

DRAFT REVISED WHITE PAPER ON CITIZENSHIP, IMMIGRATION AND REFUGEE PROTECTION

JANUARY 2026

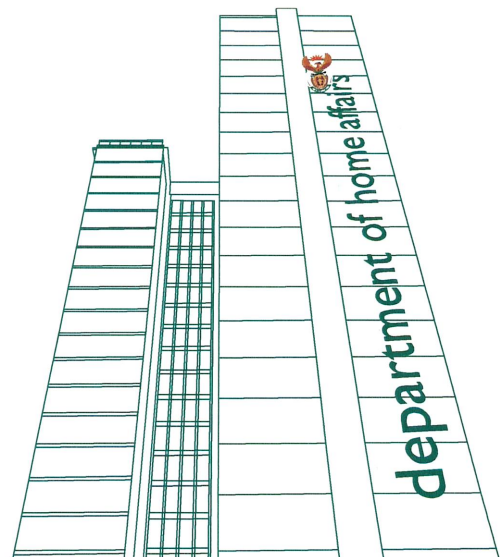


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Purpose of the Presentation

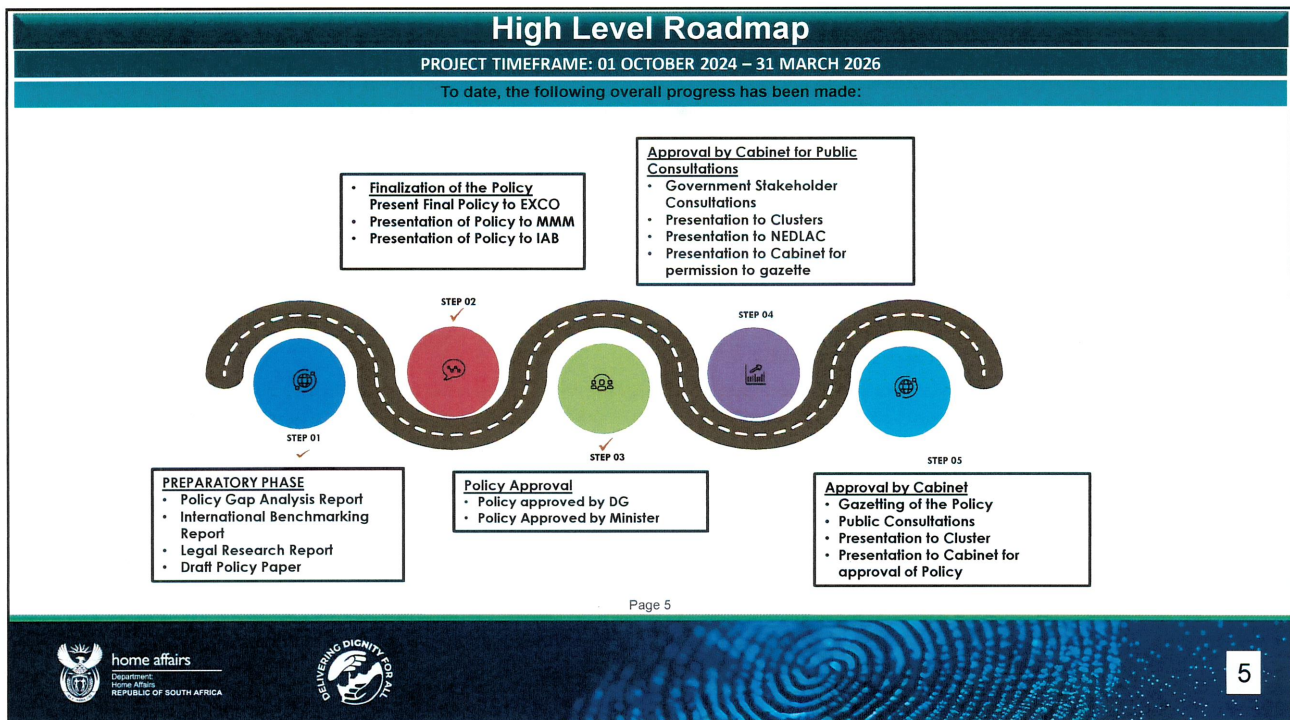
The purpose of this presentation is to:

- provide an overview of the Draft Revised White Paper on Citizenship, Immigration and Refugee Protection (CIRP); and
- Invite comments from stakeholders on the draft Revised White Paper on CIRP.

