



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

**CABINET APPROVED FINAL REVISED WHITE PAPER
ON CITIZENSHIP, IMMIGRATION AND REFUGEE PROTECTION**

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LIST OF ABBREVIATIONS

Abbreviation	Full Name / Explanation
AU	African Union
BMA	Border Management Authority
BPS	Points-Based System (Note: Also referred to as PBS in the document)
CAP	Citizenship Advisory Panel
DHA	Department of Home Affairs
DIRCO	Department of International Relations and Cooperation
DOH	Department of Health
DPCI	Directorate for Priority Crime Investigation (Hawks)
DRIU	Death Registration Integrity Unit
DSD	Department of Social Development
ETA	Electronic Travel Authorisation
EU	European Union
FSCP	First Safe Country Principle
HARA	Home Affairs Administrative Review Authority
IAB	Immigration Advisory Board
ICT	Information and Communication Technology / Intra-Company Transfer Visa
ID	Identity Document
IPR	Intelligent Population Register
IOM	International Organisation for Migration
NPA	National Prosecuting Authority
NPR	National Population Register
OAU	Organisation of African Unity
PBS	Points-Based System
POPIA	Protection of Personal Information Act
PR	Permanent Residency
RAASA	Refugee Appeals Authority of South Africa
RRO	Refugee Reception Office

RSDT	Refugee Status Determination Tribunal
SACIP	South African Council for Immigration Practitioners
SADC	Southern African Development Community
SAPS	South African Police Service
SARS	South African Revenue Service
SCRA	Standing Committee for Refugee Affairs
SITA	State Information Technology Agency
STEM	Science, Technology, Engineering, and Mathematics
TES	Trusted Employer Scheme
TTOS	Trusted Tourist Operator Scheme
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
VFS	Visa Facilitation Services (global visa outsourcing partner)

LIST OF DEFINITIONS

Term	Source of Definition	Definition
Refugee	1951 Refugee Convention OAU Convention 1969	<p>A refugee is a person who has a well-founded fear of persecution due to race, religion, nationality, membership of a particular social group, or political opinion.</p> <ul style="list-style-type: none"> - Is outside their country of nationality. - Is unable or unwilling to avail themselves of its protection. <p>OAU Convention</p> <p>The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of their country of origin or nationality, is compelled to leave their place of habitual residence to seek refuge in another place outside their country of origin or nationality.</p>
Asylum Seeker	UNHCR Guidelines, 2021	An asylum seeker is an individual who has applied for refugee status but has not yet been granted asylum. They are awaiting a decision by the host country's refugee status determination process.
Migrant	IOM Glossary, 2019	A migrant is a person who moves away from their place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.

Term	Source of Definition	Definition
		This term covers all cases where the decision to migrate is taken freely by the individual concerned for reasons of "personal convenience" and without intervention of an external compelling factor.
Economic Migrant	IOM Glossary, 2019	An economic migrant is a person who moves primarily for economic reasons, such as seeking employment or better living conditions. This term distinguishes persons moving for economic opportunities from those fleeing persecution or conflict, and such persons do not qualify as refugees under international law.
Stateless Person	1954 Convention relating to the Status of Stateless Persons, Article 1	A stateless person is an individual who is not considered a national by any State under the operation of its law.
First Safe Country Principle	EU Dublin Regulation (EU) No 604/2013	This principle establishes that asylum seekers must apply for international protection in the first safe country they enter. Secondary movements through multiple safe countries before applying may result in inadmissibility or return to the first safe country of arrival, subject to individualised assessment and safeguards against refoulement.
Complementary Protection	UNHCR Guidelines on International Protection, 2020	Complementary protection is a legal status granted to individuals who do not qualify as refugees under international law but face a real risk of serious harm—such as torture, arbitrary deprivation of life, or inhuman or degrading treatment—if returned to their country of origin.
Non-Refoulement	1951 Refugee Convention, Article 33	Non-refoulement is the cornerstone principle of international refugee law that prohibits States from returning refugees or asylum seekers in any manner whatsoever to territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. This principle is widely recognised as a norm of customary international law (<i>jus cogens</i>).
Human Trafficking	UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), 2000	Human trafficking means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
Human Smuggling	UN Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000	Human smuggling means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. Unlike trafficking, smuggling involves consent and ends upon arrival, though it may

Term	Source of Definition	Definition
		involve dangerous conditions and human rights violations.
Immigration Control	IOM Glossary on Migration, 2022	Immigration control encompasses the regulatory and enforcement measures that States use to manage the entry, residence, and exit of non-citizens within their territory, including visa regimes, border management, admission procedures, and removal mechanisms.
Burden-Sharing (Refugee Protection)	UNHCR Global Compact on Refugees, 2018	Burden-sharing refers to cooperative mechanisms among States to equitably distribute the responsibilities and costs associated with hosting and assisting large refugee populations, including through financial contributions, resettlement places, and technical support.
Irregular Migration	IOM Glossary on Migration, 2019	Irregular migration refers to the movement of persons that takes place outside the laws, regulations, or international agreements governing entry into, residence in, or exit from a State. This term is preferred over "illegal migration" as it recognises that migrants themselves are not criminal.
Refoulement	1951 Refugee Convention, Article 33 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969	Refoulement is the forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution, torture, or other serious human rights violations. The term is incorporated into African Union law through the OAU Convention, which prohibits any measures that compel refugees to return to territories where their life or freedom is threatened.
Voluntary Repatriation	UNHCR Repatriation Guidelines, 2021	Voluntary repatriation refers to the organised, safe, and dignified return of refugees to their country of origin, based on their free and informed consent. It is one of the three durable solutions for refugees, alongside local integration and resettlement.
Tourist	UN World Tourism Organization, 2008	A tourist is an individual who travels to and stays in places outside their usual environment for leisure, business, or other purposes, for not more than one consecutive year, and whose main purpose of travel is other than the exercise of an activity remunerated from within the place visited.
Deportation	Immigration Act 13 of 2002 (South Africa)	Deportation is the procedure or action taken to cause an illegal foreigner to leave the Republic, which may occur involuntarily or while under detention. This process is carried out by the Department of Home Affairs when a foreign national is found to be in South Africa without legal status, leading to their arrest, detention, and subsequent removal from the country.
Permanent Residency (PR)	Immigration Act 13 of 2002 (South Africa)	Permanent residence is a status granted to a foreign national authorising them to reside in the Republic indefinitely, without restriction, and to engage in any employment, business, or professional activity, subject to the terms and conditions of the grant.

Term	Source of Definition	Definition
Intelligent Population Register (IPR)	Department of Home Affairs, Revised White Paper on CIRP (2026)	The Intelligent Population Register is a modern, digitalised, and integrated system used by government to manage and utilise comprehensive population data. Unlike traditional population registers, an intelligent register uses advanced technologies—such as artificial intelligence, machine learning, biometrics, and real-time data integration—to improve governance, service delivery, identity verification, and national planning.
Points-Based System (PBS)	Department of Home Affairs, Revised White Paper on CIRP (2026)	A structured framework for assessing and selecting candidates for immigration, permanent residence, or citizenship based on predefined objective criteria. Applicants are evaluated and awarded points for attributes such as skills, qualifications, economic contribution, investment, and social contribution, with admission granted to those who meet or exceed a prescribed threshold.
Digital ID	Department of Home Affairs, Revised White Paper on CIRP (2026)	A digital representation of an individual's legal identity, stored securely in the Intelligent Population Register, which serves as the core identity marker for accessing government services, verifying status, and enabling interoperable e-government platforms.

1. EXECUTIVE SUMMARY

In April 2024, the Cabinet approved the White Paper on Citizenship, Immigration, and Refugee Protection (CIRP): Towards a comprehensive overhaul of South Africa's migration system. The 2024 White Paper introduced substantial policy and legal reforms designed to address critical gaps in the fragmented legislative framework governing citizenship, civil registration, immigration, and refugee protection. However, given the complex and far-reaching nature of certain proposed reforms, the Cabinet directed that a legal opinion be obtained prior to implementation. Concurrently, the evolving priorities of the Government of National Unity (GNU) necessitated further refinements, including integrating the structural reforms advanced by Operation Vulindlela and accelerating the digital transformation agenda.

While the foundational reform thrust of the 2024 White Paper garnered broad support and was retained in the 2025 White Paper, the subsequent consultation process identified specific areas of concern raised by international organisations and domestic public interest groups. Key among these were proposals regarding South Africa's potential withdrawal from the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol, the proposed repeal of Section 4(3) of the South African Citizenship Act, and the risk of refoulement arising from certain asylum measures. In response, the Department of Home Affairs (DHA) engaged formally with the Department of International Relations and Cooperation (DIRCO). DIRCO confirmed its non-support for these measures, citing South Africa's diplomatic interests and the importance of upholding multilateral commitments in an era of heightened global uncertainty. Legal analysis further confirmed that withdrawal would yield no material benefit, as the rights enshrined in the Convention are substantively mirrored in the South African Bill of Rights.

This Final Revised White Paper (2026) marks the culmination of a comprehensive, multi-year policy development process that began in 2024 and was shaped by two distinct and extensive rounds of public consultation. The policy proposals have been thoroughly tested against citizens' lived experiences, the technical expertise of stakeholders across government, civil society, business, and labour, as well as South Africa's constitutional and international legal obligations. The feedback received has been carefully analysed and has been central to refining these proposals, ensuring that the final framework is not only strategically sound and operationally credible but also constitutionally defensible and representative of the diverse perspectives within South Africa, all within the definitive bounds of the rule of law.

Every submission has been rigorously analysed, and the feedback has fundamentally shaped the final policy proposals. Core strategic directions, including the Points-Based System, the First Safe Country Principle, and the overhaul of the asylum system, remain firm as the sovereign prerogative of the State. Simultaneously, the policy has been strengthened through the refinement of implementation mechanisms, the enhancement of inter-governmental coordination protocols, and the incorporation of practical safeguards identified by stakeholders as essential to mitigate risk and ensure constitutional compliance.

The White Paper was further subjected to a legal opinion on sections 21(3)¹ and 22² of the Constitution of the Republic of South Africa. The question tested was whether or not asylum seekers and refugees enjoy protection of these sections. If so, to what extent. The legal opinion concluded that although asylum seekers and refugees are not entitled to the right in section 22 of the Constitution, there may not be a blanket prohibition on asylum seekers seeking employment where this is the only way for them to avoid starvation and becoming destitute.

1.1 Key Objectives and Policy Proposals of the Revised White Paper

The Revised White Paper reaffirms the role of the DHA of safeguarding the national sovereignty and public security of the country and its people while attracting foreign investment, skills, promoting tourism, and providing international protection in accordance with the South African Constitution and international obligations. The policy perspective is to position the citizenship and immigration system as an economic enabler while protecting our national interest. In most cases, these are complementary goals. For example, digital reforms that enhance the security of the visa regime also serve to improve the efficiency of the system, thereby improving both national security and driving economic growth. The policy reforms focus on:

¹ Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.

² Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

- Aligning South Africa’s citizenship, civil registration, immigration and refugee protection policies with the National Development Plan, key priorities of government, as well as with key regional and international commitments;
- Digital transformation of citizenship, civil registration and immigration processes and services;
- Introducing structured pathways for citizenship, residency and refugee protection; and
- Introducing key institutional reforms to improve efficiency, effectiveness, accountability and alignment with the rule of law and human rights.

1.1.1 Refugee Protection Policy Reforms

- **First Safe Country Principle:** The enforcement of this principle is a flagship reform of both the original White Paper and this Revised White Paper, which adds greater detail to how it will operate. Enforcing the first safe country principle seeks to prevent the secondary movement of asylum seekers, by requiring claims to be made in the first safe country reached. It is designed to combat the phenomenon of applicants “picking and choosing” South Africa as their preferred destination, while passing through other safe countries on their way to South Africa. In order to prevent the risk of refoulement, this reform will require the Minister of Home Affairs to designate safe countries that have ratified the 1951 Convention relating to the Status of Refugees on an annual basis, and to withdraw such designation as and when the need arises. It will also mandate the government to enter into bilateral agreements with safe third countries in order for the burden of migration in sub-Saharan Africa to be shared on a more equitable basis. By adopting this focus on regional migration flows, South Africa will be positioned to support the implementation of the United Nations High Commissioner for Refugees (UNHCR)’s route-based approach that seeks to move away from focusing on individual countries towards entire routes of migration.
- **Relocation of Refugee Reception Offices (RROs) and introduction of virtual refugee reception procedures:** The refugee reception offices must be located at ports of entry to facilitate immediate assessment of asylum claims and limit the ability of asylum seekers still awaiting the outcome of their applications to compete with impoverished communities for resources. To minimise cost implications and disruptions, legislation must also provide for refugee and appeals interviews to be conducted virtually. Relocation of the RROs to ports of entry is a long-term goal that requires additional funding to be realised. In the short term, DHA will invest in digital platforms to enable virtual application and adjudication of claims.
- In addition to implementing the First Safe Country Principle for the first time, legislative and administrative measures to enhance, speed up and prevent abuse of the asylum system will be introduced rather than withdrawing from the 1951 Convention. Withdrawing from the Convention, as well as attempting to re-enter with reservations, is legally unprecedented, poses serious international reputational risk to South Africa, as confirmed by DIRCO, and will bring no material relief to the country, since the South African Bill of Rights already protects all the rights covered in the Convention.

1.1.2 Citizenship and Naturalisation Reforms

- **Merit-Based Naturalisation:** Introduction of a quota and annual window period for time-bound applications (after 5 years of permanent residence) and PBS for economic pathways to citizenship. This is a new approach to granting citizenship, as opposed to basing qualification solely on citizenship or on the number of years a foreigner has resided in the country. This new system will operate parallel to the existing principle that a child with at least one parent who is a South African citizen at the time of birth automatically becomes a citizen, while a child born to non-South African parents has to apply for naturalisation.

