufacturing'. <p>The project should:</p> <ul style="list-style-type: none"> Upgrade an industry within South Africa (via an innovative process, cleaner production technology or improved energy efficiency); Provide general business linkages within South Africa; Acquire goods and services from small, medium and micro-sized enterprises (SMMEs); Create direct employment within South Africa; Provide skills development in South Africa; and In the case of a Greenfield project, be located within an Industrial Development Zone (IDZ).

6.2 Other investment incentives from the dti

The Industrial Development Zone Programme

An Industrial Development Zone (IDZ) is a purpose-built industrial estate linked to an international airport or seaport, which contains a controlled customs-secured area. A controlled customs-secured area is exempt from VAT and import

duty on machinery and assets.

The aim of an IDZ is to provide demand-driven infrastructure, generate sustainable local and foreign investment, and improve international competitiveness.

The IDZ also comprise industries and service areas that are designed to:

- Provide a location for the establishment of strategic investments;
- Promote and develop links between domestic and zone-based industries to optimise the use of existing infrastructure, generate employment and create technology transfers;
- Enable the exploitation of resource-intensive industries;
- Allow for the smooth operation of investors' plants within the IDZ;
- Attract advanced foreign production and technology methods in order to gain experience in global manufacturing and production networks; and
- Provide world-class industrial infrastructure.

There are currently four Industrial Development Zones in South Africa, all strategically positioned close to an international seaport or airport.

These are:

- The Richards Bay Industrial Development Zone (RBIDZ) in KwaZulu-Natal;
- The Coega, and the East London Industrial Development Zones in the Eastern Cape; and
- The OR Tambo International Airport (designated) Industrial Development Zone in Gauteng.

The Richards Bay Industrial Development Zone (RBIDZ)

The Richards Bay Industrial Development Zone (RBIDZ) is a

purpose-built and secure industrial estate on the Northern KwaZulu-Natal. It is linked to an international seaport of Richards Bay, tailored for manufacturing and storage of goods to boost beneficiation, investment, economic growth and, most importantly, the development of skills and employment. The RBIDZ aims to encourage international competitiveness through tax and duty-free incentives on importation of production-related raw materials and inputs, as well as world-class infrastructure, specially designed to attract tenants.

The RBIDZ also offers:

- Suitability for export-oriented production;
- Dedicated customs support services to expedite excise inspection and clearing;
- A zero rate of VAT on supplies procured from South African sources;
- Import status for finished goods which are sold into South Africa;
- Reduced taxation and exemption for some activities/products; and
- Access to the latest information technology for global communications.

Special Economic Zones

The government of South Africa, and the provincial government of KwaZulu-Natal, is planning to introduce the wider concept of special economic zones in the

country and province. This approach is expected to unlock the economic potential of the country and the province that could not be realized by the narrowly-defined IDZ.

Automotive Production and Development Programme

The new Automotive Production Development Programme (APDP), which will replace the Motor Industry Development Programme (MIDP) in 2013, aims to stimulate growth in the automotive vehicle production industry to 1,2 million vehicles per annum by 2020 with associated deepening of the components industry. This would provide an opportunity to increase the local content of domestically assembled vehicles.

The APDP has four key elements:

- A tariff reduction freeze from 2013 to 2020;
- Production incentives;
- A local assembly allowance; and
- An automotive investment allowance.

Enterprise Investment Programme

The Enterprise Investment Programme (EIP) is an incentive grant which comprises the Manufacturing Investment Programme (MIP) and Tourism Support Programme (TSP). The incentive is accessible to both local and foreign-owned entities intending to locate their projects in South Africa.

The MIP is a cash grant for locally-based manufacturers who wish to establish a new production facility, expand an existing facility or upgrade an existing facility in manufacturing industries. Qualifying investment costs would comprise machinery, equipment, land and buildings and commercial vehicles.

The TSP is an investment incentive grant that is payable over a period of two to three years to support the development of tourism enterprises, and in so doing, stimulate job creation and encourage the geographical spread of tourism investment. Tourism-related activities supported by the grant include accommodation, recreational/entertainment and cultural services, and tour operator and passenger transport services.

Foreign Investment Grant

The Foreign Investment Grant (FIG) is designed for international companies investing in plant, new machinery and equipment in South Africa. The grant compensates investors for the transportation of new machinery and equipment to South Africa.

Lead Times for Incentive

Application Finalisation

It takes the dti and the DFIs a maximum of 3.5 months (14 weeks) to finalise applications for incentive.

6.3 Trade & Investment KwaZulu-Natal Incentives

Trade & Investment KwaZulu-Natal offers two types of incentives to investors and/or exporters. The first one is the Technical Assistance Fund (TAF). This fund aims at accelerating feasibility study process so that investing companies can get ready for the next step, which is applying for a commercial loan, should there be a need. The TAF covers 50% of the project feasibility study costs (capped at R250 000 per project per beneficiary).

The second incentive offered by Trade & Investment KwaZulu-Natal is the BEE Travel Assistance Fund. The fund is aimed at providing financial assistance to Black-owned entities that aim to:

- (i) Develop export markets for their products and services; and
- (ii) Seek international investment partners.

Benefits of the BEE Travel Assistance Fund include:

- Return economy-class tickets limited to 60% of the total costs;
- At most, 3-star accommodation limited to 60% of the total costs of up to a maximum of seven nights of stay

- All costs of freighting of product and/or service samples and brochures associated with Trade & Investment KwaZulu-Natal trade or investment promotion programmes, limited to 60% of the total freighting costs and 10kg of the sample and/or brochure weight.

6.4 Municipal Incentives

Most local municipalities offer incentives to investors and entrepreneurs. Although these vary from one municipality to another – depending on the nature, size and socio-economic impact of the project – the municipalities are generally willing to negotiate preferential agreements with regard to property rates and electricity tariffs.

CHAPTER 7

TRADE RELATIONS AND COOPERATIONS



7.1 South African Foreign Trade Relations(update)

South African trade agreements
The South African Government's economic development strategy aims to accelerate growth and industrial development along a path that generates decent jobs.

The Government, through the Department of Trade and Industry (dti), seeks to support the objectives of industrial development and upgrading, employment growth and increased value-added exports by negotiating trade agreements with other countries. The International Trade and Economic Development Division (ITED) within the dti is the section responsible for such trade negotiations.

Below is a summary of the various trade agreements that South Africa is party to:

7.1.1 The Southern African Customs Union (SACU)

SACU was established in 1910 and is the oldest functioning Customs union in the world. It has been renegotiated twice: in the late 1960s when Botswana, Lesotho and Swaziland became independent and after the inauguration of the democratic Government in South Africa in 1994.

The current members are Botswana, Lesotho, Namibia, South Africa and Swaziland. SACU seeks

to maintain the free interchange of goods between member countries. It provides for a common external tariff for the common customs area. All customs duties collected in the common customs area are paid into South Africa's national Revenue Fund. The Revenue is shared among members according to an agreed revenue-sharing formula.

