



**SALDANHABAY**  
INDUSTRIAL DEVELOPMENT ZONE

# DHA OPERATIONAL PROCEDURES

Saldanha Bay  
IDZ Licencing Company  
First Edition – Nov 2020

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## FOREWORD

**The Saldanha Bay IDZ Licencing Company (SBIDZ-LC) is the licensee and operator of the Saldanha Bay Industrial Development Zone (SBIDZ) which is located 100 km north of Cape Town in South Africa. It has a 365 ha footprint and is located within the Port of Saldanha Bay, South Africa's largest natural anchorage and port with the deepest water at 23 m. The SBIDZ was designated as a Special Economic Zone (SEZ) by the Minister of Trade and Industries in October 2013, thus marking the formal beginning of the 30-year journey to create a vibrant hub of opportunity, job creation and sustainable growth, utilising the SEZ legislation (SEZ Act No. 16 of 2014) as a catalyst.**

The SBIDZ is the first Free Port and Special Economic Zone to be located within a port and is the only sector-specific SEZ in South Africa catering specifically to the oil and gas, maritime fabrication, repair industries and related support services. Businesses and investors can lease land that has bulk services and office space in the Access Complex shared services building.

The *Ease of Doing Business* has been identified as a value proposition necessary for the attraction and retention of both local and foreign investors to the zone.

The SBIDZ-LC ease of doing business is an investor-responsive and proactive approach that delivers a One Stop Shop, develops systemic and sustainable models with key partners, provides efficient and effective interventions on behalf of our partners and makes it easy to access information and services. We have compared how South Africa conducts business in the oil & gas and marine services sectors in relation to some industry specialist locations such as Australia, Dubai, Ghana, Nigeria, Norway, Singapore and the UK.

**This has culminated in the offer of an array of support to allow for the ease of doing business, such as:**

- Established relationships with both public and private sector service providers
- Zoning and Environmental Impact Assessments (EIAs)
- Streamlined, easy to understand Investor procedures
- Skilled labour and quality suppliers
- Assistance in securing funding and incentives
- Dedicated skills and enterprise development programmes

The Government Technical Advisory Centre (GTAC) has provided expert advisory services to the SBIDZ-LC since 2017 to develop the business case for South Africa's first Free Port, in the SBIDZ and Port of Saldanha Bay. GTAC is an agency of the National Treasury established to support the public finance management through advisory service, programme and project management and transaction support.

GTAC has played a key role in our vision of becoming a location of choice to the marine traffic passing South Africa's coast, through the work done, and still ongoing, with the SBIDZ- LC ease of doing business offering.

One of the greatest enablers of global trade, exchange of knowledge and information is through people. Both foreign and local investors in the SBIDZ will have requirements for work permits and visas for their key development project teams, operations, emergency maintenance services and general skills transfer between the foreign and local workforce.

This booklet outlines the different types of work permits and visas required by foreign nationals to work in the Republic of South Africa.

Thank you to the GTAC Project Team who have seen the vision and continue to work with us in bringing it to life.



National Treasury  
REPUBLIC OF SOUTH AFRICA

*NOTE: This booklet does not replace legal and professional tax, customs and incentive guidance and services. Investors are encouraged to obtain their own legal advice before making final investment decisions.*

*The editions are dated and all information contained is according to legislation prior to dates of publication.*

# CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>9</b>
<b>2</b>	<b>TYPES OF SOUTH AFRICAN WORK VISAS</b>	<b>11</b>
2.1	Introduction to employment and work visas in South Africa	11
2.2	Business visa	14
2.2.1	Who can apply?	14
2.2.2	What employment rights does it confer?	15
2.2.3	What documents must be provided?	16
2.3	Corporate visa (corporate account)	17
2.3.1	Who can apply?	17
2.3.2	What employment rights does it confer?	19
2.3.3	What documents must be provided?	19
2.4	Corporate workers visa	22
2.4.1	Who can apply?	22
2.4.2	What employment rights does it confer?	23
2.4.3	What documents must be provided?	23