1.1.3 Intelligent Population Register and Civil Registration Policy Reforms

- **Creation of an Intelligent Population Register (IPR) as the foundation for Digital ID.** An IPR is a modern, digitalised, and integrated system used by governments to manage and utilize comprehensive population data. Unlike traditional population registers such as South Africa’s existing Population Register (NPR), which simply records basic information (like names, births,

and deaths), an *intelligent* register uses advanced technologies—such as artificial intelligence, machine learning, biometrics, and real-time data integration—to improve governance, service delivery, and national planning. The regulatory framework for Digital ID will be developed by DHA.

- Universal Civil Registration: introduction of mandatory digital birth and death registration for citizens and foreigners who reside in the country in order to prevent the “scandal of invisibility,” whereby most people in Africa and Asia are born and die without leaving a trace in any legal record or official statistic. The absence of reliable data for births, deaths, and causes of death are at the root of this scandal of invisibility, which renders most of the world's poor as unseen, uncountable, and hence, uncounted.

1.1.4 Immigration Policy Reforms

- Visa reforms include the introduction of remote-work, start-up, skilled visa (combination of critical and general work), sport and culture visa, and the replacement of corporate visas with sectoral work visas for specific industries.
- Merit-based visa regime: introduction of a PBS for certain visas and permanent residency (PR). This is a new approach to granting of PR through a PBS, as opposed to basing qualification mainly on the number of years a foreigner has resided in the country.
- To support the fiscus and South Africa’s efforts to exit and remain off the Financial Action Task Force’s “grey list,” legislative amendments will be made to enable the financial sector and the South African Revenue Service (SARS) to bank and tax all immigrants in the country without regard to immigration status, thereby enabling government to monitor, tax and enforce legal compliance on all financial flows in the country.

1.2 Conclusion

This Revised White Paper provides a balanced, structured, and constitutionally-sound approach to the overhaul of migration governance. By modernising refugee protection, visa processing, border security, and citizenship pathways, South Africa will:

- Ensure economic sustainability and national security through structured migration;
- Strengthen international and regional cooperation in refugee management;
- Enhance governance and efficiency in processing citizenship, immigration, and asylum applications; and
- Maintain constitutional integrity and humanitarian commitments while preventing migration system abuse.

By implementing these reforms, South Africa will reinforce its role as a global leader in citizenship and migration management, ensuring that its policies align with national interests and international best practice. The proposed reforms will not apply retrospectively; that is, they have no material implication for those who have already been legally admitted into the country under the current framework.

2. INTRODUCTION AND BACKGROUND

The reform of South Africa's citizenship, immigration, and refugee protection framework represents one of the most complex and consequential governance undertakings of the democratic era. The initial policy blueprint, the 2024 White Paper on Citizenship, Immigration and Refugee Protection (CIRP), was approved by Cabinet as a comprehensive response to the systemic failures plaguing a fragmented legislative architecture inherited from successive administrative eras. That document signalled a decisive break from reactive, compliance-driven governance toward a strategic, rights-respecting, and development-oriented migration system. However, the far-reaching nature of the proposed reforms, coupled with the emergence of new national priorities under the Government of National Unity and the structural reform agenda of Operation Vulindlela, necessitated a rigorous refinement process. Cabinet accordingly directed that a legal opinion be obtained and that the policy be subjected to extensive public scrutiny to ensure its constitutional soundness, operational feasibility, and social legitimacy.

This Final Revised White Paper (2026) is the product of that iterative and inclusive process. Between 2025 and 2026, the DHA conducted two distinct and extensive rounds of public consultation, in full compliance with Cabinet directives and the strategic guidance of the Department's executive management. Engagements spanned all nine provinces through public hearings, bilateral meetings with national and provincial government departments, and structured submissions from constitutional institutions, civil society, business, labour, faith-based organisations, academic experts, and individual citizens. Every submission has been rigorously analysed, and the feedback has fundamentally shaped the final policy proposals. Simultaneously, the policy has been strengthened through the refinement of implementation mechanisms, the enhancement of inter-governmental coordination protocols, and the incorporation of practical safeguards identified by stakeholders as essential to mitigate risk and ensure constitutional compliance. This policy framework is therefore strategically focused, operationally credible, and constitutionally defensible. It restores state authority, rebuilds public trust, and positions migration as an enabler of national development within the definitive bounds of the rule of law.

This White Paper (2026) is structured from foundational context through to detailed policy reforms, and finally to the practical considerations of implementation. The Executive Summary distils the core objectives, key proposals, and overall strategic direction of the reforms. It is followed by the constitutional, legal, and policy context, articulating the rationale for comprehensive reform and the guiding principles that anchor the entire framework within South Africa's supreme law and international obligations. The substantive core of the paper presents detailed policy and institutional reforms across four interconnected domains: Citizenship, Civil Registration, Immigration, and Refugee Protection. Each sub-section outlines the problem statement, the policy response, and the specific measures to be enacted, demonstrating how stakeholder feedback has been integrated.

South Africa is one of Africa's most significant migration and civic registration hubs, characterised by high immigration levels, asylum applications, and cross-border movements. The country has historically upheld its obligations under international refugee and human rights treaties, particularly the 1951 Refugee Convention and the 1969 OAU Refugee Convention, while striving to balance migration management with national security, economic sustainability, and legal identity recognition.

Despite these commitments, systemic challenges have emerged within South Africa's citizenship, immigration, civic registration, and refugee protection framework, necessitating urgent administrative and policy interventions. The White Paper on CIRP, approved by the Cabinet in April 2024, provided an initial blueprint for migration and civic governance reforms. However, policy gaps, a shifting global landscape, and far-reaching new priorities following the adoption of the Medium-Term Development Plan prompted the need for a Revised White Paper to refine and expand the proposed reforms.

2.1 Rationale for Policy Reforms

A comprehensive policy review and gap analysis identified key challenges in the existing legal and administrative frameworks for citizenship, immigration, civic registration and refugee protection:

(i) Mechanical approach for granting residency and citizenship

- The current approach to the granting of residency or naturalisation is mechanical and compliance-based rather than to achieve strategic goals. Granting of permanent residency and citizenship to foreign nationals is regarded as a routine administrative function of the State. For instance, the number of years spent in the country carries much weight when compared with the value-add and security factors associated with the applicant. Serious risks are not managed effectively,

thus creating opportunities for the widespread abuse of the system and the potential granting of residence status to persons who put the nation at risk. A general principle that was observed in countries that manage citizenship and immigration strategically is that the relationship between temporary residence, permanent residence and naturalisation depends on the type of residence visa/permit with which the recipient started. The type of residence visa or permit shapes the trajectory to naturalisation, including the time it takes.

(ii) The NPR and Civil Registration (births and death registration) policy is not universal and inclusive.

- South Africa's population register does not include biometric information for foreigners. The introduction of the ETA provides an opportunity to remedy this shortcoming by ensuring that the government is able to record biometric data for all foreigners in the country, as is already done in the case of South African citizens. This reform is also critical to combatting illegal immigration.
- The NPR also only records basic information and does not integrate advanced data analysis capabilities or the principles or interoperability required to improve national security and digitalise government services, as outlined in government's Digital Transformation Roadmap. Transforming the NPR into an IPR would unlock vastly more capabilities to strengthen the State.

Birth registration:

- For mothers who are minors and younger than 16 years old, the requirement of an ID may prevent them from registering the birth of their children. The current requirement is for minors to be accompanied by their own parents or legal guardians who have a South African ID in order to register a birth. Parents or guardians of a minor are not always available to accompany a minor for birth registration, resulting in late registration of birth or no registration.
- Children born in South Africa of foreigners who are not permanent residents nor refugees may not be recorded in the NPR as they are issued with a hand-written birth certificate; and
- A child born to a non-citizen or illegal migrant parents may not be recorded in the system because of lack of documentation.

Death Registration

In order to register a death in the NPR, the birth of the deceased must have been registered first. As a result, the death of an undocumented person, including citizens and foreigners, cannot be registered; however, a notification of death may be issued. This may mean that citizens who died before being issued with an identity number will not be accounted for in the NPR. This has a negative impact on the accuracy of NPR records.

(iii) Visa Policy is not sufficiently aligned to the economic growth and job creation priority of the State

- Existing policy and practice do not address inefficiencies and administrative red-tape in visa processing, and is heavily dependent on human intervention. Therefore, rationalisation of current visas and introduction of new visas will be central in aligning visa policy to the economic growth and job creation priority. Secondly, modernisation, digitisation and digitalisation of processes and visas through the ETA will be prioritised in order to fast-track the process of granting visas to qualifying applicants and preventing abuse from non-qualifying applicants. Lastly, the introduction of a PBS and close cooperation with trusted partners will improve predictability of the visa application outcomes while mitigating abuse of the visa regime by unscrupulous employers.

(iv) Mixed migration flows and opportunistic asylum applications

- The country is currently experiencing a high volume of mixed migration flows, including use of the asylum seeker regime by opportunistic applicants to regularise their stay in the country. South Africa upholds the international principle of 'inclusion before exclusion' when dealing with migrants who claim asylum. All asylum applicants are processed without discrimination and they also have an opportunity to seek judicial review should they not be satisfied with the outcome of the status

determination process. Due to the high volume of opportunistic applicants and the time it takes to process a claim until a final decision is made, South Africa often fails to identify applicants who are in need of special protection and immediate assistance.

2.2 Objectives of the Revised White Paper

This paper provides detailed policy recommendations that address the above challenges to ensure that South Africa’s citizenship and migration governance is:

- **Efficient** – Streamlining visa, civic registration, and refugee processing to reduce delays and backlogs;
- **Secure** – Strengthening pre-entry vetting, border management, and identity management to mitigate security risks;
- **Economically Sustainable** – Introduction of economic pathways to permanent residency and citizenship for investors and skilled migrants who contribute to economic development priorities; and
- **Legally Sound** – Ensuring compliance with constitutional and international obligations, particularly regarding refugee protection, non-refoulement, and civil registration.

2.3 Guiding principles

The new policy will be underpinned by sound principles that have been formulated to focus the policy and to ensure that it is in line with key priorities of the State.

First Principle: Management of citizenship and immigration in the national interest

South Africa has a sovereign right to manage citizenship and immigration in its national interests. The national interests of South Africa should be defined in accordance with:

- The principles underpinning the Constitution;
- National priorities such as economic growth and national security; and
- Promotion of human rights, peace and stability in order for South Africans to live in a secure, stable and prosperous world.

Second Principle: South Africa’s immigration policy must contribute to nation building and social cohesion

One of the purposes of a migration policy is to determine which foreigners can become part of the population, either on a temporary or on a permanent basis. In doing so, migration policy shapes the future composition of the population. The NDP projects that immigration will add between 0,1 per cent and 0,2 per cent a year to the rate of population growth by 2030. At the same time, the United Nations (UN) estimates that 71.3 per cent of the South African population will live in urban areas by 2030. Additionally, South Africa’s birth rate is declining and may decrease to below replacement rate faster than previously anticipated. Therefore, the new policy must take into consideration the impact of migration (internal and international) on population dynamics.

Third Principle: Anchored in digital transformation, South Africa’s Population Register and Civil Registration policy must become universal and inclusive, thereby laying the foundation to digitalise government, combat illegal immigration, and eliminate the scandal of invisibility.

The failure to mandatorily include data, including biometric data, for foreign nationals in the NPR limits the ability of the government to accurately identify illegal immigration, visa overstays and tax obligations among foreign nationals. It also limits the ability to digitalise government services and build a Digital ID, which is a prerequisite for building interoperable, digital government services.

Like many other developing countries, South Africa also has a population of citizens who reside in the country without any form of legal identity. The absence of reliable data for births and deaths are at the root of the scandal of invisibility, which renders most of the world's poor as unseen, uncountable, and, hence, uncounted. South Africa's Civil Registration Policy will contribute to the UN Sustainable Development Goal (SDG) 16.9; that is, by 2030, all Member States should provide legal identity for all, including birth registration.

Fourth Principle: Positioning of South Africa's immigration policy within the African development agenda

No country can maintain a stable development trajectory that is independent of the region in which it is located. Our future lies, together with others, in being part of the African continent that has a knowledge-driven industrial base, thriving trade and a free flow of people, goods, information and capital. In this regard, it is important to note three significant developments that have implications for future immigration in Africa. These are: the adoption of the AU Agenda 2063 by the Heads of States and Governments in June 2015; establishment of the African Continental Free Trade Area (ACFTA); and Implementation Road-map of the Global Compact for Safe, Orderly, and Regular Migration in Africa.

Fifth Principle: Humane and secure Refugee Protection Regime that is consistent with the country's Constitution and international obligations

The country upholds the international principle of 'inclusion before exclusion' when dealing with migrants who claim asylum. All asylum applicants are processed without discrimination and they also have an opportunity to seek judicial review should they not be satisfied with the outcomes of the status determination process.

Sixth Principle: Whole of government and society approach in the management of citizenship, civil registration, immigration and refugee protection

Building a secure, modern and intelligent population register sits at the heart of state building. Together with the other policy reforms contained in this Revised White Paper, it will set South Africans on a path to gaining trust and pride in their South African identity and in the capacity of a modernising, digital-first government that administers matters of citizenship, immigration and refugee protection in a secure, efficiency and progressive manner. Regaining this trust is key to building a whole of society approach to overcome rising social tensions and disputes.

2.4 Policy outcomes

The new policy seeks to achieve the following outcomes:

- Attraction and retention of skilled migrants and business persons who contribute positively to the economy;
- Clear and predictable pathway to residency and citizenship;
- A population register and civil registration system that is inclusive and accessible to all who live in the country;
- Effective provision of protection and basic services to asylum seekers and refugees in a humane and secure manner; and

- Immigration policy that is abreast with the continental and regional development agenda and challenges

This Revised White Paper presents a structured, balanced, and constitutionally-sound roadmap for citizenship, civic registration, immigration and refugee protection reforms. By modernising policy frameworks, enhancing security measures, and aligning migration policies with economic priorities, South Africa will build a stronger, more sustainable, internationally recognised migration and citizenship system, while upholding its constitutional and humanitarian commitments.

