

How to do business in South Africa

Legal considerations

South African business and legal systems are similar to those in the UK. Labour law is governed by many acts that provide a structure for businesses to operate in. You will need to be familiar with some labour acts before trading in South Africa. See: <http://www.labour.gov.za/DOL/legislation>.

It is therefore strongly recommended that UK companies entering into agreements in South Africa undertake legal advice. Contact the DIT team in South Africa at: <https://www.gov.uk/world/organisations/department-for-international-trade-south-africa#contact-us> to help find tax and legal advisers before entering into agreements.

Law on marketing and selling in South Africa

If you are selling to consumers you must comply with South Africa's consumer protection requirements.

There are various pieces of legislation in place to protect consumers. Refer to the South African National Consumer Commission (NCC), the chief regulator of consumer-business legislation at: <http://www.thencc.gov.za/> for further details about consumer rights in South Africa, and their right to fair and responsible marketing.

Standards and technical regulations in South Africa

Suppliers and manufacturers have an obligation to make sure products are safe. Products must meet relevant safety standards, have clear instructions for proper use and include warnings against possible misuse.

The South African Bureau of Standards (SABS) at: <http://www.sabs.co.za> is the lead government agency responsible for standards.

Other regulatory bodies include:

- Council for Scientific and Industrial Research (CSIR): <http://www.csir.co.za>
- Engineering Council of South Africa (ECSA): <https://www.ecsa.co.za/default.aspx>
- National Department for Agriculture, Forestry and Fisheries: www.daff.gov.za/daffweb3
- Department of Health: <http://www.health.gov.za>

- Southern African Development Community Cooperation in Standardization (SADC Stan): <http://www.sadc.int/>

You should consider taking out product liability insurance if you manufacture or supply a physical product that is sold or given away for free. See: <https://www.abi.org.uk/products-and-issues/choosing-the-right-insurance/business-insurance/liability-insurance/product-liability-insurance/>.

Labelling and packaging your products for South Africa

South Africa has a well-developed regulatory standards regime that oversees labelling requirements.

SABS oversees labelling (<http://www.sabs.co.za/>) for the following categories, including details of mandatory and voluntary markings:

- chemical
- electro-technical
- food and health
- mechanical and materials
- mining and minerals
- services
- transportation

Your goods should be appropriately packed for South Africa. Packages may receive heavy handling and be left in the open air for longer than anticipated, so you must take into account South Africa's climate.

Tax considerations

If a company is incorporated in or managed from South Africa, it is considered to be South African for tax purposes. The question of residency needs to be addressed to avoid double taxation.

In South Africa, the central government levies most direct and indirect taxes. The tax regime is set by the National Treasury (<http://www.treasury.gov.za/>) and managed by the South African Revenue Services (SARS)

(<http://www.sars.gov.za/Pages/default.aspx>). SARS collects revenue, ensures compliance with tax laws and regulates and controls customs.

The South African provincial governments and local authorities also have limited taxing rights.

See: <https://www.brandsouthafrica.com/governance/government/govprov#.UyHcqK7Lf bQ>.

Contact the UK DIT team in South Africa at: <https://www.gov.uk/world/organisations/department-for-international-trade-south-africa#contact-us> to help find tax advisers before entering into agreements in South Africa.

Double taxation agreement

The UK and South Africa have signed a double taxation agreement ensuring the same income is not taxed in more than one country. See: www.gov.uk/government/publications/south-africa-tax-treaties.

Value Added Tax (VAT) in South Africa

The standard rate for VAT in South Africa is 14%. Certain products are exempt e.g. education services and some basic food products. Value Added Tax is the principal source of indirect taxation revenue in South Africa. It is based on the same principles as in the UK, and there are certain exemptions for VAT.

A vendor must register for VAT if the taxable supplies for a 12 month period have exceeded, (or are forecast to exceed) ZAR 1 million per annum. A vendor may also voluntarily register for VAT if the threshold of ZAR 50,000 has been exceeded in a 12 month period.

If you are registered for Value Added Tax (VAT) you can zero-rate the VAT on most goods you export to South Africa. You will need to get evidence of the export within three months from the time of sale.

Find more information on VAT in non-EU markets and zero rating conditions at: <https://www.gov.uk/guidance/vat-exports-dispatches-and-supplying-goods-abroad>.

Other taxes include:

- stamp duty
- transfer duty
- capital gains tax

- skills development levy

Contact SARS for further information on taxation in South Africa:
<http://www.sars.gov.za/Pages/default.aspx>.

Customs and documentation in South Africa

Import restrictions in South Africa

The importation of the following goods into South Africa is prohibited:

- fully automatic, military weapons, explosives and fireworks
- narcotics and habit-forming drugs
- poisons and other toxic substances
- cigarettes with a mass of more than 2kg per 1,000
- counterfeit goods

Each year, the South African Department of Trade and Industry (DTI) publishes a full list of prohibited goods and goods requiring import permits through the International Trade Administration Commission of South Africa (ITAC). See: <http://www.itac.org.za/pages/services/import-control>.

The South African Revenue Service (SARS), a division of the South African Department of Finance/Treasury, administers import duties and controls in consultation with DTI. See: <http://www.sars.gov.za/Pages/default.aspx>.

Complying with HMRC regulations to export to South Africa

You must make export declarations to HMRC through the National Export System (NES) to export your goods to South Africa. See: <https://www.gov.uk/guidance/export-declarations-and-the-national-export-system-export-procedures>.