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BACKGROUND

- In April 2024, Cabinet approved the White Paper on Citizenship, Immigration, and Refugee Protection (CIRP): Towards a complete overhaul of the migration system in South Africa. The White Paper introduced substantial policy and legal reforms that were aimed at addressing existing gaps in the current, fragmented legislation that regulate citizenship, civil registration, immigration and refugee protection. However, due to the complex and contentious nature of some policy reforms contained in the White Paper, Cabinet directed that a legal opinion must be sought prior to the implementation of the new policy. The new priorities of the Government of National Unity (GNU) also necessitated additions to the White Paper, including to incorporate the work of Operation Vulindlela and the digital transformation agenda.
- Additionally, while the overall reform thrust of the White Paper was broadly supported and is retained in this draft revised version, several international organisations and local public interest groups did raise concerns about selected proposed reforms, such as possible withdrawal from the 1951 Convention relating to the status of Refugees, the 1967 UN Protocol relating to the status of Refugees. The DHA subsequently engaged with the DIRCO given that some of the proposals involve international instruments that impact upon South Africa's diplomatic standing in a world where multilateralism is increasingly under threat, and DIRCO confirmed that it does not support withdrawal from the 1951 Convention.
- This Draft Revised White Paper on Citizenship, Immigration and Refugee Protection ("Draft Draft Revised White Paper") therefore updates certain policy propositions of the 2024 White Paper on CIRP. Even more importantly, it adds the necessary detail regarding certain proposals contained in the original version.
- 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.



RIGHTS ENJOYED BY CITIZENS AND NON-CITIZENS

The following rights are already enshrined in the legislation and set conditions for regulating citizenship, civil registration, international migration and refugee protection.

Rights enjoyed by citizens and non-citizens that derive from the Constitution based on citizenship, everyone and court judgements								
Right	Citizen		Non-citizen					
	Citizen	Dual Citizenship Holder	Permanent Resident	Asylum Seeker	Refugee	Illegal Foreigner / Non-citizen	Child of illegal Non-Citizen	18+ born of Non-citizen
Employment	✓	✓	✓	✓	✓	✗	-	✓
Establish business	✓	✓	✓	✓	✓	✗	-	✓
Basic primary education	✓	✓	✓	✓	✓	✓	✓	-
Social grants	✓	✓	✓	✓	✓	✓	✓	✓
Basic Health care services	✓	✓	✓	✓	✓	✓	✓	✓
Birth Registration	✓	✓	✓	✓	✓	✓	✓	✓
ID	✓	✓	✓	✗	✓	✗	✗	✓
Passport	✓	✓	✗	✗	✗	✗	✗	✓
(SA citizens) Travel document	✗	✗	✓	✓	✓	✗	✓	✓
(Non SA citizens) Human dignity	✓	✓	✓	✓	✓	✓	✓	✓
Non-discrimination	✓	✓	✓	✓	✓	✓	✓	✓
Equality before the law	✓	✓	✓	✓	✓	✓	✓	✓

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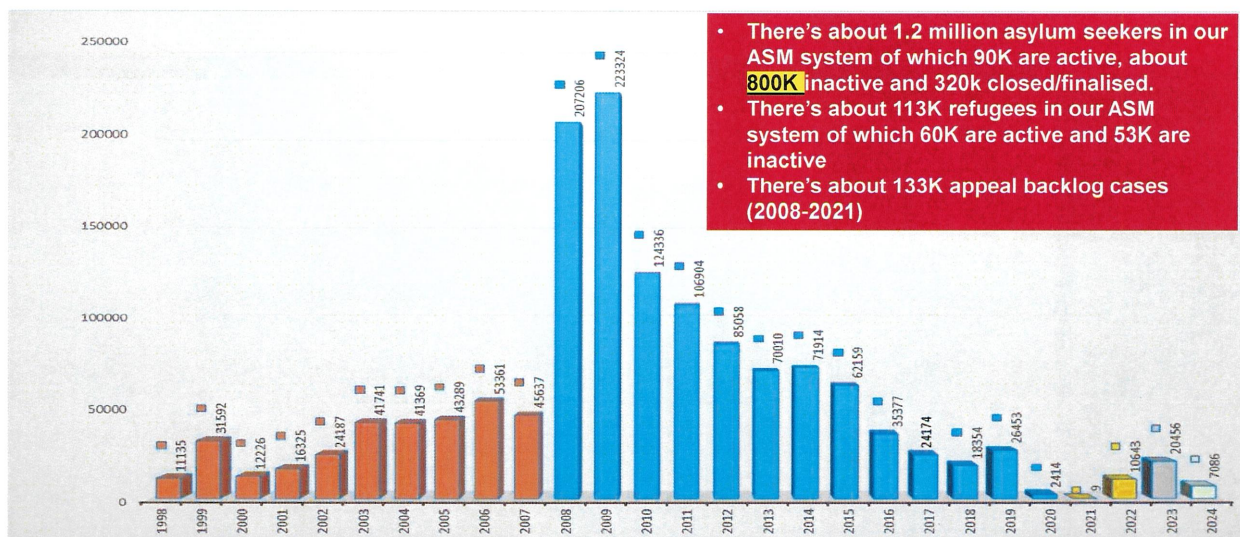
CASE LAW ON THE RIGHTS OF FOREIGN NATIONALS

