

How to Start a Business in South Africa

Procedures to Begin Business

Starting a business in South Africa is very easy. No permits are required for foreigners (apart from business and work permits) and locals to begin a business. Normally a range of administrative procedures have to be complied with.

Having obtained business and work permits (applies to foreigners only), the following steps need to be taken:

- **Registration of Company**

The company must be registered with the South African Registrar of Companies in Pretoria within 21 days of the company being started.

- **Registration with the Receiver of Revenue**

- as a Provisional Taxpayer
- as a VAT vendor
- for Pay As You Earn (PAYE) income tax on employees
- for Standard Income Tax on Employees

- **Registration with the Cape Metropolitan Council or District Council**

Businesses employing staff pay a gross revenue or salary related levy to the CMC.

- **Registration with the Department of Labour**

Businesses employing staff will have to contact the Department of Labour regarding mandatory contributions to the Unemployment Insurance Fund (UIF).

- **Registration with the Local Authority**

Only businesses dealing in fresh foodstuffs or health matters are required to register with the local authority.

- **Other procedures include:**

- Checking Exchange Control procedures (Please note that non-residents are generally not subject to exchange controls except for certain categories of investment (See the Exchange Control page for more information)
- Obtaining approval for building plans
- Applying for industry and export incentives
- Applying for import permits and verifying import duties payable
- Registering as an exporter and applying for an export permit
- Ensuring Exchange Control compliance when remitting payments overseas

Business Entities

There are a variety of forms which businesses can take, including private and public companies, close corporations, partnerships, joint ventures and branches of foreign companies (or external companies). Companies and close corporations are legal entities separate from their members. Close corporations can have up to 10 shareholders, all of whom have to be natural persons.

Foreign investors usually use the private version of a company and the branch. Foreign individuals sometimes use the close corporation but use is limited because exchange control regulations are applied more strictly to such entities.

Branches of foreign companies fall under the Companies Act of 1973 and are required to register as "external companies" with the South African Registrar of Companies in Pretoria. An external company is not required to appoint a local board of directors but must appoint a person resident in South Africa who is authorised to accept services of process and any notices served on the company. It must also appoint a registered local auditor and establish a registered office in South Africa.

Patents, Trademarks and Copyrights

Trademarks (including service marks) are valid for an initial period of ten years and are renewable indefinitely for further ten year periods. Patents are granted for 20 years, normally without an option to renew. The holder of a patent or trademark must pay an annual fee in order to preserve its validity.

Patents and trademarks may be licensed but where this involves the payment of royalties to non-resident licensors prior approval of the licensing agreement must be obtained from the Department of Trade and Industry. South Africa is a signatory to the Berne Copyright Convention.

Business and Work Permits for Foreign Nationals

A person who comes to South Africa for a holiday may not apply for a work permit or a permit for self-employment in South Africa. He or she would have to return to their country of origin and apply for these permits at the South African Consulate.

- **Work Permits**

In considering whether or not to grant a work permit the Department of Home Affairs will evaluate the validity of the offer of employment by checking whether the Department of Labour has been contacted, whether the position has been widely advertised, and whether the prospective employer is able to prove that he or she tried to find a suitably qualified local employee and that the prospective employee is appropriately qualified and has the relevant experience. Close family members will receive favourable consideration, for example; a father wishing to employ a son.

- **Business Permits**

Foreign nationals who wish to establish their own business or a partnership in South Africa must, apart from having sufficient funds to support themselves and their family, be able to invest at least R2,5 million in the business. The funds must originate overseas, be transferable to South Africa and belong to the applicant (i.e. emanate from the applicant's own bank account).

The business must also create jobs for South African citizens. After six months to a year, proof will have to be submitted that the business is employing South African citizens or permanent residents, excluding family members of the employer.

Applications for work permits for self-employment can only be lodged at the South African Consulate in the applicant's country of origin. The processing fee is US\$186. The applicant would also have to lodge a repatriation guarantee with the Consulate equivalent to the price of a one-way

flight from South Africa back to his or her country of origin. This guarantee is refundable once the applicant has either left South Africa permanently or obtained permanent residence.

Any application for an extension of a business permit may be lodged locally. The processing fee per passport holder is R425. Some countries also need to pay R108 per return visa. A list of countries to which this applies is available from the Department of Home Affairs.