2.5	Intra-company transfer visa	24
2.5.1	Who can apply?	24
2.5.2	What employment rights does it confer?	24
2.5.3	What documents must be provided?	25
2.6	Critical skills work visa	26
2.6.1	Who can apply?	26
2.6.2	What employment rights does it confer?	26
2.6.3	What documents must be provided?	27
2.7	General work visa	28
2.7.1	Who can apply?	28
2.7.2	What employment rights does it confer?	28
2.7.3	What documents must be provided?	28

## ENDNOTES

**31**



The Saldanha Bay IDZ (SBIDZ) was established by government as a delivery mechanism to create an enabling environment to promote sustainable economic growth and job creation.

# 1

## INTRODUCTION

**The Saldanha Bay Industrial Development Zone (SBIDZ) is intended to be an oil and gas and marine repair engineering and logistics services complex, serving the needs of the upstream exploration and production service companies operating in the oil and gas fields in sub-Saharan Africa and other international markets, while providing capacity for marine repair, engineering and logistics beyond this sector.**

The SBIDZ is both a registered and a duly designated Special Economic Zone (SEZ) and a Customs Control Area (CCA). This document sets out the standard operating procedures which will need to be followed by SBIDZ tenants who wish to use the services of foreign nationals as employees in South Africa.

This document is not binding on South African organs of state nor does it constitute legal advice. This document is not meant to delve into the precise technical and legal detail that is associated with the relevant immigration services. It should, therefore, not be used as a legal reference. While it has been prepared to assist investors to understand the applicable legal regime, investors are encouraged to obtain their own legal advice before making final employment decisions.



# 2

## TYPES OF SOUTH AFRICAN WORK VISAS

### 2.1 Introduction to employment and work visas in South Africa

**As is the case with most other countries, South Africa seeks to promote the employment of its own citizens and permanent residents over those of foreign nationals.**

Accordingly, South African citizens and permanent residents may be employed within the country without the need of complying with any specific immigration formalities<sup>1</sup>. Non-citizens and people who do not have permanent residency status conferring work entitlement need to apply for one of the various types of temporary work visas which are issued by the Department of Home Affairs (DHA) prior to commencing any formal employment. It is important to note that all of these work visas are temporary in nature and do not automatically confer permanent residency status on employees.

The most common forms of temporary work permits / visas are:

- Business visa
- Corporate visa (corporate account)
- Corporate workers visa

- Intra-company transfer visa
- Critical skills work visa
- General work visa

Before turning to the specific requirements of the various visas, it is worth noting that there are currently three channels by which applications can be made. Applications can be made in person at a DHA office in the country or at the South African diplomatic representative in the applicant's country of origin. The DHA also has two electronic channels of application. VFS Global continues to provide such a service which can be found at <https://www.vfsglobal.com/dha/southafrica/index.html>. More recently, the DHA has implemented its own e-visa system, which can be found at <https://ehome.dha.gov.za/epermit/home>. As at January 2020 the DHA electronic system is only available to Indian and Kenyan citizens. It is the intention of the DHA to move away from in-office applications and it is suggested that, unless it is not possible, an electronic channel be used for application purposes.

The starting point for applications<sup>2</sup> is the completion of the DHA Application for Temporary Residence Permit (BL1738 Form 8) available at a DHA office, either of the e-filing channels, or at <http://www.southafrica-newyork.net/homeaffairs/forms/bi1738.pdf>. This form is self-explanatory in nature and commences with the selection of the type of visa being applied for. Each application must be made individually and it is not possible to combine a number of different categories of visas. For instance, if a study visa is applied for, the applicant will not be able to work. After the selection of the category

of permit being applied for, personal details including passport numbers, citizenship information and current address are required to be completed. The form then requires information as to the duration of the visit, sources of funding and details of any family members accompanying the applicant. It is important to note that a spouse or immediate family members of the applicant will need to piggy-back off the main application and are not automatically granted temporary residency or the right to work or study. If the family member wishes to work or study while in South Africa they will need to make their own separate application and meet the qualifying criteria of one of the existing visa categories.