Name of Judgement	Decision/ Judgement
Watchenuka V Minister of Home Affairs and Others (2003)	The Supreme Court of Appeal (SCA) ruled against the DHA on human dignity grounds; human dignity has no nationality. Therefore, no general prohibition of the right to work and study is allowed, particular where it is the only means of survival.
Khosa V Minister of Social Development (2004)	Court ordered that permanent residents qualify to apply for social grants.
Bula and Others V Minister of Home Affairs and Others (2011)	The SCA 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 (2014)	The High Court ruled against the Limpopo Department of Economic Development, Environment and Tourism (LEDET) and declared that asylum seekers and refugees are entitled to apply for new business or trading licences.
Ruta V Minister of Home Affairs and Others (2018)	The Constitutional Court (CC) set aside the decision of the SCA and declared that a person who is in the country illegally may not be deported if s/he declares an intention to apply for asylum.
Scalabrini Centre and Department of Social Development (2020)	An order was granted that asylum seekers and Special Permit Holders be eligible for the Covid-19 Social Relief Grant. Thus, all asylum seekers, refugees and holders of special dispensation permits, who were in SA when the State of Disaster was declared, qualify to apply for the Covid-19 Social Relief Grant.
Centre For Child Law v Director-General Dept of Home Affairs and Others (2021)	The CC declared section 10 of the Birth and Death Registration Act invalid to the extent that it does not allow unmarried fathers to give notice of the birth of their child in their surname, in the absence of the mother. Unmarried fathers can now register the birth of their children with the DHA.
Ashebo v Minister of Home Affairs and Others (2023)	The CC declared that the applicants may not be deported until they have had an opportunity of showing good cause for entering the country or residing in the country illegally.
Democratic Alliance V Minister of Home Affairs and Another CCT184/23 (2025)	The CC declared s6(1)(a) of the Citizenship Act 88 of 1995 unconstitutional and therefore invalid, and that those who lost their citizenship because of this section are deemed to have not lost it and are still citizens.



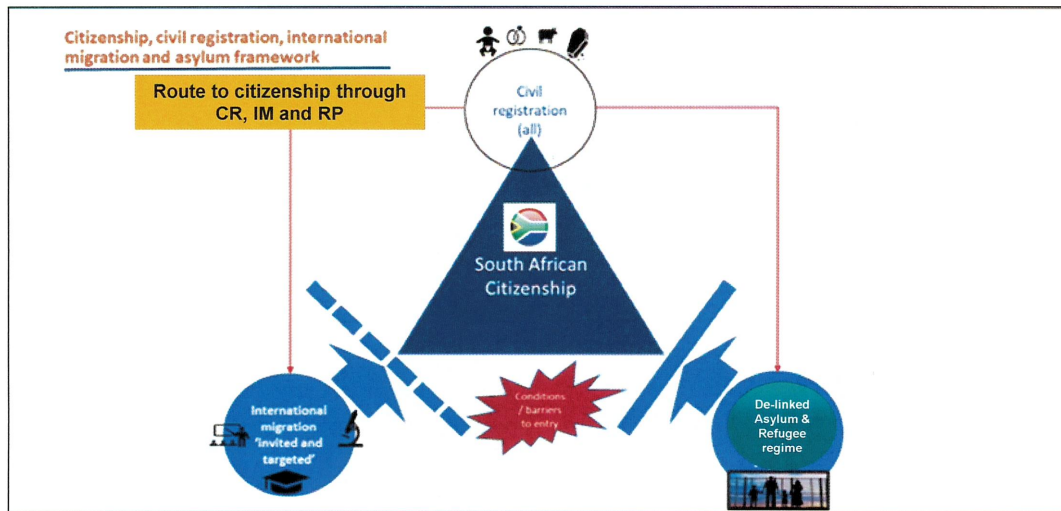
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Trends in Asylum Seeker Applications since 1998



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OVERARCHING POLICY PARADIGM SHIFT – ROUTES TO CITIZENSHIP



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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:

- Management of citizenship and immigration in the national interest.
- South Africa's immigration policy must contribute to nation building and social cohesion.
- 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.
- Positioning of South Africa's immigration policy within the African development agenda.
- Humane and secure Refugee Protection Regime that is consistent with the country's Constitution and international obligations.
- Whole of government and society approach in the management of citizenship, civil registration, immigration and refugee protection.