The latest SACU Agreement came into force in July 2004. In terms of Article 31 of the new agreement, South Africa and other members of SACU jointly negotiate preferential trade agreements with third parties. SACU Members have also agreed to a targeted work programme in five areas, namely: regional industrialisation; review of the revenue-sharing formula to ensure a sustainable revenue-sharing mechanism that promotes development; development of a trade facilitation programme to improve border efficiency; unified engagement in trade negotiations; and establishing common institutions such as a Tariff Board and the Tribunal within an agreed policy framework.

7.1.2 The Southern African Development Community (SADC)

The Trade Protocol of the Southern African Development Community (SADC), which established a free trade area among 12 SADC member states, was implemented on 1 September 2000. The aim of SADC is to create a "community"

providing for regional peace and security, and an integrated regional economy. As a regional institution it has laid the basis on which regional planning and development in Southern Africa could be pursued. It also provides the desired instrument by means of which member states should move along the path towards eventual economic integration. Furthermore, SADC forms one of the building blocks of the African Economic Community (AEC).

Implementation of the SADC Protocol on Trade began in 2000, following its signing in 1996. The liberalisation of tariffs has taken place at different rates. In general, more developed SADC countries have reduced tariffs faster than other member states. The Southern African Customs Union (SACU) removed most tariffs in 2000, while middle-income countries have gradually reduced their tariffs each year between 2000 and 2008. In relation to the least-developed countries, tariff reductions have generally been introduced during the latter part of the phase-down period. From January 2008 onwards, when SADC attained the status of a FTA, producers and consumers do not pay import tariffs on more than 85% of all trade in community goods in the initial 12 countries implementing the SADC Trade Protocol. The 15% of trade, constituting the “sensitive list”, is expected to be liberalised from 2009

to 2012 when SADC attains the status of a fully-fledged FTA with almost all tariff lines traded duty-free. Market integration in SADC is accompanied by cross-border infrastructural development (such as the spatial development initiatives) and sectoral co-operation that aims to build and diversify the region’s production structures.

SADC, together with COMESA and the EAC, has established an on-line Non-Tariff Barrier reporting and monitoring mechanism (<http://www.tradebarriers.org>) to facilitate eliminating non-tariff barriers.

This mechanism has the potential to facilitate movement of goods and will lead to increased trade. Its effectiveness is, however, dependent on the full and active participation of the business community.

To determine whether a product originates in the region, and therefore qualifies for duty-free access to the SADC market, “Rules of Origin” have been agreed to by member states. To benefit from SADC trade preferences, exporters must obtain confirmation of origin through a “Certification of Origin”, obtainable from competent authorities in member states’ customs offices.

7.1.3 The Common Monetary Area (CMA)

The Common Monetary Area (CMA) links South Africa, Lesotho

and Swaziland into a currency union, in which the South African Rand is the common currency. It is allied to the Southern African Customs Union (SACU). Namibia automatically became a member upon independence, but withdrew with the introduction of the Namibian dollar in 1993. However, Namibia has chosen not to pursue its own flexible exchange rate policy, and the Namibian dollar is at par with the South African Rand and there is no immediate prospect of change. The same is true with the Lilangeni of Swaziland and the Loti of Lesotho.

The Rand continues to circulate freely in these countries, although it is strictly speaking not legal tender. Foreign exchange regulations and monetary policy throughout the CMA continue to reflect the influence of the South African Reserve Bank.

7.1.4 SADC-EAC-COMESA Tripartite FTA (T-FTA)

On 12 June 2011, South Africa hosted the launch of the Tripartite FTA negotiations between SADC, EAC and COMESA. The T-FTA encompasses 26 countries with a combined GDP of US\$1.0 trillion and a combined population of approximately 590 million people. The Tripartite framework derives its basis from the Lagos Plan of Action and the Abuja Treaty establishing the African Economic Community (AEC), which requires the rationalisation of the continent's regional economic communities.

The FTA will be negotiated over the next three years, with the possibility of an additional two years for completion.

The Tripartite initiative comprises three pillars: market integration, infrastructure development, and industrial development. These three pillars will be pursued concurrently, in order to ensure an equitable spread of the benefits of regional integration. The FTA will, as a first phase, cover only trade in goods and core areas necessary to support that (such as Rules of Origin). Services and other trade-related areas will be covered in a second phase.

7.1.5 EU-South Africa Trade, Development and Co-operation Agreement (TDCA)

The Trade, Development and Cooperation Agreement (TDCA) between South Africa and the European Union was signed on 11 October 1999 and provisionally came into force on 1 January 2000, subject to ratification by the EU member states. The Agreement came into force on 1 May 2004 after it was ratified by all EU member states. In terms of the agreement, by 2010, the EU is expected to liberalise 95% of its duties on South African originating products. In turn, by 2012, South Africa undertook to liberalise 86% of its duties on EU originating products. It means that only a limited number of product lines are not as yet subject to any

of the regimes of tariff phase-down under the Agreement.

A review of the agreement, which is aimed at broadening the scope of product coverage, and taking place under the auspices of the Economic Partnership Agreement (EPA) negotiations between SADC and the Eastern Cape, is currently underway.

7.1.6 SACU-EFTA FTA

The FTA between SACU and the EFTA came into effect on 1 May 2008. It applies to trade relations between SACU and individual EFTA states covering trade in industrial goods (including fish and other marine products) and processed agricultural products. The Agreement also provides for future non-binding engagements on issues such as intellectual property, investment, trade in services and government procurement.

EFTA countries do not have a common agricultural policy and basic agricultural products were negotiated separately.

Three Bilateral Agricultural Agreements were concluded between SACU and individual EFTA states, which form part of the main Agreement and came into force at the same time as the FTA.

On the EFTA side tariffs on industrial goods were eliminated upon entry into force of the Agreement; i.e. all customs duties on imports of originating products from SACU

have been abolished. SACU shall progressively reduce customs on imports of originating products from the EFTA states.

The tariff reduction schedules are set out on the assumption that the Agreement came into force on 1 January 2006 and are not affected by any delays in the actual date on which the FTA came into force.

The United States

7.1.7 Trade, Investment and Development Cooperation Agreement (TIDCA)

The TIDCA between SACU and the US is a co-operative framework agreement that makes provision for the two parties to negotiate and sign agreements relating to sanitary and phyto-sanitary measures (SPS), customs co-operation, and technical barriers to trade measures (TBT). It also establishes a forum of engagement between the two parties on any matters of mutual interest, including capacity building and trade and investment promotion.

7.1.8 Trade and Investment Framework Agreement (TIFA)

TIFA is a bilateral agreement between South Africa and the USA that was signed in 1999, but was dormant until a decision to revive it was taken in 2010. The agreement provides a bilateral forum for the two countries to address issues of interest including AGOA, TIDCA, trade and investment

promotion, non-tariff barriers, SPS, infrastructure and others. It is the main forum for bilateral engagement with the US on all trade and investment related issues.