The form goes on to require information relating to previous applications, security and health and a declaration of correctness of information contained in the form. The document concludes by listing a number of generic and specific documents per visa category which must accompany an application. The specific documentary requirements are included in the relevant sections below, but the following documents must accompany the application:

- A passport valid for no less than 30 days after the expiry of the intended visit
- A photocopy of all temporary residence visas endorsed in the passport
- Proof of return to country of origin travel arrangements or financial ability to do so
- Police clearance certificates in respect of all countries where the applicant has resided for 12 months or longer since having attained the age of 18 years.

- Medical and radiology reports
- A yellow fever vaccination certificate (if the applicant has travelled through or intends travelling through the yellow fever belt area)
- Civil status information
- Financial information showing ability to cover expenses while in South Africa
- Child information where relevant
- Biometric information to be provided during the application process
- Processing fee

This document now turns to a consideration of the specific requirements of the various categories of work visas.

## 2.2 Business visa

### 2.2.1 Who can apply?

This visa is suitable for an investor who wishes to establish and run a business in South Africa or one who wishes to invest and actively participate in an existing business in South Africa. The underlying purpose of this visa is to attract foreign investment into South Africa and it therefore follows that there would be a prescribed minimum investment associated with this type of visa. This investment amount may be changed from time to time by the Minister of Home Affairs but as of January 2020 it is set at R5 million. In addition to the capital investment requirement, the new entity

will need to be staffed by a minimum of 60% of South African citizens or permanent residents and must be established in terms of an appropriate corporate legal structure, normally a private or a public company.

This visa is not suitable for a company which wishes to open a branch or subsidiary in South Africa. In such an event it is more likely that staff will need to apply either for a corporate work visa, an intra-company transfer work visa or a general work visa.

A first-time application for a business visa must be made from outside South Africa. Renewals to the visa may be made from within the country. The DHA currently charges a fee of R1 520 for this visa.

### 2.2.2 What employment rights does it confer?

The business visa assumes that the applicant will be instrumental in running the business and as such the applicant will be permitted to work in the business. The visa does not confer permanent residency status and is temporary in nature. The DHA will determine the validity of the visa but it is generally not issued for a period longer than three years. Upon receipt of the temporary business visa the successful applicant may apply for permanent residency.



## 2.2.3 What documents must be provided?

Aside from the generic temporary resident application form and the document requirements mentioned in 2.1 above, the following additional documents are required:

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 an amount in cash to be invested in the Republic as determined from time to time by the Minister of Home Affairs, after consultation with the Minister of the Department of Trade, Industry and Competition or at least an amount in cash and a capital contribution as determined from time to time by the Minister. As noted above, this amount is currently R5 million. 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 biotechnology
  - ✓ Agro-processing, metals and minerals refinement
  - ✓ Automotive manufacturing
  - ✓ Tourism crafts
- An undertaking by the applicant that at least 60% of the total staff complement to be employed in the operations shall be South African Citizens or permanent residents, permanently employed in various positions.

- A recommendation from the Department of Trade, Industry and Competition regarding the feasibility of the business and the contribution of the business to the national interest of South Africa.
- An undertaking to register with the:
  - ✓ South African Revenue Service (SARS)
  - ✓ Unemployment Insurance Fund (UIF)
  - ✓ Compensation Fund for Occupational Injuries and Diseases
  - ✓ Companies and Intellectual Property Commission, where legally required
  - ✓ Relevant professional body, board or council recognised by the South African Qualifications Authority (SAQA), where applicable.

Business visa 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
- The contribution to the national interest of the Republic

## 2.3 Corporate visa (corporate account)

### 2.3.1 Who can apply?

Corporate visas (or a corporate account) can be issued to a South African registered company or branch and

provides the mechanism to employ large numbers of foreigners for a specified limited time period under a single application. It is an assumption underpinning such visas that there are not sufficient South African citizens or permanent resident holders capable of fulfilling the specified roles. The corporate visa is not an invitation to flood the South African market with employees for reasons such as cheaper labour or comfort with a specific culture. In general, the principle that work in South Africa should be performed by South African citizens or residents remains the same. The entity making the application must include information relating to job descriptions and the proposed remuneration in respect of each employee. The company will also need to demonstrate that it has tried to fill the vacancies / positions with South African citizens or residents.