Find out how to declare your exports to South Africa through the NES, at: <https://www.gov.uk/guidance/export-declarations-and-the-national-export-system-export-procedures>.

You must classify your goods as part of the declaration, including a commodity code and a Customs Procedure Code (CPC). You can find commodity codes and other measures applying to exports in the UK Trade Tariff at: <https://www.gov.uk/trade-tariff>.

Contact the HMRC Tariff Classification Service for more help, at: <https://www.gov.uk/government/publications/notice-600-classifying-your-imports-or-exports/notice-600-classifying-your-imports-or-exports#list-of-useful-contacts>.

You must declare any goods that you take with you in your baggage to sell outside the EU, at: <https://www.gov.uk/take-goods-sell-abroad>.

Temporary export of goods to South Africa

You can use an ATA (Admission Temporaire/Temporary Admission) Carnet to simplify the customs procedures needed to temporarily take goods into South Africa. See: <https://www.gov.uk/taking-goods-out-uk-temporarily>.

You need an export licence to temporarily take dual use goods to South Africa.

Use the SPIRE system to apply for a temporary export licence. See: <https://www.spire.trade.gov.uk/spire/fox/espire/LOGIN/login>.

Customs in South Africa

South Africa applies Most Favoured Nation (MFN) rates to imports, as well as preferential rates applied to products originating from trade partners with which it has negotiated trade agreements. South Africa has an Economic Partnership Agreement (EPA) with the European Union.

The Southern African Customs Union (SACU) (www.sacu.int) comprises South Africa, Botswana, Lesotho, Swaziland and Namibia. South African Tariff rates are therefore administered as part of SACU. See: <http://www.sars.gov.za/ClientSegments/Customs-Excise/Pages/Tariff.aspx>.

South Africa has a complex import process. SARS defines approximately 90,000 product tariff codes (<http://www.sars.gov.za/ClientSegments/Customs-Excise/Pages/Tariff.aspx>) that are strictly enforced on all imports. You are therefore encouraged to use a reputable customs clearance agent familiar with South African conventions.

You can contact the DIT team in South Africa at: <https://www.gov.uk/world/organisations/department-for-international-trade-south-africa#contact-us> for a list of recommended agents.

Import licences are required for restricted items. You must have an import permit before the date of shipment. If you do not, you may have to pay a penalty.

You can find more general information about import tariffs in the EU's Market Access Database at: <http://madb.europa.eu/madb/indexPubli.htm>.

[Source – DIT/ gov.uk]

It is usually the South African importer that must secure an import permit (where this is required) not the foreign supplier. However, the supplier should check whether or not a permit is required, and request a copy of it prior to the shipment of any goods. As most of the Incoterms commonly in use relieve the supplier of any responsibility for the goods following their departure from the exporting country, any non-compliance penalties in South Africa would be for the importer's account.

[Source – ITRISA]

Documentation in South Africa

SARS uses a Single Administrative Document (SAD) to allow clearance of goods. The SAD is a multi-purpose declaration form covering imports, exports, cross border and transit movements.

However, SARS is currently undertaking a large customs modernisation programme, so you should contact them for the latest details on customs documentation and procedures, at:
<http://www.sars.gov.za/ClientSegments/Customs-Excise/Pages/default.aspx>.

[Source – DIT/ gov.uk]

Excise duty in South Africa

Excise duties would also only be payable by the importer on importation, i.e. they would not normally be the responsibility of the exporter (unless the exporter is also the entity responsible for clearing the goods into South Africa).

[Source – ITRISA]

Shipping your goods to South Africa

If you are not knowledgeable about international shipping procedures you can use a freight forwarder to move your goods. A forwarder will have extensive knowledge of documentation requirements, regulations, transportation costs and banking practices in South Africa.

You can find freight forwarding companies to help you transport your goods to South Africa via the British International Freight Association (BIFA) at: <http://www.bifa.org/home>, or the Freight Transport Association (FTA) at: <http://www.fta.co.uk/>.

Posting goods to South Africa

It is inadvisable to send anything by post to South Africa as the postal system there is extremely unreliable. South African businesses do not use the postal system. Invoices,

statements, and all communication is transmitted electronically. Small parcels are sent by courier.

[Source – ITRISA]

Shipping dangerous goods to South Africa

Special rules apply if you are shipping dangerous goods to South Africa. See: <https://www.gov.uk/shipping-dangerous-goods/what-are-dangerous-goods>.

Terms of delivery to South Africa

Your contract should include agreement on terms of delivery using Incoterms. See: <https://www.gov.uk/guidance/international-trade-paperwork-the-basics#international-trade-contracts-and-incoterms>.

UK Export Finance

The government can provide finance or credit insurance specifically to support UK exports through UK Export Finance (UKEF) – the UK's export credit agency. See: <https://www.gov.uk/government/organisations/uk-export-finance>.

For up-to-date country-specific information on the support available see UKEF's cover policy and indicators for South Africa at: <https://www.gov.uk/guidance/country-cover-policy-and-indicators#south-africa>.

[Source – DIT/UKEF/gov.uk]

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Case Study (from a UK based company with proven success in South Africa)



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Contact IMA
International Market Advisor
IMA House
41A Spring Gardens
Buxton
Derbyshire
SK17 6BJ
United Kingdom
Email: info@ima.uk.com
General enquiries switchboard: +44 (0) 1298 79562
Website: www.DoingBusinessGuide.co.uk