7.1.9 African Growth and Opportunity Act (AGOA)

AGOA is a unilateral assistance measure of the US government to increase trade and investment between the US and eligible sub-Saharan African countries, including South Africa. AGOA was signed into law on 18 May 2000 as Title 1 of The Trade and Development Act of 2000 in the US. AGOA extended the duty-free treatment under the US's Generalised System of Preference (GSP) programme, which expired at the end of 2010 (although GSP-eligible imports from AGOA beneficiary countries continue to be eligible for duty-free entry). AGOA eliminated most of the limitations of the GSP programme for sub-Saharan African countries, and expanded the product coverage of the GSP programme exclusively for products in sub-Saharan Africa. It has also made way for duty-free and quota-free access to the US market for apparel manufactured in sub-Saharan countries, of which the fabric, yarn, and thread, were of US origin. AGOA is set to expire in 2015.

What is the GSPs?

The Generalised System of Preferences (GSP) is a formal, non-reciprocal system of exemption from the more general rules of the

World Trade Organisation (WTO). Specifically, it is a system of exemption from the Most Favoured Nation principle (MFN) that obligates WTO member countries to treat the imports of all other WTO member countries no worse than they treat the imports of their "most favoured" trading partner. In essence, MFN requires WTO member countries to treat imports coming from all other WTO member countries equally, that is, by imposing equal tariffs on them, etc.

GSP, however, exempts WTO member countries from MFN for the purpose of lowering tariffs for developing countries (without also doing so for rich countries). The idea of tariff preferences for developing countries was the subject of considerable discussion within UNCTAD in the 1960s. Among other concerns, developing countries claimed that MFN was creating a disincentive for richer countries to reduce and eliminate tariffs and other trade restrictions with enough speed to benefit developing countries.

GSP applied to SA exports

South African products qualify for preferential market access (i.e. no or substantially reduced customs duty) to several countries under the GSP, including EU Member States, Japan, Canada and Russia.

7.1.10 SACU-Southern Common Market (Mercosur) PTA

A preferential trade (or limited scope) agreement, covering around 1 100 product lines on each side of the border, was concluded in 2008 and signed in 2009. It is currently going through ratification procedures. It is not expected to enter into force before some time in 2012.

7.1.11 SACU-India PTA

The terms of reference of the Agreement were agreed to in October 2007, and negotiations launched. SACU and India are in the process of exchanging tariff requests.

Bilateral agreements

7.1.12 Mozambique Preferential Access Agreement

This agreement is a wide-ranging preferential arrangement regulating mine labour, railway and port matters and trade.

A limited number of Mozambican goods receive tariff preference from South Africa, subject to quotas.

7.1.13 Zimbabwe / South Africa Bilateral Trade Agreement

An initial agreement between South Africa and Zimbabwe in 1964 provided for preferential rates of duty, rebates and quotas on certain goods traded between the two countries. Consensus on a new trade agreement was reached in August 1996. In terms of the new agreement, tariff and quota levels on textile imports into South Africa will be lowered. The agreement

also extends to a large number of other products, certain quotas for agricultural products.

7.1.14 The New Economic Partnership for African Development (NEPAD)

South Africa, in collaboration with key African countries and as one of the NEPAD five initiating countries, has been at the forefront in developing NEPAD as Africa's premier development programme, in mobilising African and international support for NEPAD and in supporting NEPAD structures and processes.

NEPAD, which was adopted in 2001, is aimed to promote and sustain socio-economic development and foster the adoption of policies that are in line with global practices. The primary objective of NEPAD is to eradicate poverty, halt the marginalisation of Africa in the globalisation process, to promote the empowerment and economic integration of women and to achieve the Millennium Development Goals (MDGs).

The implementation of NEPAD, in conjunction with the SADC Regional Indicative Strategic Development Plan (RISDP) as the regional expression of NEPAD, forms a critical pillar that contributes to the overall objective of the consolidation of the African Agenda. At a practical level NEPAD seeks to unlock the blockages relating to hard and

soft infrastructure, stimulating economic activity through the various economic corridors, trade facilitation, Aid for trade and capacity building through innovative partnerships.

NEPAD provides unique opportunities for African countries to take full control of their development agenda, to work more closely together, and to cooperate more effectively with international partners. In his regard, NEPAD manages a number of programmes and projects in six theme areas, including:

- Agriculture and Food Security.
- Climate Change and National Resource Management.
- Regional Integration and Infrastructure.
- Human Development.
- Economic and Corporate Governance.
- Cross-cutting Issues, including Gender, Capacity Building and ICT.

7.1.15 BRICS - Brazil, Russia, India, China and South Africa²⁴

Overview

BRICS refers to the economic alliance that includes Brazil, Russia, India, China and South Africa. It is believed South Africa's ascendance to the BRICS group of major emerging economies on 13 April 2011 is a boost to the country's brand as a serious economic player and puts South Africa on the centre stage of global change, rather than on the sideline.

In addition, this partnership will not only benefit South Africa, but also the continent, as it will open up trade in Africa. Experts have made the point that the "S" in BRICS should actually stand for SADC, and not South Africa, referring to the Southern African Development community of 15 African states, including Botswana, the DRC, Angola and Tanzania. Membership would give Africa a stronger voice, not only within BRICS, but also across all international platforms in which the BRICS countries are individually represented.

The membership was the result of two years of in-depth planning and joint efforts by the public and private sector. The founding nations (Brazil, Russia, India and China), and now South Africa, are in a similar state of economic development, although South Africa ranks lower according to several significant indicators. Whilst it is agreed South Africa does not have a major world population size in comparison to the other BRICS member states, including the high-digit growth rates enjoyed by its BRICS partners, South Africa has many other positive attributes not to be undermined including, amongst others,

South Africa's role as a major economic player in Africa, South Africa's mineral and industrial output, electricity generation capacity, road, rail, ports and communication infrastructure,

sophisticated financial markets and service industries, South Africa's manufacturing capacity, membership in the G20, and level of industrialisation.

Source: The dti (2011); Investor's Hnadbook, 2011/12

7.2 KwaZulu-Natal Co-operative Agreements

A significant number of regions in KwaZulu-Natal, represented by their municipalities – and in some cases by provincial government departments – have entered into a number of bilateral trade agreements with compatible cities in other countries. These 'sister-city' programmes have benefited trade and investment in the province and are only growing stronger. Table 7.1 records some of these agreements and the areas of co-operation they cover.

The agreements' operational status changes regularly as they are non-binding agreements. The most up-to-date status can be verified with the inter-governmental relations (IGR) unit in the KwaZulu-Natal Premier's Office.