The corporate entity applies for a corporate visa, which provides the umbrella framework for future individual applications by qualifying workers for a corporate workers visa (see below). These subsequent applications are done under the framework of a corporate workers visa. The advantage of this approach is that once the corporate visa has been approved, theoretically the subsequent application for individual corporate workers visas should be simpler and quicker than a general work visa.

Corporate visas are normally applied for in the South African province in which the corporate operates. The DHA currently charges a fee of R1 520 for the corporate visa (corporate account).

### 2.3.2 What employment rights does it confer?

The corporate visa does not confer any employment rights but rather creates the space for granting subsequent corporate work visas. The successful applicant of a corporate work visa is permitted to work in the specified corporate for a duration determined by the DHA in line with the corporate visa which was granted to the company. Normally this time period is not more than three years although such visas may be renewed.

### 2.3.3 What documents must be provided?

In terms of the corporate visa, the company must provide sufficient information to show that South African citizens or residents are not being prejudiced by the reservation of certain categories of jobs for foreigners.

The starting point of the application is the completion of the online corporate visa application (handwritten forms will not be accepted). This form is relatively straightforward and aims to outline what the required skill sets are and setting out the evidence as to why no locals are suitable for the position. The following documentation is required:

- Proof that the company needs to employ the requested number of foreign employees.
- A Department of Labour certificate, which confirms:
  - ✓ That despite diligent search, the corporate applicant was unable to find suitable South

African citizens or permanent residents to occupy the position available in the corporate entity

- ✓ The job description and proposed remuneration in respect of each foreigner
- ✓ That the salary and benefits of any foreigner employed by the corporate applicant shall not be inferior to the average salary and benefits of citizens or permanent residents occupying similar positions in South Africa (Note: An acknowledgment letter from the Department of Labour confirming that this information has been sent to the DHA electronically may also be accepted).
- Where possible, the approach to skills transfer per skill set area should be provided.
- Proof that the company has registered with:
  - ✓ South African Revenue Service (SARS)
  - ✓ Unemployment Insurance Fund (UIF)
  - ✓ Compensation Fund for Occupational Injuries and Diseases
  - ✓ CIPC (Companies and Intellectual Property Commission).
- An undertaking by the company to inform the Director-General of Home Affairs should a foreign employee not comply with the provisions of the Act or visa conditions.
- An undertaking by the company to inform the Director-General of Home Affairs when the employee is no longer in the employ of the company or is employed in a different capacity or role.

- An undertaking by the company that they will pay any deportation costs associated with the foreign employee and their family in the event that this should prove necessary.
- Evidence that at least 60% of the company's total staff complement employed in the business are South African citizens or permanent residents. This 60% requirement, pertaining to the local staff complement, must be maintained. At any stage throughout the duration of the corporate visa the company may be required to show proof of this to the DHA.
- An undertaking by the corporate applicant giving assurance that:
  - ✓ The passport of the foreigner shall be valid at all times
  - ✓ The foreigner shall be employed by the corporate applicant to conduct work for the corporate applicant only in the specific position for which the visa has been issued
  - ✓ The foreigner departs from South Africa upon completion of his or her contract of employment
  - ✓ Any foreigner employed in terms of the corporate visa at all times complies with the:
    - Provisions of the Act
    - Terms and conditions of the corporate visa and of the corporate work certificate
  - ✓ The Director-General is immediately notified if there is reason to believe that the foreigner is no longer in compliance with the provisions of the Act

- ✓ The financial guarantees by the corporate applicant to defray deportation and other costs should the corporate visa be withdrawn, or certain foreigners fail to leave South Africa when no longer subject to the corporate visa, are complied with.
- Confirmation by the corporate applicant that the application is not for any business undertaking which is listed as undesirable by the Minister of Home Affairs from time to time in the *Gazette*.