3. KEY POLICY AND INSTITUTIONAL REFORMS

3.1 Management of Citizenship: Citizenship Policy Proposals

The routes to citizenship in South Africa are contained in the Citizenship Act of 1995 and the Amendment Act of 2010. The main principle that anchors South Africa's citizenship is *jus sanguinis*, which affirms that a person, wherever born, is a citizen of the State if, at the time of their birth, one of their parents is a citizen. If at least one parent is a South African citizen, at birth a child automatically acquires South African citizenship. The child's citizenship status shall follow that of their parents, except in cases where the child is at risk of statelessness. The Citizenship Act of 1995 also provides for citizenship by descent and naturalisation. The Act provides for adoption whereby a person "shall be a South African citizen by birth" if "he or she is adopted by a South African citizen."

While South Africa's citizenship is *jus sanguinis* (citizenship by birth), the 2010 Amendment brings in *jus soli* (citizenship by soil) whereby citizenship is acquired by birth within the territory of the State, regardless of the citizenship status of the parent. In South Africa, the current approach to naturalisation is mechanical and compliance-based, rather than designed to achieve strategic goals or to build the nation.

The DHA recognises the strategic importance of a structured and merit-based naturalisation process that aligns with national interests, economic priorities, and social development goals. Citizenship is a fundamental legal status that should not be granted arbitrarily but rather reserved for individuals who demonstrate a long-term commitment to the country's growth, stability, and prosperity. The proposed policy framework ensures that naturalisation is transparent, accountable, and aligned with South Africa's long-term developmental objectives.

To achieve this, DHA shall implement a PBS, ensuring applicants are evaluated based on objective eligibility criteria, including their skills, economic contributions, and social impact. This system prioritises individuals who actively contribute to the economy, such as entrepreneurs, skilled professionals, and investors, strengthening the national workforce, creating employment opportunities, and fostering innovation.

The PBS will introduce a predictable and flexible mechanism for granting citizenship to economic contributors, ensuring that citizenship allocations remain strategic, manageable, and aligned with demographic and labour market needs. The Citizenship Advisory Panel (CAP) will provide expert recommendations to advise the Minister of Home Affairs in determining the qualification criteria/score card and balancing considerations such as national security, economic sustainability, and social cohesion.

Beyond economic pathways, the DHA also seeks to uphold legal certainty in citizenship determination for children, particularly in cases where a child's nationality cannot be ascertained or they are at risk of statelessness. South African citizenship shall be automatically conferred upon children if at least one parent is a South African citizen. A formal assessment mechanism will be established for stateless children to determine their eligibility for naturalisation, ensuring compliance with international obligations to prevent statelessness.

Furthermore, the policy proposals include a structured waiting period for PR holders applying for citizenship through non-economic pathways. This approach guarantees that individuals seeking naturalisation have demonstrated long-term commitment, social integration, and compliance with South African laws before acquiring full citizenship rights.

The policy framework also recognises exceptional circumstances under which the Minister of Home Affairs may grant citizenship outside the standard process. Such cases will be evaluated based on strategic national interests, exceptional economic contributions, humanitarian grounds, or national security considerations. The CAP will review and assess these applications, ensuring a transparent, rigorous, and accountable decision-making process.

Through these comprehensive policy reforms, the DHA seeks to establish a modernised, well-regulated, and strategic citizenship framework that supports economic growth, social stability, and national security while aligning with global best practices on naturalisation and immigration governance.

3.1.1 Merit-based Economic Pathway to Citizenship

Where discretion is at play in decisions around citizenship, policy must ensure that such decisions are not arbitrary, but should be reserved for individuals who demonstrate commitment to South Africa's economic and social development. The DHA shall implement a PBS to ensure transparency, accountability, and alignment with national objectives. The PBS will ensure that naturalisation is transparent, structured, and aligned with national priorities. This system will assess citizenship applications based on objective eligibility criteria, prioritising individuals who contribute meaningfully to South Africa's economy and society.

Key Criteria for the Points-Based System

Applicants will be assessed based on:

- **Skills and qualifications** – Individuals with expertise in critical skills will be prioritised.
- **Economic contribution (investment)** – Applicants who create jobs, invest in businesses, or contribute to South Africa's economic growth will receive higher rankings.
- **Social contribution** – Priority will be given to individuals engaged in meaningful community service, research, or innovation that benefits South Africa.

This system will ensure that South African citizenship is granted based on merit rather than primarily based on duration of residence, thereby attracting individuals who can actively contribute to economic growth. For instance, economic visa holders who obtained their visa through the PBS may be considered for PR after residing in the country for a period of three years.

3.1.2 Non-Economic Pathways to Citizenship

The DHA is committed to ensuring that the non-economic pathway to citizenship is oriented towards the protection of basic human rights for children, families and those in need of international protection. A structured and risk-based approach for non-economic PR holders such as spouses, children and refugees will be adopted. This will include a five-year continuous residence in the country following the attainment of a PR status. For instance, a spouse of a citizen may only apply for citizenship after residing in the country for a period of five years as a PR. In order to eliminate opportunistic applications and abuse of the non-economic pathway to citizenship, DHA will introduce stringent measures for the adjudication of such applications. These measures may include investigation of the existence of a marriage, and whether the applicant has complied with the requirements which will be prescribed in the regulations.

3.1.3 Granting of Citizenship Based on Statelessness

The South African Citizenship Amendment Act, 2010 recognises citizenship by birth within a territory (South Africa), regardless of parental citizenship. Section 4(3) of the Citizenship Act states that, "a child born in the republic, whose parents are not South African citizens and not admitted into the republic for permanent residence, qualifies to apply for South African citizenship upon becoming a major." This provision on naturalisation brings the principle of *jus soli* into the South African context, whereby citizenship is acquired by birth within the territory of the State, regardless of parental citizenship.

In future, legislation must only cater for a child born in South Africa who has not taken up any nationality or whose citizenship cannot be determined, to be eligible to apply for South African citizenship, subject to a formal statelessness determination process. Such a child will not have to wait until attaining a majority age before applying. A special visa may be prescribed in regulations to cater for this child while their case is being investigated. To ensure a fair and transparent assessment, a child's statelessness status shall be determined through one of the following mechanisms:

Option 1: Department of Social Development and Children's Courts

- The Department of Social Development (DSD), in collaboration with children's courts, shall assess the child's nationality status and determine whether the child meets the criteria for statelessness. This mechanism ensures that child protection principles are upheld while conducting the assessment.

Option 2: Citizenship Advisory Panel

- A CAP shall be established as an independent oversight body to assess and recommend statelessness cases involving children. The CAP shall be an expert advisory group, ensuring compliance with national and international statelessness protection frameworks.

Option 3: Interdepartmental Statelessness Committee

- An Interdepartmental Committee, composed of representatives from the DHA and the DSD, shall conduct joint assessments and render final determinations regarding a child's statelessness status.

3.1.4 Citizenship pathways for exceptional cases

The DHA recognises that exceptional circumstances may warrant granting South African citizenship outside the standard naturalisation processes. This policy provides a structured framework for granting citizenship under exceptional conditions, ensuring that such decisions align with national interests, security concerns, and humanitarian obligations. The Minister of Home Affairs shall have the authority to grant citizenship under exceptional circumstances based on the recommendations of the CAP. Citizenship may be granted under exceptional circumstances, including but not limited to:

- **Strategic National Interest** – Individuals whose expertise, influence, or contributions align with South Africa's long-term national interests.
- **Exceptional economic contribution** – High-value investors, entrepreneurs, or professionals who have made significant economic contributions that benefit South Africa's economy and job creation.
- **Humanitarian considerations** – Individuals who face extraordinary humanitarian crises and unable to acquire nationality of any other country. This could include children who are separated from their parents for various reasons, including death of a parent or abandonment.
- **Security and special services** – Individuals who have provided critical services to the Republic, including intelligence, diplomatic support, or national security contributions.

3.1.5 Establishment of the Citizenship Advisory Panel

The CAP shall be responsible for:

- Reviewing and assessing applications for citizenship.
- Conducting due diligence and risk assessments to ensure that applicants meet the defined criteria.
- Providing formal recommendations to the Minister of Home Affairs for final approval or rejection. The CAP shall act as an independent oversight body, ensuring transparency, integrity, and accountability in the exceptional citizenship process.

The Minister of Home Affairs shall have the discretionary authority to grant citizenship based on the CAP's recommendations. Decisions must align with national security priorities, economic policies, and legal frameworks. To prevent abuse or misuse of exceptional citizenship grants, the DHA shall establish strict vetting and compliance measures, including:

- Background checks, financial integrity assessments, and verification of claimed contributions;
- Consultation with relevant government agencies for national security clearance; and
- A transparent and accountable approval process, including periodic reviews to assess the impact of exceptional citizenship grants.

3.1.6 Granting of Dual Citizenship

South Africa shall grant dual citizenship to applicants who meet all statutory and regulatory requirements prescribed by the DHA. Dual citizenship shall be subject to compliance with South African laws, ensuring that applicants uphold national obligations and responsibilities. South African citizens may hold multiple nationalities if they comply with local and international legal requirements. Applicants shall be eligible for dual citizenship only if one of the following conditions is met:

- The country of the applicant’s current nationality officially recognises dual citizenship, allowing the individual to retain both South African and foreign nationality without legal conflict; and
- In line with the recent judgment of the Constitutional Court, South African citizens will not be automatically deprived of their citizenship if they take up a second citizenship.

3.1.7 Loss and Restoration of Citizenship

Any individual who is a citizen by birth shall not lose their citizenship, except in cases where they voluntarily renounce it through the prescribed legal process. Acquiring citizenship in another country is not grounds for losing South African citizenship for individuals born as South African citizens. A citizen by birth who subsequently lost their citizenship through voluntary renunciation shall be eligible to apply for the restoration of their South African citizenship.

Individuals who acquired South African citizenship through naturalisation and subsequently lost their citizenship shall not be eligible for restoration. A person who has acquired South African citizenship through naturalisation may be subject to citizenship revocation under the following conditions:

- If a naturalised citizen holds the nationality of another country and voluntarily serves in that country’s armed forces while it is engaged in a state of war with the Republic of South Africa, they shall lose their South African citizenship; or
- If an individual formally renounces their South African citizenship through a legal declaration filed with the DHA, their citizenship shall be terminated upon approval of the renunciation request.

Table 1 below provides a concise summary of the key policy proposals, categorising them by issue area and outlining the specific policy measures introduced to enhance governance, security, and economic development:

Table 1: Citizenship Policy Proposals

Policy Issue	Citizenship Policy Proposals
Merit-based Economic Pathway to Citizenship	Introduction of a Points Based System. Applicants will be assessed based on: Skills and qualifications; Economic contribution (investment); and Social contribution.
Non-Economic Pathways to Citizenship	A structured and risk-based approach for non-economic PR holders such as spouses, children and refugees will be adopted. This will include a five (5) continuous residence in the country following the attainment of a PR status.

Granting of Citizenship Based on Statelessness	To cater for a child born in South Africa who has not taken up any nationality or whose citizenship cannot be determined, to be eligible to apply for South African citizenship, subject to a formal statelessness determination process.
Citizenship pathways for exceptional cases	Provision of a structured framework for granting citizenship under exceptional conditions, ensuring that such decisions align with national interests, security concerns, and humanitarian obligations. Citizenship may be granted under exceptional circumstances, including but not limited to: Strategic National Interest; Exceptional economic contribution; Humanitarian considerations; or Security and special services.
Establishment of the Citizenship Advisory Panel	The CAP shall be responsible for: reviewing and assessing applications for citizenship; conducting due diligence and risk assessments to ensure that applicants meet the defined criteria; and providing formal recommendations to the Minister of Home Affairs for final approval or rejection.
Granting of Dual Citizenship	Provision to grant dual citizenship to applicants who meet all statutory and regulatory requirements prescribed by the DHA. Dual citizenship shall be subject to compliance with South African laws, ensuring that applicants uphold national obligations and responsibilities.
Loss and Restoration of Citizenship	Makes provision for the loss and restoration of South African Citizenship. A citizen by birth may not lose or be deprived of citizenship unless they choose to renounce it.

3.2 Management of Civil Registration: Population Registry and Civil Registration Policy Proposals

3.2.1 Introduction

A Population Register is an official government database or system that contains up-to-date information about all residents or citizens of a country or region. It is used to record and manage personal data.

Civil registration is the constant, enduring, obligatory and universal recording of the occurrence and characteristics of vital events pertaining to the population in a country.³ It is a government-operated administrative system that is legislatively authorised to generate a record of each vital event occurring within the boundaries of a country, and in accordance with the legal requirements of that country.⁴

Civil registration is critical to the foundation of any State. This entails not only recording births, marriages and deaths for South African citizens, but also ensuring the effective management of government services and immigration. It must include registering vital events of all persons in the country, which contributes to the administration and management of international migration and refugee protection. Importantly, civil registration is distinct from the granting of immigration status: recording a person’s biometric and other information in a population register does not necessarily amount to the conferring of such status. Civil registration systems are foundational to individuals' legal identity and a pathway to realising their rights.

Vital statistics, and, in the modern age, data analytics, generated from civil registration, produce crucial data for policy formulation, planning and service delivery. A registration system for vital life events that is robust, inclusive, secure, privacy-protecting and compulsory generates crucial, accurate and current data that ensures that all persons and all social groups are catered for in delivering basic services. The new civil registration policy will be underpinned by sound principles that enable the universal recording of vital events for all persons living in the country. It will also become digital-first to provide the foundation for Digital ID and interoperability to digitalise government services.

- South Africa will transition from the use of a NPR to an IPR as a foundation for a Digital ID system,

³ Stats SA (2020)

⁴ Principles on Identification for Sustainable Development: Towards the Digital Age. Facilitated by: World Bank Group and Centre for Global Development

whereby civil registration, including the provision of biometric data, shall be compulsory for all who live in the country, to ensure the completeness and accuracy of the population register;

- Civil registration requirements will apply to the entire population in the country and qualifying persons outside the country without discrimination; and
- Civil registration will not be used as a basis for progressing to a different immigration or citizenship status.

The Department has noted concerns raised regarding data protection, privacy, and the potential for function creep. The development of the IPR and the Digital ID system will be underpinned by robust data protection safeguards aligned with the Protection of Personal Information Act (POPIA), including strict purpose limitation, data minimisation, and independent oversight mechanisms.