7.3 Trade & Investment KwaZulu-Natal Memoranda of Understanding

As a strategically positioned organisation to promote trade and investment in the province of KwaZulu-Natal, Trade & Investment KwaZulu-Natal has excellent working relationships with all municipalities in the province, and plays a significant facilitation role with respect to relationship building and management between municipalities and investors. Trade & Investment KwaZulu-Natal strategic partnerships also stretch from many other sectors of importance to trade and investment in the province.

Among others, Trade & Investment KwaZulu-Natal has Memoranda of Understanding (MoU) with the entities listed below. These MoUs are effective in ensuring that processes mentioned earlier in the documents are shortened for the benefits of speedy and hassle-free implementation of trade and investment-related activities, in relation to issues of jurisdiction of these entities. They include:

- The City of uMhlathuze (Richards Bay);
- KwaZulu-Natal Department of Agriculture and Environmental Affairs;
- The Ingonyama Trust Board;

- The Regional Land Claims Commission – KwaZulu-Natal;
- Telkom;
- The University of KwaZulu-Natal;
- The Durban Chamber of Commerce and Industry;
- Enterprise iLember; and
- MINTEK.

Trade & Investment KwaZulu-Natal is in the process of signing MoUs with all the district municipalities in the province for coordinated trade and investment promotion efforts.

These relationships will also ensure increased investor referrals and incentive negotiations.

Where Trade & Investment KwaZulu-Natal is aware of transactions between investors and the concerned departments and/or entities, these relationships are generally used to ensure that investors' issues are not unjustifiably delayed.

Trade & Investment KwaZulu-Natal has also entered into MOUs with the 10+1 districts of the province, in order to work towards harmonisation of trade and investment promotion efforts

Table 7.1: KWAZULU-NATAL CO-OPERATION AGREEMENTS

Country	City or Province	Type & description of agreement	Status
Algeria	Oran	Sister City Agreement	20011017
Australia	Queensland	Co-operation Agreement	Pending
	Queensland	The agreement focuses on Trade and Investment; Economic Development; Education and training- both in FET Colleges and across the sector skills development and capacity development; Exchange of Agricultural technology and training for SMME and small scale farmers; Natural Disaster Management training and exchange programmes; Infrastructure development- including skills and exchange programmes for low cost housing; Climate Change programmes focusing on Green tech and waste management, and Boarder tourism and cultural exchange	Active

Country	City or Province	Type & description of agreement	Status
	State of Queensland	Arrangement between the Province of KwaZulu-Natal and the State of Queensland on Friendship Co-operation	Pending
Belgium	Bornem	Memorandum of Partnership and Cooperation between the Municipalities of Bornem and Nquthu	Pending
	Walloon Region	the focus is on technology transfers for crossbreeding of the Belgian Blue Cattle	Active
Brazil	City of Curitiba	Twinning and Co-operation Agreement between City of Curitiba and the eThekweni Municipality	Pending
	Sao Paulo Municipality Shack Dwellers International (SDI) – Secretariat South African Homeless People's Federation Grassroots Movements, Sao Paulo	Memorandum of Understanding between eThekweni Municipality Housing Dept, Sao Paulo Municipality Housing Dept, Shack Dwellers International (SDI) - Secretariat Mumbai, India and Cape Town, South African Homeless People's Federation and Grassroots Movements, Sao Paulo	Pending
	Housing, Sao Paulo Municipality	Cooperation Agreement	Pending
China	Shangai	Agreement between KwaZulu-Natal Province and Shangai (China)	2001/10/17
	Fujian Province	Co-operation agreement: Implementation and maintenance of an agricultural project, JUNCAO mushroom and dry land rice; and economic co-operation, arts and culture, tourism sport, and information technology	Active
	Shanghai	Co-operation agreement: Co-operation in Education; sport; tourism, economic development; and Arts and Culture	Active

Country	City or Province	Type & description of agreement	Status
	Jiangsu Province	Development of exchanges and co-operation in Economic; culture, human resource training, culture, environmental protection, sport and tourism	Dormant
	City of Shanghai	Memorandum of Co-operation on Friendly Exchange between the City of Shanghai of the People's Republic of China and KZN Province of the Republic of SA	Pending
	Shanghai Municipal Education Commission	Letter of Intent for Education Co-operation between the KwaZulu-Natal Department of Education and the Shanghai Municipal Education Commission	Pending
	Shanghai Municipal Tourism Administration	Protocol of Co-operation between KwaZulu-Natal Tourism Bureau and Shanghai Municipal Tourism Administration on Cooperation in the Field of Tourism	Pending
	Guangzhou (Guangdong Province)	Sister City Agreement between Durban and Guangzhou (Guangdong Province)	2000/07/17
	Zhuzhou (Hunan Province)	Sister City Agreement	2002/05/23
	Zibo (Shandong Province)	Sister City Agreement	2002/09/26
	Fujian	Agreement between KwaZulu-Natal Province and Fujian	2006/11/14
	Jiangsu	Agreement between KwaZulu-Natal Province and Jiangsu	2007/03/29
Czech Republic	Technical University of Liberec	Co-operation Agreement between the Province of KwaZulu-Natal and the Technical University of Liberec	Pending
Egypt	Governorate of Alexandria	Memorandum of Understanding between the eThekweni Municipality and the Governorate of Alexandria on Friendship and Co-operation	2001/10/24
	Nantes	Sister City Agreement	2004/08/30

Country	City or Province	Type & description of agreement	Status
France	Nantes Metropole	Partnership Agreement between Nantes Metropole (France) and eThekweni Municipality (South Africa)	2007/03/29
	Bremen	Sister City Agreement	2003/09/22
	Baden-Wurttemberg	The agreement was reactivated in 2006 focusing on areas of co-operation that include Education; Social Development; Arts, Culture and Tourism, Sport and 2010; and Economic Development	Active
India	City of Chennai	Memorandum of Understanding between the eThekweni Municipality and the City of Chennai	Pending
	Mumbai	Memorandum of Understanding between the City of Mumbai and the City of Cape Town	Pending
	Punjab	Areas of co-operation include economic development (SMMEs), arts and cultural exchange programmes, agriculture	Active
	Niit Limited of India	Memorandum of Understanding between the Ministry of Economic Development, Government of South Africa represented by the KwaZulu-Natal Department of Economic Development and the Confederation of India Industry (CII) and Niit Limited of India	Pending
Indonesia	Jakarta	The areas of co-operation focused on trade, industry, tourism, city planning, infrastructure, sport, culture, arts and promotion of provincial council's cooperation	Dormant
Japan	Prefecture of Hokkaido	Declaration of Intent	Pending
Korea	Daejeon Metropolitan City	MOU on Cooperation between the EThekweni Municipality and Daejeon Metropolitan City	Pending
		Draft Joint Statement between the Province of KwaZulu-Natal and the Korea Speed Train Consortium for South Africa on Developing Friendly Relations and Economic Cooperation	Pending