## 2.4 Corporate workers visa

### 2.4.1 Who can apply?

Corporate workers visas are only available to prospective employees of entities which have secured a corporate visa from the DHA. In such an event, a prospective employee would use the provisions of the corporate visa (corporate account) as the umbrella framework in terms of which they apply for the corporate workers permit.

The application is normally made by the individual in his or her country of residence (i.e. normally outside of South Africa) and no change of status or renewal of the permit may be applied for within the Republic. The DHA currently charges a fee of R1 520 for the corporate work visa.

### 2.4.2 What employment rights does it confer?

Employees using this visa are entitled to work for the specified entity for the specified duration. The visa does not confer permanent residency status and is temporary in nature. The DHA will determine the validity of the visa but it is generally not issued for a period longer than three years. The visa is only applicable to the specified job to which it is cross-referenced.

### 2.4.3 What documents must be provided?

Aside from the generic temporary resident application form and the document requirements mentioned in 2.1 above, the following additional documents are required:

- Copy of the main corporate visa in terms of which this visa is been applied for.
- Original corporate worker authorisation form.
- A valid contract of employment.
- A written undertaking by the corporate applicant to ensure that the foreigner departs from the Republic upon termination of his or her contract of employment or accepting responsibility for the return or costs related to the deportation of the foreigner should it become necessary.
- Proof of qualifications evaluated by SAQA, and translated by a sworn translator into one of the official languages of the Republic, or skills and experience in line with the job offer.
- A certificate of registration with the professional

body, council or board recognised by SAQA in terms of Section 13(1)(i) of the National Qualifications Framework Act.

- Where possible, a skills transfer approach should be outlined per work area.

## 2.5 Intra-company transfer visa

### 2.5.1 Who can apply?

This type of visa facilitates the transfer of an existing employee from an overseas company to a branch, subsidiary or affiliated business that is operating in South Africa. In such cases, no proof of steps taken to obtain the services of a South African citizen / permanent residence is required.

A first-time application for such a visa is normally done using the electronic channels from outside South Africa in the resident country of the applicant. A subsequent renewal of the visa may be applied for in-country. The DHA charge for this visa is R1 520.

### 2.5.2 What employment rights does it confer?

Employees using this visa are entitled to work in South Africa for a maximum period of four years. This period cannot be extended. The permission to work in the country only holds validity while the applicant continues to work for the company in terms of which the intra-company transfer visa was granted. The visa does not confer permanent residency status and is temporary in nature.

### 2.5.3 What documents must be provided?

Aside from the generic temporary resident applicant form and the document requirements mentioned in 2.1 above, the following additional documents, most aimed at showing that the applicant is being transferred, are required:

- The applicant's contract of employment with the transferring company abroad valid for a period of not less than six months.
- A letter from the transferring company abroad confirming that the applicant shall be transferred to a branch, subsidiary or an affiliate of that company in the Republic.
- A letter from the branch, subsidiary or an affiliate in the Republic confirming the transfer of the applicant and specifying the occupation and capacity in which that foreigner shall be employed.
- An undertaking by the relevant employer that:
  - ✓ The applicant is only employed in the specific position for which the visa has been issued
  - ✓ The applicant will at all times comply with the provisions of the Act and conditions of his or her visa and undertakes to immediately notify the Director-General if the employee refuses to comply with the provisions of the Act or conditions of the visa
  - ✓ A plan is developed for the transfer of skills to a South African citizen or permanent resident.

- An undertaking by the relevant employer to reimburse the DHA any costs incurred in relation to the deportation of the holder of an intra-company transfer work visa and any of his or her dependent family members.

## 2.6 Critical skills work visa

### 2.6.1 Who can apply?

This visa is available to prospective employees who have a set of critical skills as designated from time to time by the Minister of Home Affairs. The last designation was made in 2014 and can be found at [https://www.vfsglobal.com/dha/southafrica/pdf/immigration\\_critical\\_skills\\_160416.pdf](https://www.vfsglobal.com/dha/southafrica/pdf/immigration_critical_skills_160416.pdf). The Department of Labour and The Department of Higher Education play an important role in the development and updating of the critical skills list. Currently there are ongoing discussions around updating the list and it is likely that a new designated critical skills list will be published for comment and subsequent designation in the future. As such anyone who seeks employment in any area listed on the critical skills list may apply for this visa.