The registration of marriages is dealt with in the 2022 White Paper on Marriages. The White Paper on Marriages provides for the registration of all marriages that are concluded by citizens and foreigners in the country. This civil registration policy only deals with the registration of births and deaths.

A robust civil registration system is essential for effective governance, legal identity management, and public administration. The universal registration of births and deaths is a fundamental component of this system, ensuring that every individual is legally recognised from birth and that deaths are accurately documented for legal, administrative, and statistical purposes. The DHA is committed to implementing a comprehensive, non-discriminatory, and legally enforceable birth and death registration framework that aligns with international best practices and national priorities.

This policy framework seeks to build an IPR based on universal birth registration, recognising that every child has a right to an official identity and that birth registration is a prerequisite for access to fundamental rights and services such as education, healthcare, and social protection. Mandatory birth registration ensures that all children born in South Africa are recorded with the DHA, regardless of parental citizenship, immigration status, marital status, or other socio-demographic factors. However, birth registration does not automatically confer citizenship, and nationality is determined by South African law.

Similarly, universal and mandatory death registration is vital for legal documentation, inheritance rights, population management, public health monitoring, and national security planning. This policy mandates that all deaths occurring in South Africa must be registered with the DHA, ensuring the accuracy and integrity of mortality data. Licensed health practitioners must certify deaths, ensuring that the cause of death is accurately recorded to support public health policies, epidemiological research, and fraud prevention.

Implementing an efficient and digitalised civil registration system will strengthen legal identity management, administrative processes, and national data integrity. By officially recording every birth and death, South Africa enhances citizen rights, legal governance, and evidence-based policy-making.

3.2.2 Universal Digital Registration of Births

The policy intent is for every birth to be registered before a parent's departure from a health facility to curb the scandal of invisibility. The legislation provides that a birth be registered within 30 days for it to be considered an early birth registration. Late birth registrations are those registered more than 30 days after birth. A paternity test may be required for late birth registration. The policy on birth registration seeks to address challenges in the registration of births for children born in South Africa to citizens and foreign nationals who live in South Africa. In addition to the policy steps outlined here, the digital reforms underway are designed to reduce the pressure on the Department from routine transactions, such as ID and Passport renewals, in order to free up additional resources to undertake systematic registration of unregistered births in rural and underserved communities.

Problem statement

A valid Identity Document or passport is required from a parent or any other person who qualifies to register a child's birth. Registration by parents who are non-citizens requires that the mother, father or both parents must have a valid passport or permit (visa), or a valid asylum seeker permit or refugee ID to register the birth of their child. The recent court judgment (Ursula Jenny Dinah Jantjies And Another // Minister and Ms Mbembe) means that undocumented fathers also have a right to be registered as such upon the notification of the child's birth. The court ordered that Regulation 12(2)(c) of the Births and Deaths Registration Act is inconsistent with the Constitution as it disqualifies fathers who have an invalid passport from being added to the birth certificate of their children.

The current birth registration process may not be all-inclusive. The following are instances where exclusion from registration may occur:

- For mothers who are minors and younger than 16 years old, the requirement of an ID may prevent them from registering the birth of their children. The current requirement is for minors to be accompanied by their own parents or legal guardians who have a South African ID in order to register a birth. Parents or guardians of a minor are not always available to accompany a minor for birth registration, resulting in late registration of birth, or no registration at all.
- Children born in South Africa of foreigners who are not permanent residents nor refugees may not be recorded in the NPR as they are issued a hand-written birth certificate; and
- A child born to non-citizen or illegal migrant parents may not be registered because of a lack of documentation.

Birth registration of children born in wedlock: Any of the parents can register the child and the surname of the child can be that of the father. The child will adopt a family surname and the father's details will be included on the birth certificate as long as there is proof of the existence of a marriage in the form of a marriage certificate. A child who is born in a marriage, even if it is not of a husband, is registered as a child of that husband. The woman whose child is not of the husband is required to obtain consent from the husband to register the child under the surname of the biological father, who is not the husband.

Birth registration of children born out of wedlock: If both parents are present during registration, both their particulars can be included in the registration, and if the mother agrees, the child can bear the father's surname. If the father is absent, the mother can register her particulars, and the child can bear her surname. However, if the mother is absent, the process by the father to register the birth is more stringent, and section 10 of the Birth Registration Act bars the child from bearing the father's surname without the involvement of the mother. The Constitutional Court has since declared section 10 invalid and inconsistent with the Constitution, thereby allowing the father to register the child without the mother's involvement.⁵

Cultural practices and traditions affecting birth registration: South Africa is a culturally diverse society. Some cultures and traditions do impact birth registration. In some cultural practices, naming traditions dictate that a newborn child is not given a name for several months. In other cultures, parents (particularly mothers) do not leave their homes for three months after a child is born. In such instances, the birth registration would fall outside the 30-day period, after which it is considered late.

Gendered issues affecting birth registration: In instances where a woman is erroneously issued a male ID number or is transgender, the birth registration system does not allow that woman to register the birth of the child. This will be addressed in the digital systems redesign to ensure inclusivity and alignment with constitutional rights to dignity and equality.

⁵ <https://www.concourt.org.za/index.php/judgement/410-centre-for-child-law-v-director-general-dept-of-home-affairs-and-others-cct101-20#:~:text=The%20Full%20Court%20declared%20section,mother%20or%20without%20her%20consent.>

Other barriers to birth registration: The cost of a paternity test, when required, might be unaffordable for some parents.

Policy response

Universal registration of birth: Civil registration must be constant, enduring, obligatory and universal, with recording of the occurrence and characteristics of vital events pertaining to the population in a country. The policy proposes that all births must be registered immediately at birth regardless of the status of the parents, and that the biometrics of all children be captured at birth, or biometrics of a parent be linked with the birth certificate. The capturing of biometrics must also include non-citizens so that the birth of a child can be linked to the biometrics of the parents, irrespective of status. Inclusion of a parent who is a foreigner should not be interpreted as a precursor or guarantee for a new residential or citizenship status.

Registration of births of children born during the subsistence of a marriage, but not of the husband: The law must provide a legal remedy for the registration of birth under the surname of a biological father other than that of a husband. That is, birth registration should be de-linked from the parents' marital status. Therefore, the legislation must enable birth registration of children with the details of the biological parents. The law should also make provision for children who elect to assume the surname of a step-parent upon reaching the age of majority.

Paternity test: The only scientifically verifiable means of conclusively testing the paternal relationship between a child and father is the paternity test. Therefore, registration of birth by fathers, in the absence of mothers, may be subjected to a paternity test if there is no circumstantial evidence that prove the existence of a parental relationship. The registration of a child's birth shall be initiated by completing the prescribed birth registration forms, which serve as the foundational document for all birth registrations. Four key documents are required to complete a registration: (i) a notice of birth; (ii) proof of birth issued by a health facility; (iii) the identity document of the parent/informant; (iv) an affidavit attested to by a South African citizen in cases where the birth took place in any other place other than a health facility; and (v) supporting documentation as may be required to establish a parental relationship. This multi-document requirement serves as an immediate control mechanism to prevent the multiple registration of a single child.

To address instances where required documentation is incomplete or unavailable, a clear escalation protocol shall be implemented:

- **Layer 1 (Standard Process):** Registration proceeds upon presentation of all four foundational documents required for birth registration.
- **Layer 2 (Judicial Intervention):** incomplete documentation, birth registration shall only be completed after receipt of a court order.
- **Layer 3 (Scientific Evidence):** DNA testing shall be required only as a final recourse where other forms of evidence are insufficient to establish parental relationship and no court order is obtainable. The circumstances under which DNA testing becomes mandatory shall be clearly prescribed in regulations, and mechanisms for subsidised testing for indigent applicants shall be explored in consultation with the Department of Health and National Treasury.

This layered approach ensures that birth registration remains accessible while safeguarding the integrity of the civil registration system and preventing fraud. The DHA recognises the fundamental right of every child to an official identity and legal recognition through birth registration. Ensuring universal and non-discriminatory birth registration is essential for upholding human rights, legal identity, and access to public services. Birth registration is a key component of civil registration systems, contributing to national statistics, governance, and social protection frameworks.

This policy establishes a mandatory birth registration framework, ensuring that all children born in South Africa are registered with the DHA without discrimination. It also defines the legal status of birth registration, clarifying that registration does not automatically confer citizenship but instead serves as an official record of birth and identity.

Identity System: The Digital ID stored in the new IPR will become the core identity marker. Where physical ID documents continue to be issued, DHA will consider lowering the age of first ID issuance to ten (10) years old, subject to the stabilisation of biometrics.

Table 2 below provides a concise summary of the key policy proposals, categorising them by issue area and outlining the specific policy measures introduced to enhance birth registration:

Table 2 : Birth Registration Policy Proposals

Policy Issue		Birth Registration Policy Proposals
Compulsory Registration of Births		<ul style="list-style-type: none"> ▪ All births shall be compulsorily registered digitally with the DHA.
Non-Discriminatory Registration	Equal Access to Birth Registration	<ul style="list-style-type: none"> ▪ Birth registration shall be universal, non- discriminatory, and accessible to all children, regardless of: <ul style="list-style-type: none"> ○ The citizenship or immigration status of their parents. ○ The marital status of the parents. ○ The age, gender, or sex of the parents.
	Elimination of Barriers to Registration	<ul style="list-style-type: none"> ▪ No child shall be denied birth registration based on parental status or other discriminatory factors.
Legal Status and Citizenship Implications	Birth Registration as a Legal Identity Record	<ul style="list-style-type: none"> ▪ Birth registration shall serve as an official record of birth and identity.
	No Automatic Conferral of Citizenship	<ul style="list-style-type: none"> ▪ A birth registration does not automatically confer South African citizenship upon a child. ▪ A child shall only acquire South African citizenship if they meet the legal requirements prescribed in national legislation.
	Explore the use of technology to digitalise birth registration	<ul style="list-style-type: none"> ▪ As part of digital transformation reforms towards the creation of a Digital ID system, DHA will explore the creation of a remote digital birth registration and verification system. ▪ Digital ID becomes the cornerstone of identity verification, with DHA exploring the possibility of lowering the age of first issue for a physical ID to ten years old.

3.2.3 Universal Registration of Deaths

Problem statement

The Birth and Death Registration Act requires that deaths be registered within 72 hours after death has occurred; however, this does not always happen. In some instances, burial takes place without the death being registered. Some religious burials occur within 24 hours of death, and it may not be possible to register the death with the DHA within that time. It should be considered to have DHA officials stationed at major health facilities to register both births and deaths.

In addition, where deaths occur at home and are deemed to be of natural causes, often in rural areas, the bodies are taken to mortuaries and registered without death being certified and verified by clinicians, forensic pathologists or the police.

To register a death on the NPR, there must be a record of the birth registration and an identity number. As a result, the death of an undocumented person, including legal immigrants, cannot be registered; however, a notification of death may be issued. This may mean that citizens who died before being issued an identity number will not be accounted for on the NPR. This has a negative impact on relatives, such as a child, who may require the deceased's death certificate to apply for their own identification documents.

Citizens who die abroad are certified dead and registered according to that country's law; however, the NPR is not updated in South Africa. This compromises the integrity of the NPR and risks identity fraud against deceased persons. In instances where the deceased person was a recipient of social grants, these grants may be fraudulently collected on their behalf. This is often the case for citizens who reside in neighbouring countries.

With regards to foreigners, this also means that the death of an asylum seeker, persons on temporary visas and undocumented migrants cannot be registered. This policy gap also affects the statistical data that may be collected on the population.

Policy response

To enable universal registration of every death, the following policy reforms will be introduced:

- All deaths for citizens and non-citizens that occur in the country will be registered with the DHA within the period that will be prescribed through the regulations.
- Deaths that take place at a health facility will be registered at the health facility prior to the removal of a body to a mortuary.
- All deaths, including those that occur outside of health facility, whether natural or unnatural, must only be certified by a health practitioner.
- No burial should take place without death registration. Burial without death registration may constitute concealment of death and may be punishable by law. The Department has noted concerns raised regarding prompt burial requirements. To protect the integrity of the IPR and ensure the accuracy of civil registration data without infringing on the rights of certain cultural and religious groups, should the death or burial of a person fall within a weekend or holiday, the DHA will still accept a completed notice of death form (signed by a medical practitioner to certify death) to enable registration of death even after the burial has taken place. This requirement is essential to prevent fraudulent registrations, concealment of death, and the distortion of vital statistics.
- DHA will explore the use of technology through the Digital ID platform to support a more effective death registration system.

3.2.4 Designation and functions of funeral undertakers

Problem statement

There are various government and non-governmental role players who administer and manage death certification, reporting and registration. These include medical practitioners, funeral undertakers and officials of the DHA. Fraudulent registrations of death do take place, which compromises the integrity of the NPR and has a negative impact on the economy, especially the financial sector. There are cases where people are declared dead when they are not, highlighting the need for designated role-players to ensure strict adherence to requirements when certifying death and during the confirmation, declaration and verification of death.

Funeral undertakers play a significant role in the death registration and burial process. This industry is regulated by the Department of Health (DOH) under the Human Remains Act, which requires funeral undertakers to hold a valid Certificate of Compliance. The DHA is also empowered to designate undertakings according to the Births and Deaths Registration Act. Once they receive a Certificate of Compliance from the DOH, funeral undertakers may approach the DHA and write the required examination.

Policy response

The following policy remedies are recommended in order to eliminate wrongful certification of death:

- **Death certification should be performed by qualified and designated health practitioners or law enforcement officials:** Where death has occurred at a health facility, a medical practitioner will certify the person's death. Where death occurs in a place other than a health facility, a police officer may, after consultation with a health practitioner, certify the person as deceased.
- **Death certification in households:** This practice, which occurs mostly in rural areas, may not be conducted by a traditional leader or local leaders in the absence of a designated health practitioner.
- **Responsibility for funeral undertakers:** This function should be regulated by the Department of Health and must include, amongst others, (i) a safe storage for human remains, and (ii) burial services.