Country	City or Province	Type & description of agreement	Status
Malaysia	Malaysia Ministry of Science, Technology and Innovation	Memorandum of Understanding	Pending
Mozambique	Maputo	Sister City Agreement	2007/01/31
	Maputo Province	Memorandum of Understanding entered into by and between eThekweni Municipality and City of Maputo	Pending
	Maputo	Interactions between counterparts dealt with the fields of Agriculture, Arts, Culture and tourism and South African Police Services	Dormant
Netherlands	Rotterdam	Sister City Agreement	1997/05/05
Palestine	Annajah National University in Nablus	Faculty Exchange between University of Durban-Westville and Annjah National University	2003
	Annajah National University, Nablus	Memorandum of Understanding between the Palestine Support Committee, Durban, South Africa and the Public Relations Department, Annajah National University, Nablus, Palestine	2003/05/18
	Annajah National University, Nablus	Student Exchange Agreement between the University of Natal and Annajah National University	2003/05/19
Republic of Poland	Industrial Development Agency of Government of Poland	Memorandum of Understanding (MoU) between the Industrial Development Agency (IDA) of Government of Poland and Trade & Investment KwaZulu-Natal having common interest and desire for the strengthening of friendly relations and co-operation with the view to promote and enhance economic development through trade and investment.	Pending
Reunion Island	Region Reunion	Co-operation Agreement between the Region Reunion and KwaZulu-Natal Province	Pending

Country	City or Province	Type & description of agreement	Status
	Municipality of Le Port	Memorandum of Understanding between the Municipality of Le Port (Reunion Island) and the eThekweni Municipality (South Africa)	2005/11/04
		The agreement was reactivated in 2007 focusing on cultural exchange programmes; connection with the EU; Science and Technology; Agriculture; Education and Investment	Active
Swaziland	City Council of Manzini	Arrangement between uThungulu Municipality of the Province of KwaZulu-Natal and the City Council of Manzini on Friendship Co-operation	Pending
Taiwan	Taichung City	Twinning Agreement	1985
	Kaohsiung City	Twinning Agreement	Pending
UK	Leeds	Sister City Agreement	Pending
USA	New Orleans	Sister City Agreement	20031105
	Chicago	Sister City Agreement	Pending
Zimbabwe	Bulawayo	Sister City Agreement	20021107

7.4 The Role of KwaZulu-Natal Public Entities

The KwaZulu-Natal provincial government has other public entities operating in the province for advancement of business and investment. Below is a list of some of these entities, with their relevant activities.

Trade & Investment KwaZulu-Natal

In the process of facilitating investment in the province, Trade & Investment KwaZulu-Natal will:

1. Continually strive to live up to its vision and mission as outlined in its annual strategic documents, shall proactively assist investors with referral services where needed;
2. Assist potential investors into KwaZulu-Natal wherever relevant with any information and liaison services required in respect of ensuring investors adherence to protocol;
3. Strive to achieve KwaZulu-Natal's and South Africa's competitiveness in attracting Foreign Direct Investment in a

- global context, and in particular to seek to achieve policy and incentive comparability to other successful middle income countries with regard to attracting investment;
4. Regularly review its own activities and programmes in line with international best practice, and being mindful of new issues continually emerging on the horizon as a result of global innovation, communication and competition;
 5. Actively advocate for conducive investment environment for investors; and
 6. Sign/enter into Memorandum of Understanding with both national and provincial parastatal in order to reduce the number of days and bureaucracy in accessing such services and goods that the parastatal offers to investors.

For more information on Trade & Investment KwaZulu-Natal's services, please visit www.tikzn.co.za

The Ithala Development Finance Corporation

In terms of Section 3 of the KwaZulu-Natal Ithala Development Finance Corporation Act, 1999 (No. 2 of 1999), Ithala's objects provide for the organisation:

- To mobilise financial resources and to provide financial and

supportive services to the people of KwaZulu-Natal;

- To plan, execute, finance and monitor the implementation of development projects and programmes in the province;
 - To promote, assist and encourage the development of the province's human resources and its social, economic, financial and physical infrastructure;
 - To promote, encourage and facilitate private sector investment in the province and the participation of private sector and community organisations in development projects and programmes, and in contributing to economic growth and development; and
 - To act as the Government's agent for performing any development-related tasks and responsibilities that the Government considers may be more efficiently or effectively performed by a corporate entity.
- Website: www.ithala.co.za

The KwaZulu-Natal Tourism Authority

The KwaZulu-Natal Tourism Authority, which operates under the name Tourism KwaZulu-Natal, is responsible for the development, promotion and marketing of tourism into and within the province. The Authority's statement of intent and direction is drawn from the mandate

vested in the Organisation by the KwaZulu-Natal Tourism Act, 1996 (as amended, including No. 2 of 2002).
Website: www.zulu.org.za

The KwaZulu-Natal Growth Fund

The KwaZulu-Natal Growth Fund is a project finance facility which has been developed and established by the Provincial Government of KwaZulu-Natal to fund large economic projects in the province (at least R30 million in value), which can stimulate faster growth and job creation. The Fund is biased towards financing the infrastructural components of large projects where it is more difficult to raise commercial loan finance.

The Growth Fund is an innovative initiative aimed at creating:

- Sustainable economic development;
- Job creation;
- Broad-Based Black Economic Empowerment.

Website: www.kzngrowthfund.co.za

The Dube TradePort

The Dube TradePort is an advantageously located world-class infrastructural development for South Africa, combining a new and contemporary international airport with an adjacent and comprehensively packaged trade port, all integrally designed to promote tourism and the flow of manufactured goods entering and leaving the country. The state-of-the-art development, operational since May 2010, comprises:

- A modern new international passenger and cargo airport facility;
- A TradeZone;
- A Support Zone;
- An AgriZone; and
- A Cyberport.

Dube TradePort strives to achieve a critical balance between economic development and environmental sustainability in its efforts to create an international trade platform capable of serving as a significant source of permanent and sustainable employment in KwaZulu-Natal.

Website: www.dubetradeport.co.za

The Durban Investment Promotion Agency

The Durban Investment Promotion Agency (DIPA) is a part of the eThekweni Municipality, mandated to attract, retain and grow direct investment into Durban. It is a free professional advisory service to assist investors, and medium to larger businesses.

The Durban Investment Promotion Agency, an independent unit of the eThekweni Municipality, was recommended by the Durban City Council and organised private business as the appropriate vehicle to stimulate economic growth and new investment in the Durban metropolis.

