

GMS Flash Alert

Immigration Edition

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South Africa – Trusted Employer Scheme Could Attract Much-Needed Talent

The Trusted Employer Scheme was initially proposed in the 2017 White Paper on International Migration in South Africa as an innovative way of enforcing immigration law and as a government initiative to overhaul the South African immigration process to make South Africa an investment destination. Fast forward to 2023, South Africa's President Cyril Ramaphosa discussed plans for a renovation of the work visa system.¹

Among the measures proposed is the introduction of a Trusted Employer Scheme (TES), which will allow qualifying companies to provide flexible pathways for skilled applicants and their employers to obtain work visas quickly and efficiently, in line with global best practices.

WHY THIS MATTERS

The Trusted Employer Scheme is being implemented to allow employers to be vetted and approved in advance to reduce the administrative burden for each visa application. The objective of the scheme is that a pathway would be created to employ skilled foreign labour more efficiently where there have been challenges from a visa process perspective, especially with regards to the unpredictability of outcomes, document requirements, and processing times.

The primary aim of the TES is to help ensure that the risk and administrative burden are shared between government and employers. For companies wishing to employ foreign nationals, the most significant incentive is a simplified route for employing a determined number of foreign nationals with specific skills, with reduced requirements for each visa application.

Under this system, compliance obligations are primarily placed on the employer, rather than the government, with corresponding sanctions for non-compliance.

Qualifying Criteria

To qualify for this programme an employer or business must demonstrate:

- its financial capacity to employ a foreign national;
- its commitment to training programmes for South African citizens; and
- its status as a responsible corporate citizen.

Private-sector employers that participate in the programme can benefit from priority processing of their visa applications thanks to reduced requirements and supporting documents.

The selection criteria will be a points-based system and qualifying businesses and corporations will be required to meet the below criteria:

- The first requirement is to make an investment, either by investing in South Africa or pledging to do so.
- In the government's communication regarding TES, it notes ZAR 500 million as an example of the defined threshold of investment. This will earn the company **20 points**. This pledge is to be made at the Annual South African Investment Conference (SAIC).
- To qualify, a business must have at least 500 employees, 60 percent of whom must be South African, which will result in **25 points**.
- Additionally, the sector in which the company is registered will be considered. Certain sectors according to the Department of Trade Industry Competition (DTIC) are considered of national priority or strategic importance, such as the energy sector. If the company falls within one of these sectors, it will receive an additional **15 points**.
- Demonstration of skills transfer and evidence of how the company adheres to skills transfer requirements. The business must show proof of an existing Skills Transfer Programme or Graduate Development Programme, earning **10 points**.
- Enterprise size would be based on the total number of full-time-equivalent paid employees and the total annual revenue. The minimum annual turnover is sector-specific, however, the minimum number of local employees is 500. This offers up to **30 points**.

Impact of the Trusted Employer Scheme

- All visa applications for TES employers will be processed through the Premium Visa Application Centres and One Stop Shop Premium Lounges. This will save time and alleviate the challenges associated with the visa application process.
- TES employers will enjoy reduced visa requirements, reducing the administrative burden on the employer.
- Each TES employer will have a dedicated Key Account Manager at the Department of Home Affairs.

- The scheme helps ensure that work visa outcomes will be obtained much quicker, enhancing efficiency and reducing processing times.

Non-compliance with the Scheme

Companies found to have transgressed the rules through an Immigration Inspectorate Audit will be strictly penalised. The Directors of the company may be fined and the company will be expelled from the Scheme; the company may be disallowed from bringing foreign workers into South Africa for up to three years.

Application Process

- Once the Trusted Employer Scheme is launched, all businesses will have a 30-day window to apply from the date of the launch.
- Only 100 businesses will be accepted initially, and the scheme will be reviewed over a period of 100 days.
- After this initial period, more businesses will be able to register.
- An internal panel will review the application and the decision will be received within 60 days.
- If the application is approved, the organisation will be recognised as a trusted corporate employer. There is no appeal process should the application be denied.

KPMG INSIGHTS

With the ongoing work visa challenges facing South African companies to bring in skilled workers and the ailing economy, the Trusted Employer Scheme (TES) is a welcomed initiative. The South African government can equally gain through large investments in capital, but also attract skilled workers who could help drive the economic growth of the country and alleviate the high unemployment rate through job creation. The challenge will be to address efficiencies around processes required for those businesses which will not qualify for the TES.

The proposed selection criteria of the TES has not yet been finalised by the Department of Home Affairs, as consulting with the various business stakeholders on the implementation of the scheme is still at the infancy phase.

It is also important to note that the TES will not be a replacement of the South African Immigration Act and Regulations. Employers will have to make sure they follow the Immigration Act and Regulations when employing any foreign nationals in South Africa.

Given this potential for a new path for entry into South Africa for work purposes, and the change in procedures and policies for certain skilled employees and their employers seeking applicable work visas, mobile employees and/or their employers that require clarification and guidance should contact their qualified immigration adviser or a member of the KPMG Immigration team with KPMG in South Africa (see the Contacts section).

FOOTNOTE:

1 See "President Cyril Ramaphosa: Opening of 5th South Africa Investment Conference" (13 April 20123) at: <https://www.gov.za/speeches/president-cyril-ramaphosa-5th-south-africa-investment-conference%C2%A013-apr-2023-0000> . Also, see Georgina Maree, Spokesperson for the Provincial Minister of Finance and Economic Opportunities (13 April 2023) at: <https://www.westerncape.gov.za/news/visa-reforms-welcomed-follow-through-urgently-required> .

Contact us

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