General principles on the certification and registration of death:

- Deaths that occur in health facilities must be registered in the facility before the body is removed to a mortuary.
- A person who reports death to the DHA will be held accountable and, should the report be fraudulent, will be liable for an offence which will be prescribed by the Minister of Home Affairs.
- To be designated as a funeral undertaker for purposes of assisting with death registration, applicants must meet strict competency, ethical, and infrastructure standards as prescribed by the Department of Health. All applicants, regardless of citizenship status, must demonstrate compliance with these standards and pass the requisite DHA examination.
- In order to improve accountability, only citizens will, and permanent residents may, be designated as funeral undertakers to support families in the registration of death.

Table 3 below summarises the key policy proposals for universal birth and death registration, outlining the mandatory requirements, legal implications, and governance measures to enhance South Africa's civil registration and vital statistics system.

Table 3: Civil Registration Policy Proposals

Policy Issue	Civil Registration Policy Proposals
Intelligent Population Register and Digital ID	Upgrade and invest in the NPR to become an IPR that contains biometric data for every person in the country and to lay the foundation for Digital ID
Universal Digital Registration of Births	Mandatory birth registration with the DHA, ensuring all children are registered without discrimination.
Non-Discriminatory Birth Registration	Birth registration shall be universal and accessible to all children, regardless of parental citizenship, immigration status, marital status, age, gender, or sex.
Legal Status and Citizenship Implications	Birth registration does not automatically confer South African citizenship
Universal Registration of Deaths	Mandatory registration of all deaths with the DHA is necessary to ensure accurate civil records, population data management, and legal recognition.
Certification of Deaths by Health Practitioners	Licensed health practitioners shall be legally required to certify all deaths to ensure accurate documentation of the cause of death, supporting data integrity and public health monitoring.
Explore the use of technology to support death registration	As part of digital transformation reforms towards the creation of a Digital ID system, DHA will explore the use of technology to support a more effective death registration system.

3.3 Management of Immigration: Immigration Policy Proposals

3.3.1 Scene setting and context of the Immigration Policy and Legal framework

States possess broad authority to regulate the movement of foreign nationals across their borders. Although this authority is not absolute, States exercise their sovereign powers to determine who will be admitted to enter, and for what period. In support of these powers, States enact law and regulations to govern issuance of visas and permits, granting admissions, exclusion and removal of foreigners, and border security. States vary in the types of laws and regulations adopted, with some being more restrictive than others are, but all States adopt rules that govern entry into, and exit from, their territories. South Africa's policy and legal framework that regulate conditions under which a foreigner may enter, reside and exit the country are derived from the following policies and legislation:

- International migration White Paper (White Paper of 1999)
- International migration White Paper (White Paper of 2017)
- Citizenship, Immigration and Refugee Protection White Paper (White Paper of 2024)
- Immigration Act (Act 13 of 2002)
- Refugee Act (Act 130 of 1998)
- Marriage Act, 1961 (Act No. 25 of 1961)
- Citizenship Act (Act 88 of 1995)

- Border Management Act (Act 2 of 2020)

Various visas and permits⁶ provide pathways to short and long-term residence, and citizenship. The current immigration policy and legal framework is aimed at granting visas and permits to those with skills that are required by the labour market and economy, or those who wish to invest in various businesses. However, South Africa has not been able to adequately attract and retain international migrants with the requisite skills and capital to invest in the country.

While South Africa continues to draw sizable numbers of foreign nationals through other visa channels—notably, family-based and humanitarian streams—such pathways do not select immigrants based on whether they are a good fit for the labour market, or whether their skills match demand in strategic sectors that will drive future economic growth.

This trend has continued unabated over a long period. For instance, between June 2014 and January 2016, over 121 000 temporary residence visas were issued. Relative's visas for spouses account for 24 per cent, while critical skills and business visas account for 4 per cent and 1 per cent respectively.

A similar trend is observable regarding visas that were issued between January 2018 and September 2020, where over 74 500 temporary residence visas were issued. The notable change between the compared periods (2014-2016 and 2018-2020) is the decline in General Work visas, from 10% to 1%. This decline is due to stringent measures that were introduced by the DHA and Department of Employment and Labour (DEL). That is, an application for a general work visa must be accompanied by a certificate from DEL confirming that despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant.

While applications for work and business visas have declined, applications for section 11(6) visitor's visas have increased from 9% to 34%; thus becoming the most sought-after visas in SA. The 11(6) visitor's visa is issued to a spouse of a citizen or permanent resident who wishes to work or conduct business in SA. The 11(6) visa is issued over a period of three years, and the applicant is not subjected to applicable requirements for work and business visas. Applications for relative's visas (for spouses, children and other relatives) are still high, accounting for 28%. Application for critical skills and business visas remain the lowest, accounting for 5%, and less than 1%, respectively.

Recent statistics drawn from VFS shows that the 11(6) visas remains attractive when compared to mainstream economic visas (general-work, critical skills and business visas). For instance, between April 2021 and March 2025, the department received 122 304 section 11(6) applications. During the same period, the department received 18 320 general work visa, 12 944 critical skills and 435 business visa applications.

The current visa system therefore attracts far too few applications for the categories our country requires to drive economic growth, requiring a review of the policy. The country's main visa policy thrust has, by and large, remained the same since the inception of the Immigration Act in 2002. The current visa categories were last updated more than three decades ago, and are now in serious need of an overhaul to better support the government's job creation and economic growth priorities.

3.3.2 Recent developments in the visa regulatory environment

Introduction of a PBS

The points-based visa system is a structured framework introduced by the DHA with support from Operation Vulindlela to assess and select candidates for immigration based on predefined criteria. The transparent system aims to attract individuals with skills,

⁶ Transit, Visitors, Study, Treaty, Business, Crew, Medical Treatment, Relative's, General Work, Intra-company Transfer, Critical skills, Retired Person, Corporate, Exchange, Asylum transit, Asylum seeker visa, refugee permit, permanent residence permits.

experience, and qualifications that align with South Africa's economic and labour market needs. The points-based system seeks to:

- Facilitate a transparent, fair, and merit-based immigration process;
- Attract highly-skilled individuals who can contribute to South Africa's economy;
- Align immigration policy with labour market demand and national development goals; and
- Improve administrative efficiency by standardising selection criteria.

Introduction of the TES

The DHA has implemented the TES to enhance the efficiency of skilled immigration processes and support South Africa's economic and labour market needs. This scheme also aligns with the recommendations of Operation Vulindlela and is designed to:

- Facilitate the attraction of critical skills to South Africa;
- Reduce administrative burdens associated with high-volume visa applications;
- Ensure compliance with national labour and tax regulations;
- Streamline the recruitment of skilled foreign workers by pre-vetting and approving employers;
- Improve transparency and efficiency in visa application processes;
- Support economic development by linking foreign skills recruitment to investment, employment, and skills transfer initiatives; and
- Strengthen regulatory oversight while reducing unnecessary bureaucratic delays.

Introduction of the TTOS

The TTOS is an initiative by the DHA aimed at simplifying and accelerating visa applications for tourists from non-visa-exempt source markets in which South Africa underperforms, including China and India. This scheme is part of the government's broader strategy to position tourism as a key driver of economic growth and job creation. The TTOS seeks to:

- Remove visa processing obstacles that deter tourists from non-visa-exempt countries from visiting the country;
- Facilitate faster and more efficient visa issuance through accredited tour operators;
- Boost South Africa's tourism sector by increasing visitor numbers from these key markets; and
- Align with Operation Vulindlela and other economic reform initiatives to enhance administrative efficiency.

Remote-work visa

Further in line with the Operation Vulindlela recommendations, South Africa recently amended the Immigration regulations and introduced the remote work visa for foreign nationals who work remotely for a foreign employer while residing in South Africa. This visa allows individuals to live and work remotely for up to 36 months. To qualify, applicants typically need to demonstrate a minimum gross income and provide proof of employment by a foreign company.

3.3.3 Visa Policy Reforms

South Africa's visa system is critical to national security, economic growth, and global competitiveness. To ensure that immigration policy aligns with national priorities, the DHA is undertaking a comprehensive reform of visa policy to improve efficiency, security, and economic contribution. These policy changes are designed to streamline visa processing, attract high-value investment, enhance labour market regulation, and strengthen border control measures. The Revised White Paper establishes the framework for regulating visa while the detailed visa conditions will be addressed through the legislation (Principal Act and Regulations). In addition to enhancing security, the Department will adopt a proactive approach to all relevant visa categories to ensure it acts as an economic enabler rather than as a bureaucratic stumbling block to investment.

3.3.3.1 Visitor's visa policy reforms

South Africa issues visitor's visas to international tourist who wish to visit our beautiful country for leisure. Accessibility of these visas to international tourists is critical, as tourism has been identified as one of the sectors that contributes to economic growth. It is for this reason that South Africa has reformed its visitor's visa regime to attract tourist; this includes waiving of visa requirements for most of the European and SADC countries. Where visa exemption is not possible, South Africa is introducing the ETA, which will enable digital application and processing of all visas from abroad and within the country. The DHA's aim is to, over time, expand the ETA to become the single point of application, adjudication and communication for all visa categories, eliminating all other application processes. This will position South Africa as a world leader in the digital management of migration.

While most visitor's visas are issued for a period not exceeding 90 days per annum, there are some visitor's visas (multiple entry visas) that may be issued for a period of up to three years. These categories of visitor's visas that are issued for up to three years to enable a person to work, study or for sabbaticals, religious or cultural purposes.

The Department will issue a renewable visitor's visa for a period that will be determined by the Minister through the regulations. The visitor's visa will not enable foreigners to work, study or to conduct business. However, work may be allowed for a period and conditions to be determined by the Minister through regulations for work undertaken on behalf of a foreign employer.

Additionally, the new legislation will introduce a clear process for the consideration and granting of exemptions designed to facilitate certain government functions, such as joint military exercises.

3.3.3.2 Investment visa policy reforms

Start-up and business visas

Existing business visa requirements are limited to established businesses and do not cater for persons that may want to reside in South Africa for purposes of establishing a new business venture with potential to contribute to the economy of the country. International practice shows that countries are competing to attract foreign persons who have innovative entrepreneurial and business ventures. Other countries link the requirements for a critical skill visa and a business visa to create what is often called the "start-up visa" or "innovation visa." These visas are meant for highly skilled persons with innovative entrepreneurial ideas that will contribute to the country's economy.

Section 15 of the Immigration Act provides for the issuing of a business visa to a foreigner on condition that such foreigner invests the prescribed financial or capital contribution in such business.

The start-up visa concept has been incorporated into the current requirements for business visas. A visa waiver may be applied for in instances where the applicant does not have the minimum capital investment. A start-up visa will be introduced as a standalone visa in the new legislation. It is currently implemented or incorporated into

business visa to ease implementation while awaiting legislative amendments.

The business visa will be converted to an investment visa and the required capital investment will be gazetted on a regular basis by the Minister, after consultation with the Minister of Trade, Industry and Competition and the Minister of Small Business Development. The quota for the employment of citizens and foreign nationals by business visa holders will be prescribed in regulations and will be sector-based as opposed to the current prescriptive and rigid quota.

Retirement and high net worth visas

South Africa, through its visa regime, enables foreigners to retire in South Africa and be issued with a retirement visa. This is on condition that they are financially independent and have a prescribed minimum monthly income. However, in South Africa, there is no set age limit for a person to qualify for a retirement visa. This is contrary to how other countries regulate retired person's visas. In South Africa, there are foreigners as young as 25 years-old who are issued with retirement visa. Some supposedly retired persons subsequently take up employment in the country. This is an abuse of the visa that is then used to circumvent the requirements for a work visa.

Data in the permitting system indicates that there is a trend of young applicants applying for a retired person's visa; about 65% of applicants are younger than 55 years. It was particularly high in 2018, when 79% of the applicants for retired person visas were younger than 55 years. There are notable categories of applicants younger than 16, and between 16 and 25 years old (Lubisi Report, 48:2022). A retired person's visa must be retained with a new age limit, and increased retirement annuity in accordance with cost of living in South Africa. A waiver model will be considered to cater for exceptional cases where wealthy individuals wish to retire at a younger age in the country. The introduction of the technologically-advanced ETA will also enable stronger verification of applications for this category.

Section 27(f) of the Immigration Act states that the Director-General may, subject to any prescribed requirements, issue a permanent residence permit to a foreigner of good and sound character who has proven to the satisfaction of the Director-General that he or she has a prescribed minimum net worth, and has paid a prescribed amount to the Director-General. The applicant does not have to be a holder of any temporary residence visa at the time of application. The net worth contemplated in section 27(f) of the Act shall be an amount determined from time to time by the Minister by notice in the Gazette.

The financially independent permanent residence permit will be replaced with a investment-based financially independent residence visa, which will be issued on condition that a prescribed portion of a person's net worth will be invested in South Africa for a specified period. As part of the review of this visa category, the Department will explore additional possible considerations and benefits linked to foreign ownership of property. The Department will be proactive in identifying and capitalising on opportunities to continually adapt visa regulations to attract investors and high net worth individuals to South Africa.

3.3.3.3 Work visa policy reforms

To address the challenge of insufficient highly skilled work visas injecting skills into the economy, the Revised White Paper proposes a new visa pathway: the skilled worker visa. This visa would provide a legal employment-based pathway that spans across skill levels and that crosses the temporary-to-permanent divide. The skilled worker visa would allow South African employers across industries to sponsor foreign workers for the duration of their employment contract, which workers could renew through the sponsoring employer. Workers who desire only a temporary stay in the country could return home after the conclusion of their employment contract, and they would have the option to re-enter on another skilled worker visa in the future, provided they comply with South African immigration and other laws. The skilled worker visa will consolidate the current critical skills and general work visas into a single visa, and will be adjudicated through the PBS. The details of requirements for the adjudication of work visas, as well as other relevant categories such as critical skills and start-up visas, will be

designed after consultation with the Department of Employment and Labour, including consideration of the National Labour Migration Policy.

Skilled worker visa holders could be recruited from abroad or from within South Africa, providing a pathway to PR for some immigrants in the country with temporary status. The skilled worker visa would be open to workers at all education and experience levels. Workers who wish to remain in the country, and have proven their value to the country's economy by remaining stably employed, could renew their visa for an additional period. To renew, workers would need to demonstrate that they have been continuously employed in the country.