DIPA's main purpose is to facilitate sustainable investment in Durban for the benefit of all through the:

- Expansion, retention and aftercare of local corporate business;
- Proactive promotion and marketing of Durban Unicity as an investment destination;
- Proactive communication and marketing of the city's large investment projects and core strategies;
- Identification and development of new investment and business infrastructure opportunities, especially for the previously disadvantaged groups;
- Attraction, support and facilitation for prospective and new foreign investors in Durban; and
- Improvement in the investment and economic development environment, in partnership with the National, Provincial, City and Business Authorities. DIPA provides first level advice to businesses considering investing in South Africa and Durban.
Website: www.dipa.co.za



CHAPTER 8

IMPORTANT CONTACT DETAILS



Table 8.1 KwaZulu-Natal Department of Environmental Affairs & Rural Development (EIA Offices)

Region/District		Contact person	Status
Headquarters: Cedara, Pietermaritzburg	General Manager: Environmental Management	Mr Haroon Karodia	+27 33 355 9624 (T) +27 33 355 9188 (F) Haroon.Karodia@kzndae.gov.za
Enquiries	Discipline Leader	Dr Peter Kuyler	+27 34 299 9664 (T) +27 35 299 9674 (F) Peter.Kuyler@kzndae.gov.za
North Region	Senior Manager: North Region: Richards Bay	Dr William Mngoma	+27 35 780 6706 (T) +27 35 789 0662 (F) William.Mngoma@kzndae.gov.za
	Registry: Richards Bay	Ms Vuyiswa Dlamini	+27 35 780 6709 (T) +27 35 789 0662 (F) Vuyiswa.Dlamini@kzndae.gov.za
	uThungulu District (DC28): Richards Bay	Mr Muzi Mdamba	+27 35 780 6844 (T) +27 35 789 8211 (F) Muzi.Mdamba@kzndae.gov.za
	uMkhanyakude District (DC27): Mtubatuba	Mr Siboniso Mbense	+27 35 550 0210 (T) +27 35 550 0218 (F) Siboniso.Mbense@kzndae.gov.za
	Zululand District (DC26): Ulundi	Mr Sibusiso Ndwandwe	+27 35 874 3296 (T) +27 35 874 3301 (F) Sbusiso.Ndwandwe@kzndae.gov.za
	uMzinyathi District (DC24): Dundee	Mr Gerald Willis-Smith	+27 34 299 9671 (T) +27 34 299 9674 (F) Gerald.Willissmith@kzndae.gov.za
	Amajuba District (DC25): Newcastle	Mr Poovi Moodley	+27 34 315 3936 (T) +27 34 312 9986 (F) Poovey.Moodley@kzndae.gov.za
South Region	Senior Manager: South Region (Acting): Hilton, Pietermaritzburg	Mr Sabelo Ngcobo	+27 33 343 8330 (T) +27 33 343 8470 (F) Sabelo.Ngcobo@kzndae.gov.za
	Registry: Hilton, Pietermaritzburg	Ms Mavis Padayachee	+27 33 343 8495 (T) +27 33 343 8470 (F) Mavis.Padayachee@kzndae.gov.za
	uMgungundlovu District (DC22): Cascades, Pietermaritzburg	Ms Reka Kallicharan	+27 33 347 1820 (T) +27 33 347 1826 (F) Reka.Kallicharan@kzndae.gov.za
	eThekweni (Durban Metro): Durban	Mr Malcolm Moses	+27 31 302 2872 (T) +27 31 302 2888 (F) Malcolm.Moses@kzndae.gov.za

iLembe District (DC29): KwaDukuza	Mr Masupha Mathenjwa	+27 32 437 7500 (T) +27 32 551 5787 (F) Masupha.Mathenjwa@kzndae.gov.za
Sisonke District (DC43): Ixopo	Mr Takalani Mavhunga	039) 834 1022 (T) (039) 834 7661 (F) Takalani.Mavhunga@kzndae.gov.za
Ugu District (DC21): Port Shepstone	Mr Jeremy Randall	+27 39 682 2040 (T) +27 39 682 3325 (F) Jeremy.Randall@kzndae.gov.za
uThukela District (DC23): Pieters, Ladysmith	Mr Todi Netshitangani	+27 36 634 6310 (T) +27 36 634 1977 (F) AV.Netshitangani@kzndae.gov.za

Source: KwaZulu-Natal DAEA, 2012

Table 8.2 Contact Details for Municipalities in KwaZulu-Natal

District Council	Municipal Manager	Head of Development Planning
eThekweni Metropolitan Municipality	+27 31 311 1111 (T) +27 31 311 2170 (F) metroceo@durban.gov.za	Sooobs Moosammy +27 31 311 7886 MoosammyS@durban.gov.za
DC 21 Ugu District Municipality	+27 39 688 5700 (T) +27 39 682 1720 (F) luvuyo.mahlaka@ugu.gov.za	Chuma Mqoboli +27 39 688 3552 Chuma.mqoboli@ugu.gov.za
KZ 211 Vulamehlo Municipality	+27 39 974 0450/2 (T) +27 39 974 0432 (F) msizi@venturenet.co.za	Malusi Mzotho Malusitrp1@yahoo.com +27 39 974 0450
KZ 212 Umdoni Municipality	+27 39 976 1202 (T) +27 39 976 2194 (F) shivanim@umdoni.gov.za	Canesia Vezi +27 39 978 4372 canesiav@umdoni.gov.za
KZ 213 Umzumbhe Municipality	+27 39 972 0005 (T) +27 39 972 0099 (F) hlengi.dlamini@webmail.co.za	Lungisa Radebe +27 82 559 6773
KZ 214 uMuziwabantu Municipality	+27 39 433 1205 (T) +27 39 433 1208 (F) sazi@muziwabantu.org.za	Marek Guzowski +27 39 433 2055
KZ 215 Ezinqoleni Municipality	+27 39 534 1574/84/2/77 (T) +27 39 534 1585 (F) mthandenin@ezinqoleni.gov.za	Busiswa Mazibuko busiswam@ezinqoleni.gov.za
KZ 216 Hibiscus Coast Municipality	+27 39 688 2000 (T) +27 39 682 0327 (F) mm@hcm.gov.za	Welcome Nogobela +27 39 315 9258 nogobela@hcm.gov.za
DC 22 uMgungundlovu Municipality	+27 33 897 6742 (T) +27 33 394 5511 (F) sibusiso.khuzwayo@umdm.gov.za	Mandisa Khomo +27 33 897 6811