### 2.6.2 What employment rights does it confer?

The most important feature of this visa is that the general presumption relating to the employment of South African citizens or residents does not apply in the critical skills area. As such the applicant need not show proof that the position was advertised or even that he or she has a prospective job offer. The mere fact of possession of the critical skills enables the applicant to obtain a work

visa. The visa is generally valid for a five-year period and may be renewed. The applicant also becomes eligible to apply for permanent residency on the basis of his or her skill set. The DHA charge for this visa is R1 520.

### 2.6.3 What documents must be provided?

Aside from the generic temporary resident applicant form and the document requirements mentioned in 2.1 above, the following additional documents, most aimed at showing evidence of the critical skill, are required:

- Proof that the applicant falls within the critical skills category by specifically indicating the occupation / critical skill for which the application is being made. The occupation / critical skill must be on the Critical Skills list.
- Proof of evaluation of the foreign qualification by SAQA and translated by a sworn translator into one of the official languages of the Republic.
- If required by law, proof of application for a certificate of registration with the professional body, council or board recognised by the South African Qualifications Authority (SAQA) in terms of Section 13(1)(i) of the National Qualifications Framework Act.
- A confirmation, in writing, from the professional body, council or board recognised by SAQA in terms of Section 13(1)(i) of the National Qualifications Framework Act, or any relevant government Department confirming the skills or qualifications of the applicant and appropriate post-qualification experience (if not attached, VFS official to check Directive 22 of 2014).

## 2.7 General work visa

### 2.7.1 Who can apply?

Any foreigner can apply for a general work visa but the base premise that employment positions in South Africa should first be filled by South African citizens and residents remains.

### 2.7.2 What employment rights does it confer?

Employees using this visa are entitled to work for the specified entity for the specified duration. The visa does not confer permanent residency status and is temporary in nature. The DHA will determine the validity of the visa but it is generally not issued for a period longer than five years. 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 of Home Affairs that he or she is still employed along with proof of the terms and conditions of the job, and the job description.

### 2.7.3 What documents must be provided?

Aside from the generic temporary resident application form and the document requirements mentioned in 2.1 above, the following additional documents, most aimed at showing that a foreign worker is required:

- Proof of attempts to recruit a local candidate (South African citizen or permanent resident) to the role and that these had failed, e.g. advertisement for position and spread of advertisement.

- Employer documentation that includes the applicant's contract of employment and a letter of undertaking for the repatriation deposit.
- An undertaking by the employer to inform the Director-General should the applicant not comply with the provisions of the Act, or the conditions of the visa.
- An undertaking by the employer accepting responsibility for the costs related to the deportation of the applicant and his or her dependent family members, should it become necessary.
- An undertaking by the employer to ensure that the passport of his or her employee is valid at all times for the duration of his or her employment
- A certificate by the Department of Labour confirming that:
  - ✓ Despite diligent search, the prospective employer has been unable to find a suitable South African citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant
  - ✓ The applicant has qualifications or proven skills and experience in line with the job offer
  - ✓ The salary and benefits of the applicant are not inferior to the average salary and benefits of citizens or employees occupying similar positions in South Africa
  - ✓ A contract of employment stipulating the conditions of employment and signed by both the employer and the applicant in line with the labour standards in the Republic and is made conditional upon the general work visa being approved

- Proof of qualification by the South African Qualifications Authority (SAQA) in terms of which SAQA evaluates the qualifications and converts them to a South African education equivalent.
- Full particulars of the employer, including, where applicable, proof of registration of the business with the Companies and Intellectual Property Commission (CIPC).



## ENDNOTES

- 1 There is certain domestic legislation which strives to achieve employment equity within the country and a potential investor is advised to obtain further information and advice on these aspects which are not covered by this document.
- 2 Excluding the corporate account / corporate visa category





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