

What are the challenges?

Challenges when doing business in South Africa

Although South Africa is a well-developed and promising market, there are some challenges when doing business there. These include:

- high unemployment
- poverty and inequality
- skills and capacity shortages
- infrastructure improvements needed for energy, transport and water
- high crime rate
- Broad-Based Black Economic Empowerment (B-BBEE) legislation (http://www.dti.gov.za/economic_empowerment/bee.jsp)

To mitigate these challenges, you are advised to appoint and work with competent local partners and seek the assistance of experienced commercial lawyers.

You should also ensure you take the necessary steps to comply with the requirements of the UK Bribery Act (<https://www.gov.uk/government/publications/bribery-act-2010-guidance>).

Read the Foreign and Commonwealth Office (FCO) Overseas Business Risk report for South Africa, at: <https://www.gov.uk/government/publications/overseas-business-risk-south-africa/overseas-business-risk-south-africa>.

[Source – DIT/FCO/gov.uk]

Protecting your intellectual property (IP) in South Africa

The UK Intellectual Property Office (IPO) has information on the different types of IP rights and what they protect. However, IP rights are protected differently in different countries. It is important to get the right advice on IP strategy and the different ways you can protect your IP.

In 2008, South Africa enacted the IPR Intellectual Property Right for Publicly Financed Research and Development Act. The law clarifies obligations related to the ownership of intellectual property rights in the country and applies to aesthetic and functional

designs, marks related to patentable inventions and copyright. For further information see the South African Department of Trade and Industry (DTI) site at: <http://www.dti.gov.za/default.jsp>.

There are four 'Acts' in South Africa that govern the country's Intellectual Property Laws. Generally, the most widely applied IP law is that of copyright. The other three are for patents, trademarks and registered designs.

If you are seeking to register your IP, or if your IP is infringed in South Africa, you should seek advice from local IP lawyers to guide you through the processes. Read the Intellectual Property Office's (IPO) guide to managing and protecting your IP in South Africa at: <https://www.gov.uk/government/publications/intellectual-property-rights-in-south-africa>.

[Source – DIT/ gov.uk]

Corruption

Corruption is a barrier to business in South Africa, which investors should be aware of. South Africa was ranked 64th out of 176 in Transparency International's Corruption Perceptions Index 2016. See: http://www.transparency.org/news/feature/corruption_perceptions_index_2016.

In a report released by a leading South African legal firm, the country has made some inroads in addressing loopholes. However, there has been an upsurge of bribery incidents. This could be attributed to an increase in general awareness among organisations, with over 90% having a policy prohibiting bribery and 52% having an anti-bribery compliance programme in place.

You can refer to the Bribery Act 2010 at: <https://www.gov.uk/government/publications/bribery-act-2010-guidance> for guidance on UK bribery standards.

Visit the FCO's Overseas Business Risk pages at: <https://www.gov.uk/government/publications/overseas-business-risk-south-africa/overseas-business-risk-south-africa>, and the Business Anti-Corruption portal page at: <http://www.business-anti-corruption.com/country-profiles/south-africa>, providing advice and guidance about corruption in South Africa.

Payment risks in South Africa

UKEF helps UK companies get paid by insuring against buyer default.

You may have difficulty accessing foreign exchange. Be confident you will get paid for your export contract. Speak to one of UKEF's export finance advisers at: <https://www.gov.uk/government/publications/find-an-export-finance-manager> for free and impartial advice on your insurance options, or contact one of UKEF's approved export insurance brokers at: <https://www.gov.uk/government/publications/uk-export-finance-insurance-list-of-approved-brokers/export-insurance-approved-brokers>.

Currency risks when exporting to South Africa

If you have not fixed your exchange rate you have not fixed your price.

You should consider whether the best option for you is to agree terms in Sterling or South African Rand in any contract. You should also consider getting expert financial advice on exchange rates (sometimes called FX).

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



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