District Council	Municipal Manager	Head of Development Planning
KZ 222 uMngeni Municipality	+27 33 239 9266 (T) +27 33 330 4183 (F) manager@umngeni.co.za	Mr SG Simpson Planning@umngeni.gov.za
KZ 223 Mpofana Municipality	+27 33 263 1221 (T) +27 33 263 1127 (T) Muzi.madlala@mpofana.gov.za	Fanele Masombuka +27 33 263 7725 Fanele.masombuka@mpofana.gov.za
KZ 224 Impendle Municipality	+27 33 996 0771 (T) +27 33 996 0852 (F) sibusiso@impindle.gov.za	Khulekani Zulu +33 996 6052 Khulekani.zulu@impindle.gov.za
KZ 225 Umsunduzi Municipality	+27 33 392 3000/2494 +27 33 394 0037 mxolisi.nkosi@msunduzi.gov.za	Robbie Mkhize +27 33 392 2033
KZZ 226 Mkhambathini Municipality	+27 31 785 1668 (T) +27 31 785 1463 (F) mm@mkhambathini.gov.za	Elaine Donaldson +27 31 785 7341 Elained4@gmail.com
KZZ 227 Richmond Municipality	+27 33 212 2155/6/7 (T) +27 33 212 2102 (F) sibusiso.sithole@richmond.gov.za	Mbongiseni James Sithole +27 33 212 2155 (ext243) sitholem@richmond.gov.za
DC 23 uThukela District Municipality	+27 36 638 5100 (T) +27 36 637 5608 (F) municipalmanager@uthukeladm.co.za	Wynand Viljoen +27 36 638 2400 wynand@uthukeladm.co.za
KZ 232 Emnambithi Municipality	+27 36 637 2231 (T) +27 36 631 1400 (F) mpkhathide@ladysmith.co.za	Khayo Mabaso +27 82 909 4515
KZ 233 Indaka Municipality	+27 34 261 1000/2036 (T) +27 34 261 2035 (F) hlatshwayozs@webmail.co.za	Witty Sithole +27 73 399 3377 sitholensw@yahoo.com
KZ 234 Umtshezi Municipality	+27 36 342 7800 (T) +27 36 352 5829 (F) municipalmanager@mtshezi.co.za	Joel Mazibuko +27 36 342 7824
KZ 235 Okhahlamba Municipality	+27 36 448 1076 (T) +27 36 448 1986/2472 (F) sizasibande@gmail.com	Sbongile Nene +27 82 528 8800
KZ 236 Imbabazane Municipality	+27 36 353 0681/2 (T) +27 36 353 6661 (F) Moses.ndlela@imbabazane.co.za	Thulani Mazibuko +27 82 906 9555 (C) Thulanip9@gmail.com
DC 24 Umzinyathi District Council	+27 34 219 1500 (T) +27 34 218 1940/1593 (F) mm@umzinyathi.gov.za	Edward Bonga +27 34 219 1508 bonga@umzinyathi.gov.za

District Council	Municipal Manager	Head of Development Planning
KZ 241 Endumeni Municipality	+27 34 212 2121 (T) +27 34 212 3856 (F) cheryl@endumeni.gov.za	Nico Rose +27 34 212 2273
KZ 242 Nquthu Municipality	+27 34 271 6100 (T) +27 34 271 6111 (F) bongig@nquthu.gov.za	Mpume Jiyane +27 34 271 6136 mpumej@nquthu.gov.za
KZ 244 Msinga Municipality	+27 33 493 0761 (T) +27 33 493 0766 (F) sinqobile.majozi@msinga.org	Mrs L. Hlubi
KZ 245 Umvoti Municipality	+27 33 413 1115 (T) +27 33 413 1369 (F) municipal.manager@umvoti.gov.za	Andile Dlamini +27 33 413 9206 Andile.dlamini@umvoti.gov.za
DC 25 Amajuba Municipality	+27 34 329 7200 (T) +27 34 314 3785 (F) vusik@amajuba.gov.za	Celani Myeza +27 34 329 7247 celanim@amajuba.gov.za
KZ 252 Newcastle Municipality	+27 34 328 7600/1 (T) +27 34 312 7089 (F) mm@newcastle.gov.za	Eric Nyathikazi townplanning@newcastle.gov.za +27 34 3283300
KZ 253 Madlangeni Municipality	+27 34 331 3041 (T) +27 34 331 4312 (F) stephaniej@emadlangeni.gov.za	Mr. Sabelo Madela +27 34 331 4540
KZ 254 Dannhauser Municipality	+27 34 621 2666/7/3080 (T) +27 34 621 3114 (F) municipalmanager@dannhauser.gov.za	Collin Krause +27 34 621 2666 (ext 236) colink@dannhauser.gov.za
DC 26 Zululand District Municipality	+27 35 874 5500 (T) +27 35 874 5589/91 (F) mm@zululand.org.za	Stefan Landman +27 35 874 5619
KZ 261 eDumbe Municipality	+27 34 995 1650 (T) +27 34 995 1192 (F) mkhizet@edumbe.gov.za	Chris Buthelezi +27 34 995 1650 (ext 252) buthelezic@edumbe.gov.za
KZ 262 uPhongola Municipality	+27 34 413 1223 (T) +27 34 413 1706 (F) muzin@uphongolo.org.za	Erhard Engelbrecht +27 34 413 1223 (T) erhard@e-plan.co.za
KZ 263 Abaqulusi Municipality	+27 34 982 2133 (T)	Christo Swanepoel
Municipality	+27 34 980 9637 (F) ygaunter@abaqulusi.gov.za	+27 34 982 2133 (ext 2214) cswanepoel@abaqulusi.gov.za
KZ 265 Nongoma Municipality	+27 35 831 7500 (T) +27 35 831 3152 (F) mqondisid@nongoma.org.za	Sibusiso Mngoma +27 35 831 7500
KZ 266 Ulundi Municipality	+27 35 874 5100 (T) +27 35 870 3506 (F) odlamini@ulundi.co.za	Nondumiso Buthelezi +27 35 874 5203 nbthelezi@ulundi.gov.za