Workers who opt not to renew, or who fail to successfully renew their visas, would be required to depart South Africa at the conclusion of their employment contract. Those not departing and choosing to remain in the country illegally, would be declared undesirable and barred from being sponsored for any visa in the future pending the expunging of their undesirability status. Workers who successfully renew their skilled worker visa could remain on temporary status, and could apply for permanent residence—without the involvement of an employer sponsor—as soon as they have completed their renewal. Allowing workers to self-sponsor removes the dependence on employer sponsorship for permanent residence, reducing the potential for employers to hold undue power over workers.

To apply for permanent resident status, applications will be adjudicated through the PBS, and workers would need to demonstrate a history of steady employment in the country, as well as current and continuing employment.

The skilled worker visa could also serve as a pathway for international students graduating from South Africa's colleges and universities to stay in the country, and for the country to capitalise on their skills as they could contribute to job creation and economic growth. Currently, foreign students benefit from South African taxpayers but do not reinvest in the country when they leave.

Spouses and minor children of skilled worker visa holders could be admitted as their dependents, but to obtain work authorisation, they would need their own visa, which could be obtained from inside the country. To ensure they are not locked out of the labour market, spouses of skilled worker visa holders should be allowed to apply through the PBS immigration channel, with certain requirements being relaxed.

Implication for other employment-based visas

Visas established through treaty obligations (Treaty visas) for citizens of countries with which South Africa maintains economic or other treaties, would remain in place. Visas for intra-company transferees (intra-company visa) would also be retained, because they facilitate multinational companies' ability to move staff across borders in order to support operations. Visas for jobs that are truly short term and seasonal in nature, such as the corporate visa, will be replaced by a sectoral visa which will provide a legal framework for recruitment in these sectors.

PBS Visa Policy

The PBS will remain fundamentally important to the success of the skilled worker visa. The PBS has been used successfully in various countries, including Canada, Australia, and the United Kingdom. Flexibility is key to the success of points-based immigration system. Countries with points systems regularly adjust the number of points awarded to foreign workers seeking a visa for different skills and experiences, add new criteria for awarding points, and adjust the threshold of points needed to obtain a visa, in order to achieve desired immigration levels and profiles. In particular, countries have generally moved toward allocating more points for in-country work experience and job offers. The success of a points system would depend on the ability to make adjustments over time, without the need for Parliament to pass legislation for each modification. The points system could allocate points based on, for example, human-capital characteristics, sponsorship by an employer or a state or local government, or a credible plan for employment-creating entrepreneurship.

3.3.3.4 Family-based visa policy reforms

South Africa issues relative's visas to the immediate family members (second step of kinship – children, parents and siblings) of citizens and permanent residents. A foreign adult who has a child in South Africa who is a South African citizen or permanent resident, may qualify for a relative's visa issued for a period that will be prescribed in regulations. A relative's visa will only be issued to children, parents and spouses of PR holders and citizens.

The South African citizen or permanent resident should be the main applicant and sponsor for the application of the relative's visa. The South African citizen and permanent resident will still be required to prove sufficient financial means to support their dependents. This allows for improved accountability and curbing of fraudulent or multiple life partnership. To reduce the administrative burden on the department and applicant, section 18(1) and 11(6) of the Immigration Act must be combined. This will enable the relative's visa holder (spouse) to work, conduct business and study. Currently, the relative's visa does not allow spouses to work and as a result, some spouses, in addition to their relative's visa, apply for the visitor's visas 11(6) that enables them to work, study or conduct business.

3.3.3.5 Sports and Arts visa policy reforms

The Sports and Arts Visa will be introduced to accommodate foreign performing artists, athletes, coaches, and sports industry professionals seeking residence in South Africa for training, competitions, or professional engagements. This visa category aims to:

- Facilitate the participation of performing artists, athletes and professionals in South African sports leagues, tournaments, and coaching programs.
- Strengthen South Africa's position as a global sports and entertainment destination by attracting top-tier sports and arts talents and events.
- Ensure that foreign performing artists, athletes, trainers, and support staff can obtain legal residency and work authorisation through a streamlined visa process.

This policy aligns with South Africa's broader objective of expanding its sports and entertainment industry, enhancing global competitiveness, and fostering international partnerships in the sports sector. Introducing this new visa category represents a significant step toward modernising South Africa's immigration policy. The Sports and Arts Visa will position South Africa as a premier destination for international athletes and sporting professionals as well as performing artists. These measures reinforce South Africa's commitment to a dynamic, responsive, and secure immigration framework that supports economic growth through the sports and entertainment industry.

Finally, in recent years, new labour market trends have emerged. Prior to the Covid-19 pandemic, the phenomenon of remote work was virtually unknown. However, following the pandemic, remote work became a norm and presented an opportunity to South Africa as it quickly became a sought-after remote work destination. In order to enable DHA to respond more appropriately to emerging risks and opportunities, legislation will also be revised to provide for more flexibility as it relates to visa categories.

3.3.4 New Approach for granting of Permanent Residency

3.3.4.1 Quota and window-period for PR Applications

A quota and window period-based system will be introduced to regulate the number of PR approvals annually, aligning immigration with national capacity, labour market demands, and socio-economic objectives. The DHA will periodically determine the quota and window period in consultation with relevant government bodies. This

mechanism will prevent excessive immigration backlogs and ensure sustainable population management through immigration. The quota and window period will be determined in predictable ways to ensure that applicants are not subject to arbitrary decisions or unpredictability.

3.3.4.2 Merit-Based PR for economic visas (Non-Time-Dependent Eligibility)

Granting of PR will no longer be contingent on the number of years spent in South Africa, but rather on a merit-based points system. For instance, skilled worker visa and business visa holders may qualify to apply for PR after residing in the country for a period that will be prescribed in regulations in line with prevailing economic conditions. Candidates will be evaluated based on qualifications, skills, economic contributions, and alignment with national interests. The transition to a performance-driven model will ensure that PR is granted to individuals who demonstrate the highest value to South Africa, rather than being based solely on length of stay.

3.3.5 Policy Proposals on Bilateral Migration and Climate Change Migration

3.3.5.1 Adopting a Bilateral Migration Model

The DHA proposes establishing bilateral agreements with neighbouring countries to enforce the First Safe Country Principle, enhance regional economic integration, labour mobility, and asylum management. The system will be tailored to South Africa's unique conditions to prevent abuse and exploitation. Key elements of this policy proposal include:

- Facilitating regional labour mobility in line with the new labour migration policy by enabling skilled, semi-skilled, and low-skilled workers from our immediate neighbouring countries to legally work in South Africa under structured and cooperative migration agreements. This will replace the colonial labour bilateral agreements that were used to exploit economic migrants from the region. It will also replace the dispensation permits that have been issued to our neighbouring countries, such as Zimbabwe, Lesotho, and Angola.
- The introduction of temporary residency permits to regional migrants will ensure that foreign workers meet national labour market needs while maintaining job opportunities for South African citizens.
- Strengthening economic ties with Southern African Development Community (SADC) member states to enhance investment, trade, and workforce collaboration.

By adopting this bilateral migration model, South Africa seeks to establish a structured framework that benefits South Africans and economic migrants and refugees, ensuring controlled migration while supporting regional stability and economic development.

3.3.5.2 Climate Change and Migration Policy

Climate change has become a significant driver of forced displacement, with extreme weather events, rising sea levels, and prolonged droughts increasingly displacing vulnerable populations. To address this growing challenge, South Africa shall integrate climate migration into its policy framework. Key components of this reform include:

- Implementing screening and eligibility criteria for environmentally displaced persons to differentiate between climate victims and voluntary migrants;
- Strengthening South Africa's climate resilience policies by aligning migration strategies with national disaster response frameworks and international climate agreements; and

- Enhancing cooperation with international organisations, such as the UNHCR and the International Organisation for Migration (IOM), to address cross-border climate displacement challenges.

By adopting a route-based approach and integrating climate migration policies, South Africa is taking proactive steps to modernise its immigration system. These reforms enhance economic cooperation and climate change resilience while ensuring that humanitarian obligations are met following domestic constitutional and international legal frameworks. These reforms will be implemented subject to all other relevant provisions contained in this White Paper, including the First Safe Country Principle.

3.3.6 Policy Proposals on Processing and Efficiency Enhancements

Improving the efficiency and governance of visa processing is a critical objective of South Africa’s broader immigration reform agenda. It is also central to DHA’s apex priority of digital transformation. These policy proposals aim to streamline administrative processes, enhance transparency, and align visa issuance with national labour market needs. By integrating technology and multi-stakeholder engagement, the DHA seeks to modernise immigration management while ensuring national security and economic growth. Combating human smuggling and trafficking is a key priority. Human trafficking poses severe risks to national security, public safety, and human rights, necessitating a comprehensive strategy to strengthen border security and enhance intelligence-sharing mechanisms.

3.3.6.1 Immigration Advisory Board

The policy shall provide for establishing an Immigration Advisory Board to oversee, guide, and enhance immigration policy formulation, implementation, and enforcement. This Board will ensure a multi-departmental and stakeholder-driven approach to managing immigration affairs, fostering collaborative governance, and addressing complex migration-related challenges. The Advisory Board shall include representatives of organised labour and four appointed experts with demonstrable knowledge in administration, regulatory affairs, immigration law, adjudication, control, and enforcement. The Minister of Home Affairs, based on demonstrated merit, shall appoint these individuals and expertise to ensure the Board is equipped with the necessary specialised competencies.

Given the cross-cutting nature of immigration services that impact various economic, security, and social sectors, establishing the Immigration Advisory Board represents a strategic policy intervention. Immigration challenges in South Africa have become increasingly complex and multifaceted, requiring interdepartmental coordination and a whole-of-government approach.

3.3.6.2 Digital Transformation of the Visa Application System through ETA

The DHA shall digitally transform the visa application process by implementing an automated online system to enhance efficiency, transparency, and security. This system will incorporate machine learning for fraud detection mechanisms and expedited processing, reducing administrative burdens and improving service delivery. The digital visa system is expected to boost tourism, attract skilled workers, and enhance border security, ensuring a more efficient and technology-driven immigration framework.

3.3.6.3 Re-introduction of Immigration Practitioners

Immigration should re-introduce the principle of being a protected industry by only allowing Immigration Practitioners, Attorneys as well as Advocates to act on behalf of clients. The current unprotected industry

introduces “fly by night” providers disappearing on their clients, increasing the corruption risk and other forms of malpractice.

3.3.7 Law Enforcement and Administrative Justice

3.3.7.1 Human Smuggling and Trafficking Policy Proposal

The DHA shall regulate the stay of victims of human trafficking who serve as state witnesses under the provisions of the visitor’s visa. This visa category shall be explicitly designated to accommodate victims of trafficking who are cooperating with law enforcement in ongoing investigations and prosecutions. Section 17 of the Prevention and Combating of Trafficking in Persons Act, 2013 (TIPA) shall be amended to align with the reformed immigration policy, which de-links temporary residence from permanent residence. Victims of human trafficking shall no longer qualify for automatic permanent residence based on their temporary residence status. Instead, eligibility for long-term residence shall be subject to continued cooperation with law enforcement agencies as state witnesses and assessed on a case-by-case basis.

The DHA shall implement a long-term residence visa framework for victims of human trafficking who remain state witnesses. This visa shall be renewable based on the duration of legal proceedings and the necessity of the individual's presence in South Africa. Upon the conclusion of their role as witnesses, residency status shall be reassessed in accordance with applicable immigration laws. The Immigration Act shall be amended to classify human smuggling as a criminal offence explicitly. The legislation shall provide for prosecuting both the smuggler and the smuggled person in cases where the smuggled individual is found to have knowingly participated in illegal migration activities.

The Department of Justice and Constitutional Development, in coordination with the DHA and law enforcement agencies shall establish legal provisions for prosecuting human smugglers and smuggled individuals who engage in criminal activities. The policy shall outline sentencing guidelines and penalties to deter human smuggling networks.

The DHA shall introduce a provision allowing a visitor’s visa to be issued in a prescribed manner to a smuggled person who voluntarily cooperates with the state in prosecuting human smugglers. Such visas shall be:

- Issued on a case-by-case basis, contingent upon ongoing legal cooperation with law enforcement authorities; and
- Subject to strict monitoring to prevent abuse of immigration channels.

3.3.7.2 Establishment of a single Home Affairs Review/Appeals/Waivers/Exemptions Authority

The Authority will be established to conduct independent reviews and appeals of administrative decisions made by the DHA and its entities. The Authority will give any person who is aggrieved by a decision taken by Home Affairs an opportunity to have their decision independently reviewed/appealed. The Authority will consider each case on its merits by taking a fresh look at the facts, law and policy relating to the original decision, and consider any new information. It will have the power to agree with the original decision, change it, or make a new decision. While the decisions of the Authority are binding to all DHA officers and applicants, such decisions are subject to judicial review in the courts. The Authority will be empowered to review and consider appeals from any person who is aggrieved by a DHA decision in the following areas:

- Visas and permits, including migration and refugee visas and permits as well as waivers and exemptions;
- Border Law enforcement, including entry refusal and overstaying;
- Arrest, detention and deportation;

- Citizenship, including refusal of citizenship and loss of citizenship;
- Civil registration, including birth, marriage and death registration; and
- Identification and travelling documents, including refusal to issue ID card and passport.

In addition, the Authority will also consider applications for waivers and exemptions.

Administratively, the Authority will report to the Minister of Home Affairs; however, it will retain its independence in fulfilling its mandate.

3.3.7.3 *Specialised Immigration Courts*

The DHA recognises the need for a dedicated judicial mechanism to handle immigration-related disputes, appeals, and administrative reviews expeditiously and effectively. To address the systemic delays in immigration adjudication, there is merit in establishing specialised Immigration Courts to:

- Expedite the review of decisions made by the Director-General (DG), the Minister, and other immigration bodies;
- Provide a structured legal avenue for immigration appeals to be heard and resolved within a reasonable timeframe; and
- Prevent unnecessary case backlogs in the High Court, leading to prolonged legal battles and administrative inefficiencies.