District Council	Municipal Manager	Head of Development Planning
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KZ 271 uMhlabyalingana Municipality	+27 35 592 0669/680/665/671 (T) +27 35 592 0672 (F) bukhosinise@gmail.com	Mduzuzi Qwabe +27 35 592 0669 msqwabe@webmail.com
KZ 272 Jozini Municipality	+27 35 572 1292 (T) +27 35 572 1266 (F) nnkosi@jozini.co.za	Kobus Marais +27 82 883 8146
KZ 273 The Big Five False Bay Municipality	+27 35 562 0040 (T) +27 35 562 0988 (F) archie@big5falsebay.co.za	Annatjie van Zyl +27 35 562 0040 (ext 210) asvanzyl@gmail.com
KZ 274 Hlabisa Municipality	+27 35 838 8500 (T) +27 35 838 1015 (F) kegame@hlabisa.org.za	Siyabonga Manyanga +27 35 838 8534 smanyanga@yahoo.com
KZ 275 Inyala/ Mtubatuba Municipality	+27 35 550 0069 (T) +27 35 550 0060 (F) mm.mtuba@lntic.net	Themba Dlamini +27 35 550 6419 technical.mtuba@lantic.net
DC 28 uThungulu Municipality	+27 35 799 2500 (T) +27 35 789 1641/1409 (F) sceo@uthungulu.co.za	Hennia Smith +27 35 799 2578 smithH@uthungulu.co.za
KZ 281 Mbonambi Municipality	+27 35 580 4963/1421 (T) +27 35 580 1141 (F) nkosim@mbonambi.co.za	Danie van Eeden +27 35 907 5014 vaneedend@mbonambi.co.za
KZ 282 uMhlathuze Municipality	+27 35 907 5000 (T) +27 35 907 5444/51 (F) sibekonj@richemp.org.za	Mr L Khoza +27 35 907 5122 reg@richemp.org.za
KZ 283 Ntambanana Municipality	+27 35 792 7093 (T) +27 35 792 7094 (F) mngunir@ntambanana.org.za	Thabani Mpanza mpanzat@ntambanana.org.za
KZ 284 Umlalazi Municipality	+27 35 473 3474 (T) +27 35 474 4733 (F) simon@umlalazi.org.za	Suzie van der Westhuizen +27 35 753 4681 suzie@mlalazi.org.za
KZ 285 Mthonjaneni Municipality	+27 35 450 2082 (T) +27 35 450 3224 (F) meltlc@mweb.co.za	Rob Wilson +27 35 450 2082 (ext 246) robw@mthonjaneni.org.za
KZ 286 Nkandla Municipality	+27 35 833 2000 (T) +27 35 833 0920 (F) mngonyama@nkandla.gov.za	Ntuthuko Mhlongo 083 227 8985 nmhlongo@nkandla.org.za
DC 29 Ilembe District Municipality	+27 32 437 9300 (T) +27 32 437 9585 (F) mike@ilembe.gov.za	Renee Hulley Renee.hulley@ilembe.gov.za +27 32 947 9801
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KZ 292 KwaDukuza Municipality	+27 32 437 5000 (T) +27 32 437 5098 (F) municipalmanager@kwadukuza.gov.za	Mava Ntanta +27 32 437 5032 mavan@kwadukuza.gov.za
KZ 293 Ndwedwe Municipality	+27 32 532 1089 (T) +27 32 532 1071/1234 (F) mm@ndwedwe.org.za	Sihle Ndaba 032 535 5057/8 Sihle.ndaba@ndwedwe.gov.za
KZ 294 Maphumulo Municipality	+27 32 481 2047/9 (T) +27 32 481 2053 (F) ndaba@maphumulo.gov.za	Jabulani Mhlongo jabulani@maphumulo.gov.za +27 32 481 4522
DC 43 Sisonke Municipality	+27 39 834 8700 (T) +27 39 834 1701 (F) mabasom@sisonkedm.gov.za	Nandi Dlamini +27 39 834 8700 (ext 8770) dlaminin@sisonkedm.gov.za
KZ 5a1 Ingwe Municipality	+27 39 833 1038 (T) +27 39 833 1179 (F) brownm@ingwe.gov.za	Mr Dudley Smith +27 79 495 6434 smithd@ingwe.gov.za
K5a2 KwaSani Municipality	+27 33 702 1060 (T) +27 33 702 1148 (F) mm@kwasani.co.za	Susan McAllister +27 33 702 1060 (ext 120) commservices@kwasani.co.za
KZ 5a4 Greater Kokstad Municipality	+27 39 797 6600 (T) +27 39 727 3676 (F) municipality@kokstad.org.za	Andile Wellem +27 39 797 6678 Lucy.nongogo@kokstad.org.za
KZ 5a5 Buhlebezwe Municipality	+27 39 834 7700 (T) +27 39 834 1168 (F) mm@ubuhlebezwe.org.za	Mr Viwe Mbuqe +27 39 834 7700 (Ext1110)
KZ 5a6 Umzimkhulu Municipality	+27 39 259 0216/5309 (T) +27 39 259 0427 (F) zsikhosana@umzimkhulu.gov.za	Nwabisa Tyekela +27 39 259 5004 tyekelan@umzimkhulu.gov.za

Source: Kwanaloga; municipalities, 2012

KwaZulu-Natal Other Contacts

Institution	Telephone, Facsimile	Website
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Department of Home Affairs KwaZulu-Natal Office	+27 31 583 8800 (T) +27 31 583 8843 (F) +27 82 906 8334 (C)	www.home-affairs.gov.za
Department of Trade and Industry KwaZulu-Natal Office	+27 31 305 3389 (T) +27 31 305 2804 (F)	www.thedti.gov.za

Source: various, 2012

List of Acronyms

AGOA	African Growth and Opportunity Act
ASGI-SA	Accelerated and Shared Growth Initiative of South Africa
B-BBEE	Broad-Based Black Economic Empowerment
BOP	Balance of Payments
CCMA	Council for Conciliation, Mediation and Arbitration
CIPRO	Companies and Intellectual Property Registration Office
CompCom	Competition Commission of South Africa
EAAP	Estate Agency Affairs Board
EFTA	European Free Trade Area
EIA	Environmental Impact Assessment
EU	European Union
FDI	Foreign Direct Investment
FREBS	Finance, Real Estate and Business Services
FSB	Financial Services Board
FSD	Financial Surveillance Department
GDP	Gross Domestic Product
GDPR	Gross Domestic Product per Region
GEAR	Growth, Employment and Redistribution
IDZ	Industrial Development Zone
IPA	Investment Promotion Agency
IPAP	Industrial Policy Action Plan
ISED	Integrated Small Enterprise Development Strategy
ITAC	International Trade Administration Commission
ITB	Ingonyama Trust Board
JIPSA	Joint Initiative for Priority Skills Acquisition
JSE	Johannesburg Stock Exchange
KZN	KwaZulu-Natal
KZNDAEA&RD	KwaZulu-Natal Department of Agriculture, Environmental Affairs and Rural Development
MEC	Member of Executive Council
MERCOSUR	Mercado Comun del Sur (Southern Common Markets)

MNC	Multi-National Company
NERSA	National Energy and Regulator of South Africa
NIPF	National Industrial Policy Framework
NRCS	National Regulator for Compulsory Specifications
NSDP	National Spatial Development Plan
PAYE	Pay As You Earn
PDA	Planning and Development Act, 2008
PGDS	Provincial Growth and Development Strategy
PSEDS	Provincial Spatial Economic Development Strategy
RDP	Rural Development Programme
SACU	Southern African Customs Union
SADC	Southern African Development Co-operation
SANAS	South African National Accreditation System
SARB	South African Reserve Bank
SARS	South African Revenue Service
SHE	Safety, Health and Environment
SITE	Standard Income Tax on Employees
SMMEs	Small, Medium and Micro Enterprises
SQAM	Standards, Quality Assurance and Metrology
SRP	Securities Regulation Panel
TDCA	Trade, Development and Co-operation Agreement (South Africa and the EU)
TIKZN	Trade & Investment KwaZulu-Natal
VAT	Value Added Tax

Disclaimer:

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AN INVESTMENT PROTOCOL
FOR THE PROVINCE OF KWAZULU-NATAL



Trade & Investment
KwaZulu-Natal
OUR WORLD OUR NETWORK OUR SUCCESS



South Africa
South Africa
Zulu Kingdom. Exceptional

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