The existing legislative framework for immigration litigation is untenable, resulting in prolonged delays in adjudicating visa denials, deportation orders, and immigration appeals. The current legal process creates the following challenges:

- Urgent High Court interdicts are frequently filed by individuals facing deportation, which halts enforcement actions;
- Many of these applicants disappear before completing their legal review process, evading deportation and exploiting legal loopholes; and

Some individuals subsequently re-enter the system through fraudulent means or corrupt activities, undermining immigration control measures.

To complement the establishment of Immigration Courts, the DHA Directorate: Litigation must implement a modernised IT case tracking system to:

- Digitally monitor and track all pending immigration-related cases;
- Ensure coordination between immigration enforcement units and litigation teams to prevent unauthorised individuals from exploiting legal gaps;
- Improve efficiency in identifying repeat offenders through integrated databases accessible to immigration officials, law enforcement agencies, and relevant judicial bodies; and
- Enhance intelligence-sharing mechanisms to strengthen immigration enforcement and combat corruption.

Establishing Immigration Courts and improved litigation tracking and enforcement mechanisms is a critical policy reform necessary to modernise South Africa's immigration system, enhance legal efficiency, and mitigate risks

associated with fraudulent immigration practices. The DHA will prioritise the implementation of these reforms to ensure greater accountability, transparency, and enforcement effectiveness within the immigration framework.

3.3.7.4 Administrative fines for overstayers

Re-introduction of administrative fines for overstayers could be other practical solution that may address DHA's concerns about visa overstays. It provides an opportunity for the Border Management Authority (BMA) to use the system to generate more revenue rather than simply banning people and creating more administrative work. At the moment, when someone exits South Africa with an expired visa, they are declared undesirable and must go through a complex upliftment process which clogs the system with extra applications and appeals. Instead of this, DHA could impose substantial overstay fines that must be paid before re-entry is allowed. This is common in many other countries and strikes a better balance between enforcement and efficiency. It also creates a clear consequence for non-compliance without blocking future travel unnecessarily and importantly, it generates income for the Department while reducing the administrative burden.

Table 4 below provides a concise summary of the key policy proposals, categorising them by issue area and outlining the specific policy measures introduced to enhance management of immigration:

Table 4: Immigration Policy Proposals

Policy Issue	Immigration Policy Proposals
Visa Policy Reforms	<ol style="list-style-type: none"> 1. Visitor's visa policy reforms - The Department will issue a renewable visitor's visa for a period that will be determined by the Minister through the regulations. The visitor's visa will not enable foreigners to work, study or to conduct business. A clear process will be introduced to deal with exemptions for certain government functions, such as joint military exercises. 2. Investment visa policy reforms- <ol style="list-style-type: none"> a. Start-up - A visa waiver may be applied for in instances where the applicant does not have the minimum capital investment. Start-up visa will be introduced as a standalone visa in the new legislation. b. Business visas- The business visa will be converted to an investment visa and the required capital investment will be gazetted on a regular basis by the Minister, after consultation with the Minister of Trade, Industry and Competition. 3. Retirement and high net worth visas- <p style="margin-left: 40px;">Retirement Visa- The retired person's visa must be retained with a new age limit (at least 55 years), and increased retirement annuity in accordance with cost of living in South Africa.</p> <ol style="list-style-type: none"> a. Networth Visa - The financially independent permanent residence permit will be replaced with a investment-based financially independent residence visa, which will be issued on condition that a prescribed portion of a person's net worth will be invested in South Africa for a specified period.

	<p>4. Work visa policy reforms</p> <ol style="list-style-type: none"> a. Introduction of a skilled worker visa. This visa would provide a legal employment-based pathway that spans across skill levels and that crosses the temporary-to-permanent divide. Replacing the current General work visa and the Critical skills visa. b. Visas for jobs that are truly short term and seasonal in nature, such as the corporate visa, will be replaced by a sectoral visa which will provide a legal framework for the recruitment of low skilled migrants. <p>5. Family-based visa policy reforms</p> <p>A relative’s visa will only be issued to children, parents and spouses of PR holders and citizens.</p> <ol style="list-style-type: none"> a. Combine section 18(1) and 11(6) of the Immigration Act. This will enable the relative’s visa holder (spouse) to work, conduct business and study. <p>6. Sports and Arts visa policy reforms</p> <ol style="list-style-type: none"> a. The Sports and Arts Visa will be introduced to accommodate foreign performing artists, athletes, coaches, and sports industry professionals seeking residence in South Africa for training, competitions, or professional engagements.
<p>New Approach for granting of Permanent Residency</p>	<ol style="list-style-type: none"> 1. Merit-Based PR for economic visas (Non-Time-Dependent Eligibility)- Granting of PR will no longer be contingent on the number of years spent in South Africa, but rather on a merit-based points system.
<p>Bilateral Migration and Climate Change Migration</p>	<ol style="list-style-type: none"> 1. Proposal to establish bilateral agreements with neighbouring countries to enhance regional economic integration, labour mobility, and asylum management. South Africa shall integrate climate migration into its humanitarian policies, ensuring that individuals displaced by environmental factors receive legal recognition and protection.
<p>Processing and Efficiency Enhancements</p>	<ol style="list-style-type: none"> 1. Provision for establishing an Immigration Advisory Board to oversee, guide, and enhance immigration policy formulation, implementation, and enforcement. 2. Digital Transformation of the Visa Application System through ETA. The DHA shall digitally transform the visa application process by implementing an automated online system to enhance efficiency, transparency, and security. 3. Re-introduction of Immigration Practitioners. Allow Immigration Practitioner, Attorneys as well as Advocates to act on behalf of clients.
<p>Law Enforcement and administrative justice</p>	<ol style="list-style-type: none"> 1. Human Smuggling and Trafficking Policy Proposal- The DHA shall implement a long-term residence visa framework for victims of human trafficking who remain state witnesses. This visa shall be renewable based on the duration of legal proceedings and the necessity of the individual's presence in South Africa. 2. Establishment of a single Home Affairs Administrative Review/Appeals Authority- The Authority will be established to conduct independent reviews of

administrative decisions made by the DHA and its entities.

3. Specialised Immigration Courts- The DHA recognises the need for a dedicated judicial mechanism to handle immigration-related disputes, appeals, and administrative reviews expeditiously and effectively.
4. Re-Introduction of Administrative fines for overstayers - this will create a clear consequence for non-compliance without blocking future travel unnecessarily and importantly, it generates income for the Department while reducing the administrative burden.

3.3.8 Conclusion

In conclusion, as part of South Africa's comprehensive immigration policy reform, significant adjustments will be made to visa categories, PR pathways, and migration policies to align with economic growth objectives, labour market needs, and national security priorities. The existing visa framework will be modernised and digitally transformed to streamline processes, attract high-value investment, and regulate skilled migration.

3.4 Management of Refugee Protection: Refugee Protection Policy Proposals

3.4.1 Background and Legal Justification for retaining the 1951 Refugee Convention

The DHA has comprehensively reviewed South Africa's migration framework as part of the White Paper. A key consideration in this review was the proposal to withdraw from the 1951 Refugee Convention and the 1969 OAU Refugee Convention with a view to re-acceding with reservations to limit certain socio-economic rights afforded to refugees and asylum seekers. This proposal was based on concerns related to national security, economic constraints, and the strain on public resources. However, after thorough legal analysis and consideration of constitutional obligations, South Africa will not withdraw from these international instruments.

As alluded to above, both DHA and DIRCO concur that withdrawing from the Convention will not have any material impact on curtailing the rights of asylum seekers, as the jurisprudence in this area is anchored primarily in the South African Constitution. Instead, DHA will adopt a structured, route-based approach to refugee protection based on the first safe country principle, that balances humanitarian commitments with national security and economic sustainability. The decision to remain a signatory to the 1951 Convention is grounded in the following legal and policy considerations:

The Constitution of the Republic of South Africa

In 1996, South Africa adopted the Constitution as the supreme law of the country. Any law or act inconsistent with the provisions of the Constitution shall be of no force and effect to the extent of such inconsistency. The Constitution also demands that the rule of law be respected by all, including the State and its organs. In this section, attention is given to the provisions of the Constitution as far as it has an effect on the rights of everyone – citizen or non-citizens. The Constitution lays down certain relevant principles which have implications for the White Paper:

“Everyone is equal before the law and has the right to equal protection and benefit of the law”, Section 9(1).

“Everyone has inherent dignity and the right to have their dignity respected and protected”, Section 10.

“Everyone has the right to freedom of movement,” Section 21 (1).

“Everyone has the right to leave the Republic”, Section 21 (2).

“Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic”, Section 21 (3).

“Every citizen has the right to a passport”, Section 21 (4).

“Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law, Section 22.”

“Everyone has the right to fair labour practices, Section 23 (1).”

“Everyone has the right to have access to healthcare services, including reproductive health care”, Section 27 (1)(a).

“Everyone has the right to social security, including, if they are unable to support themselves and their dependents,” Section 27 (1)(c).

“No one may be refused emergency medical treatment,” Section 27 (2) of the Constitution

“Every child has the right to a name and nationality from birth”, Section 28(1) of the Constitution.

“Everyone has the right to a basic education, including adult basic education, Section 29 (1)(a).

While most of the rights are subject to limitation in terms of section 36 of the Constitution, case law has demonstrated that it is virtually impossible to limit access to basic human rights.

Constitutional and International Law Compliance

South Africa's Constitution extends fundamental protections to all persons within its borders, including asylum seekers and refugees. The constitutional framework affirms the principle of non-discrimination, the right to dignity, and the right to just administrative action, all of which would remain in effect even if South Africa withdrew from the Refugee Convention.

Furthermore, the non-refoulement principle—which prohibits individuals' return to a country where they may face persecution—is firmly embedded in customary international law and has been recognised by South African courts as a binding legal norm. Withdrawing from the Convention would not remove these obligations. Instead, it would create legal uncertainty, expose South Africa to international scrutiny, and potentially undermine diplomatic relations with key global partners – without any tangible benefit to the country.

Case law on the limitation of asylum seeker rights

Courts have ruled in favour of upholding refugee rights in cases such as:

Minister of Home Affairs v **Watchenuka**, where the right to dignity was deemed essential, prohibited the DHA from restricting asylum seekers' ability to work. The Court ruled against the DHA on human dignity grounds; human dignity has no nationality. It is inherent in all people [citizens and non-citizens alike], simply because they are human. While that person [Asylum seeker and Refugees] happen to be in this country for whatever reason, she/he must be respected, and is protected, by s 10 of the Bill of Rights. No general prohibition of the right to work and study is allowed, particular where it is the only means of survival and the Standing Committee for Refugee can consider and determine whether an asylum applicant should be permitted to undertake employment and study pending the outcome of the application for asylum.

Bula and Others V Minister of Home Affairs and Others (2011): The appellants had fled Ethiopia in about May 2010 to escape political persecution and in fear of their lives. According to the appellants, they crossed the South African/Mozambique border without being stopped by any immigration officials. They were eventually arrested in

Johannesburg, detained in Lindela and subject to deportation. They attempted to apply for asylum a month later through the Lawyers of Human Right and their letter was not entertained by the department. They then approached the Court to interdict their deportation and that they be released immediately and afforded the opportunity to apply for asylum. They were unsuccessful in the South Gauteng High Court. The Supreme Court of Appeal was called upon to address whether a person who has been detected as illegal in South Africa should be granted an opportunity to apply for asylum upon such indication when so detected. The Supreme Court of Appeal set aside the High Court order and directed the DHA to release applicants from Lindela and interdicted the department from deporting the Applicants unless and until their status under the Refugees Act, 130 of 1998 has been lawfully and finally determined.

Somali Association v Limpopo Department of Economic Development: This is an appeal case concerning the rights of refugees and asylum seekers who are lawfully present in SA in terms of the provisions of the Refugees Act 130 of 1998 (the Act), to earn a living by way of self-employment in the form of trading in spaza or tuck-shops. In appeal at the Supreme Court of Appeal, the Somali Association appealed against a decision of the North Gauteng High Court, Pretoria which rejected its application. On appeal, the Limpopo Department of Economic Development, Environment and Tourism (LEDET), did not participate. The Supreme Court of Appeal had to consider whether the refugees and asylum seekers lawfully present in South Africa in terms of the provisions of the Refugees Act 130 of 1998 (the Act), to earn a living by way of self-employment in the form of trading in spaza or tuck-shops. The Court ruled against LEDET and declared that asylum seekers and refugees are entitled to apply for new business or trading licences in terms of section 8 of the Lebowa Business and Trading Undertakings Act 6 of 1977 or for a licence in terms of section 2(3) of the Businesses Act 71 of 1991.

Ruta V Minister of Home Affairs and Others (2018): The Constitutional Court on appeal from the Supreme Court of Appeal, had to consider whether an “illegal foreigner” who claims to be a refugee and expresses intention to apply for asylum be permitted to apply in accordance with the Refugees Act instead of being dealt with under the Immigration Act. The applicant, Mr Alex Niwubona Ruta, is a national of Rwanda. In December 2014, he crossed the border from Zimbabwe into SA and did not enter through an official port of entry. He was as such under the Immigration an “illegal foreigner” liable to criminal penalties and deportation. In March 2016 he was arrested in Pretoria for road traffic violations. He was tried and imprisoned for the road traffic offences. While he was in prison, the DHA initiated the process to deport him to Rwanda. He countered by seeking to apply for asylum under the Refugees Act. The Minister of Home Affairs opposed saying it was too late for him to apply. The Constitutional Court granted Mr. Ruta leave to appeal and his appeal succeeded.

Ashebo v Minister of Home Affairs and Others (2023): The applicant is an Ethiopian national who entered South Africa illegally from Zimbabwe on 11 June 2021. He claimed to have been persecuted by the ruling party in his homeland for his political and religious beliefs. On 7 July 2022, he was arrested in Pretoria for unlawfully entering and residing in South Africa, in contravention of the Immigration Act, and was charged in terms of section 49 thereof. Any person who upon application for asylum fails at a Refugee Reception Office to produce a valid visa issued in terms of the Immigration Act must prior to being permitted to apply for asylum, show good cause for his or her illegal entry or stay in the Republic as contemplated in Article 31(1) of the 1951 United Nations Convention Relating to the Status of Refugees. The court declared that in terms of section 2 of the Refugees Act 130 of 1998 (Act), the applicant may not be deported until he has had an opportunity of showing good cause as contemplated in section 21(1B) of the Refugees Amendment Act 11 of 2017, read with regulation 8(3) thereto, and, if such good cause has been shown, until his application for asylum has been finally determined in terms of the Act.

Khosa v Minister of Social Development, where the Constitutional Court ruled that permanent residents should have access to social security benefits, emphasising that socio-economic rights cannot be arbitrarily denied based on immigration status. The question before the court was whether the state can, consistent with the Constitution, exclude non-citizens from the social welfare system that it has put in place to meet the needs of those who are unable to support themselves. The applicants challenged the constitutionality of section 3(c) of the Social Assistance Act which reserves social grants for aged South African citizens. The applicants in both matters were Mozambican citizens who have acquired permanent residence status in South Africa in terms of exemptions granted to them under the now repealed Aliens Control Act 96 of 1991. All of the applicants in both matters, save

for the second applicant in the Khosa matter, fled Mozambique in the 1980s as a result of the outbreak of civil war and sought refuge in South Africa. The Court ordered that permanent residents qualify to apply for social grants.

The Constitutional Court ruled on August 2, 2022, in **Rafoneke and Others v Minister of Justice and Correctional Services and Others**, that foreign nationals who are not permanent residents are not entitled to be admitted and enrolled as legal practitioners (attorneys or advocates) in South Africa. The judgement upheld the constitutionality of Section 24(2) of the Legal Practice Act 28 of 2014 (LPA), which limits entry into the legal profession to South African citizens and permanent residents. South Africa, as a sovereign State, has an obligation to protect the interests of its citizens. It has entrenched the rights of its citizens to choose their trade, occupation or profession freely through section 22 of the Constitution. Section 22 is silent regarding non-citizens, but legal advice indicates that there may not be a blanket prohibition that prevents non-citizens from sustaining themselves, as this affects other rights in the Bill of Rights.

Reservations versus Constitutional Guarantees

The DHA explored entering reservations on socio-economic rights (such as work, education, and social security) to limit access for refugees and asylum seekers. However, legal analysis confirmed that:

Some rights, such as non-refoulement and court access, cannot be restricted under international law;

The South African Constitution already guarantees socio-economic rights for "everyone," making broad reservations inconsistent with domestic law; and

Limiting access to essential services would likely face legal challenges on the grounds of reasonableness and proportionality.

The withdrawal from international treaties governing immigration and human rights obligations would require an extensive and cumbersome legal process under South African constitutional law. In accordance with Section 231 of the Constitution, the withdrawal process would necessitate:

- Drafting of a formal position paper by the national executive outlining the legal, political, and diplomatic rationale for withdrawal;
- Submitting the position paper to Parliament, followed by legislative deliberations and approval;
- Engagement with international bodies, as treaty withdrawal often requires formal notification and diplomatic negotiations to mitigate potential consequences; and
- Addressing transitional legal gaps that may arise, necessitating further domestic legislative amendments to align national law with post-withdrawal obligations.

Given these substantial legal constraints, pursuing treaty withdrawal or imposing blanket reservations would be resource-intensive, time-consuming, diplomatically sensitive, and yield no tangible change on the ground. The protracted nature of the withdrawal process could also undermine South Africa's international stance on human rights matters.

The First Safe Country Principle and Route-Based Approach

Rather than withdrawing from the Refugee Convention, South Africa will implement the First Safe Country Principle and route-based approach to refugee protection. This includes:

- Strengthening border controls to process asylum claims exclusively at designated ports of entry.

Consideration of online processing of asylum claims virtually: Step 1 would entail capturing of information and biometrics and completion of forms as part of transit visa at ports of entry. Step 2 would conclude the interview at a RRO or alternatively finalising of asylum claim virtually;

- Implementing the first safe country principle to prevent asylum claims from individuals who have already found protection in another country or signing of returns agreements with transit countries;
- Enhancing security measures, including biometric verification, real-time intelligence sharing, and pre-entry vetting, in collaboration with INTERPOL and other security agencies; and
- Reforming the refugee appeals process by merging the Refugee Appeals Authority with the Standing Committee for Refugee Affairs into a single tribunal for more efficient adjudication.

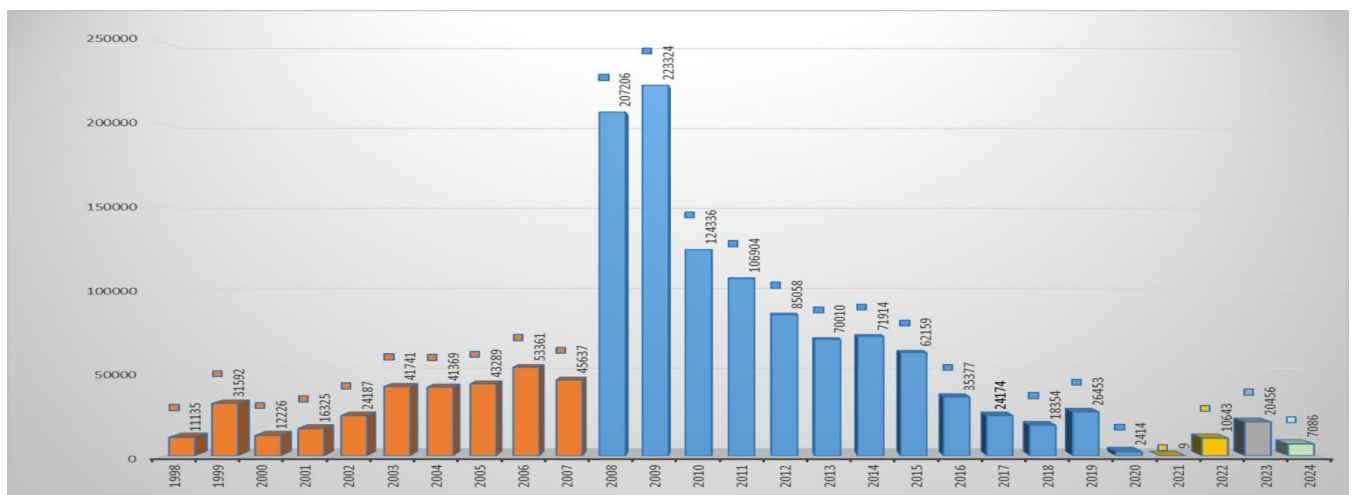
The decision to retain South Africa’s obligations under the 1951 Refugee Convention while adopting the first safe country principle and route-based approach provides a balanced way forward that upholds international legal commitments while addressing national security and socio-economic concerns. Rather than withdrawing from these frameworks, the DHA will pursue legislative and administrative reforms to improve refugee management, streamline asylum procedures, and prevent the abuse of the asylum system. By modernising its refugee policies within the legal framework, South Africa reaffirms its commitment to humanitarian protection, constitutional integrity, and effective migration governance.

3.4.2 Scene setting and context

South Africa has long been a key destination for asylum seekers and refugees fleeing persecution, conflict, and humanitarian crises. However, the current asylum framework faces significant challenges, including irregular migration, fraudulent asylum claims, administrative inefficiencies, and security concerns. Asylum seekers and economic migrants come from almost all the regions of the world, including asylum seekers from countries that are politically stable. In many cases, the asylum seeker regime is abused by economic migrants resulting in over 90% of the claims for asylum being rejected. With these high demands being placed on the asylum seeker and refugee regime, the country’s ability to provide protection services to migrants in need of protection is compromised.

Graph 1 shows that the asylum system has been under pressure over a very long period. Despite the numbers having dropped in the last few years, the number of abandoned applications and appeal cases (including an appeals backlog) have remained high.

Graph 1: Trends in Asylum Seeker Applications since 1998



This section presents structured policy proposals to address these challenges. The proposed policy reforms aim to:

- Strengthen border management and entry requirements for asylum seekers;
- Implement a structured asylum determination process that is fair, efficient, and transparent;
- Enhance national security through improved screening mechanisms, real-time intelligence sharing, and biometric verification; and
- Establish clear pathways for integration for genuine refugees through structured naturalisation and economic self-sufficiency criteria.

3.4.3 Entry Requirements

In line with the Ashebo judgement, asylum seekers must show good cause for their unlawful entry or presence in the country. In accordance with Article 1(f) of the 1951 Convention, the Minister of Home Affairs may refuse entry to asylum seekers deemed high-risk individuals based on security concerns or prior violations of immigration laws.

3.4.4 First Safe Country Principle

Asylum seekers who have already been granted refugee status in another country may not be eligible to apply for asylum in South Africa. Additionally, asylum seekers who have transited through countries considered safe and compliant with the 1951 Convention may not be eligible to apply for asylum in South Africa. This policy ensures that asylum claims are made in the first safe country refugees arrive in, preventing secondary movements. By enforcing this principle, South Africa aligns its asylum policies with international best practices and reduces strain on the domestic asylum system. However, the success of this proposal depends on South Africa having entered bilateral agreements on refugee matters with the countries in which the asylum seeker would have sojourned. This proposal may be implemented through returns agreements with transit countries.

3.4.5 Digital Transformation of the Asylum and Appeals processes

All initial asylum applications must now be processed at designated ports of entry, including virtually, preventing undocumented asylum seekers from entering South Africa and applying inland. This measure will enhance border security, improve immigration control, and ensure better tracking of asylum applicants. South Africa can process claims efficiently by centralising asylum processing at designated refugee reception offices, reducing backlogs and administrative bottlenecks. Digital and virtual asylum applications and adjudication built on machine learning, similar to the technology used for ETA, will enable meaningful improvements.

3.4.6 Streamlining of Refugee Appeals and Review Processes

The Standing Committee for Refugee Affairs (SCRA) and the Refugee Appeals Authority of South Africa (RAASA) will form part of the Home Affairs Administrative Review/Appeals Authority. This restructuring aims to:

- Improve efficiency in handling asylum and refugee status appeals;
- Reduce delays in refugee status determination; and
- Ensure better oversight and uniform decision-making in refugee status appeals.

By consolidating these administrative bodies, the DHA will enhance decision-making capacity, reduce bureaucratic delays, and ensure genuine refugees receive timely protection while ensuring the non-qualifying applications are swiftly rejected.

3.4.7 Granting asylum and refugee status

A person applying for asylum is expected to report to the refugee reception office within five days to apply for asylum. Upon application, the applicant is issued a Section 22 refugee visa, which has blanket conditions for working, conducting business, and study. This has become an attractive route to opportunistic applicants. To reduce the abuse of this visa while still ensuring protection to deserving applicants, DHA will issue a Section 22 visa in line with the applicant's needs. For example, an asylum seeker who is seeking employment will be issued a Section 22 visa, which enables the applicant to work and not do business and study. Section 22 conditions will be subjected to compliance with relevant legislation that regulate business, work and study visas, where applicable. The relevant government departments will designate trade, occupation and professions reserved for South Africans to give effect to section 22 of the Constitution. The designation by the relevant departments must give due consideration to the right of asylum seekers to seek employment in order to earn a living and uphold their dignity. Successful asylum applicants will continue to qualify for a Section 24 refugee permit currently provided for in the Refugee Act.

3.4.8 Stricter Permanent Residency requirements for refugees

The DHA shall implement a refugee naturalisation framework to establish a structured pathway for refugee integration and ensure that only well-integrated individuals transition to permanent residency and citizenship. The eligibility for permanent residency shall be determined in line with the new philosophy of granting permanent residency; that is, the PBS.

Table 5 below outlines the key policy issues and their corresponding policy proposals, ensuring that South Africa's asylum and refugee management system remains fair, secure, and aligned with international best practices.

Table 5: Refugee Protection Policy Proposals

Policy Issue	Refugee Protection Policy Proposals
First Safe Country Principle	DHA will implement the First Safe Country Principle, which states that asylum seekers who have been granted refugee status or lawful protection in another country, or who pass through safe third countries to reach South Africa, are ineligible for asylum in South Africa.
Digital Transformation of the Asylum and Appeals processes	All initial asylum applications must now be processed at designated ports of entry, including virtually, preventing undocumented asylum seekers from entering South Africa and applying inland.
Streamlining of Refugee Appeals and Review Processes	The Standing Committee for Refugee Affairs (SCRA) and the Refugee Appeals Authority of South Africa (RAASA) will form part of the Home Affairs Administrative Review/Appeals Authority
Granting asylum and refugee status	DHA will issue a Section 22 visa in line with the applicant's needs. Section 22 conditions will be subject to compliance with relevant legislation that regulate business, work and study visas, where applicable.
Permanent Residency for refugees	The DHA shall implement a refugee naturalisation framework to establish a structured pathway for refugee integration and ensure that only well-integrated individuals transition to permanent residency and citizenship.

CONCLUSION

This Revised White Paper presents a structured, balanced, and legally-sound approach to modernising South Africa's citizenship and migration governance system. It seeks to enhance national security, economic development, and social stability, while ensuring the country meets its constitutional and international obligations.

The process of drafting the Revised White Paper involved development of the following reports:

- **Gap Analysis Report of the White Paper on CIRP:** This report analyses available literature to determine key policy propositions and reservations that must be considered in the Amended White paper and Country Position paper;
- **International Best Practice Report:** This is desktop research on international best practices in relation to policy recommendations covered in the White Paper. The objective of the international benchmark report was to outline best practices in relation to citizenship, civil registration, immigration and refugee protection in developed and developing countries that have comparable socio-political, geo-political and constitutional frameworks as South Africa;
- **Legal Research Report:** The legal research focused on the implications of the 2024 White Paper. It included an objective assessment of the feasibility for entering reservations on relevant international conventions and protocols, as well as the constitutionality of other the policy proposals in the White Paper on CIRP; and
- **Country Position Paper** on the intention to enter reservations to the United Nation's 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. This report examined the feasibility of entering reservations and at the role of other organs of State in such a process.

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