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CONTEXT

- 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.
- 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.
- 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.
- The current asylum framework faces significant challenges, including irregular migration, fraudulent asylum claims, administrative inefficiencies, and security concerns.

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KEY REFUGEE PROTECTION PROPOSALS

1. Conditional admission of asylum seekers to the country

- 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.

2. 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. *Tshwane, Durban, Dhebarha & Masiwa*

3. Relocation of RROs and virtual refugee reception procedures

- The refugee reception offices must be located at designated 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.

4. Granting asylum and refugee status

- DHA will issue a Section 22 visa in line with the applicant's needs as opposed to the current blanket approach of issuing a section 22 permit that allows an asylum seeker to work, study and trade. Section 22 conditions will be subject to compliance with relevant legislation and by-laws that regulate business, work and study visas, where applicable. *Restrict the industry where they can work*



CONTEXT

- 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.

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KEY CITIZENSHIP POLICY PROPOSALS

1. 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.

2. 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.

3. Granting of Citizenship Based on Statelessness (children)

- This provision caters 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. This will amend section 4(3) of the Citizenship Act which applies to all kids who were born in SA, and whose birth was legally registered.

4. Citizenship pathways for exceptional cases

- 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.

5. Establishment of the Citizenship Advisory Panel (CAP)

- 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.

6. 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. however, a naturalised citizen may lose citizenship without the option to restore it.

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MANAGEMENT OF CIVIL REGISTRATION: Key Population Registry and Civil Registration Policy Proposals

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CONTEXT

- Civil registration is critical to the foundation of any State. This entails not only recording birth, marriage and death for South African citizens, but to ensure the effective management of government services and immigration. It has to 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 the legal identity of individuals 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

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KEY CIVIL REGISTRATION POLICY PROPOSALS

1. Intelligent Population Register (IPR) and Digital ID

- The DHA intends to upgrade and invest in the National Population Register (NPR) to become an IPR that contains biometric data for every person in the country and to lay the foundation for Digital ID

2. Universal registration of birth

- The policy proposes that all births must be registered immediately after birth regardless of the status, age, sex and gender 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. However, birth registration does not automatically confer South African citizenship

3. Registration of birth by fathers in the absence of mothers

- The only scientifically verifiable means of 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 in the event that there is no circumstantial evidence that prove the existence of a paternal relationship.

4. Death registration and certification

- Death registration is the sole responsibility of the Department of Home Affairs and burial without death registration may be regarded as a concealment of death which is a criminal offence.
- Death certification is a scientific process that must be executed by health professionals who are trained to perform such a critical function.
- 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 law enforcement officer or health practitioner.

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MANAGEMENT OF IMMIGRATION: Key Immigration Policy Proposals

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CONTEXT

- 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 laws 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.
- Various visas and permits provide pathways to short and long-term residence, and citizenship. And, whilst South Africa continues to draw sizable numbers of foreign nationals through different 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.
- South Africa's current visa system therefore attracts far too few applications for the categories our country requires to drive economic growth, therefore requiring a review of the current 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.

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KEY IMMIGRATION PROPOSALS

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. However, work may be allowed if the employer is a foreigner while the person is in the country; this includes the newly introduced remote work visa, etc.

2. Investment visa policy reforms

- Start-up visa was introduced in 2024 through regulations - Currently, 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 stand-alone visa in the new legislation.
- 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-

- 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.
- 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 is invested in the country.

4. Introduction of a Points-Based System (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 PBS will remain fundamentally important to the success of the skilled worker and investment visas.

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KEY IMMIGRATION PROPOSALS, CONT...

5. Work visa policy reforms

- Introduction of a skilled worker visa. This visa will provide a legal employment-based pathway that spans across skill levels and that crosses the temporary-to-permanent divide. This will replace the current General work visa and the critical skills visa. 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.
- Intra-company visa will be retained, because it facilitates multinational companies' ability to move staff across borders in order to support operations.

6. Family-based visa policy reforms

- A relative's visa may only be issued to children, parents and spouses of PR holders and citizens. The new legislation will 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.

7. 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.

8. New Approach for granting of Permanent Residence

- 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. 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.

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KEY IMMIGRATION PROPOSALS, CONT...

9. Digitalisation of the immigration system and processes

- Digital Transformation of the Visa Application System through the Electronic Traveller Authorisation (ETA) system is underway. The DHA shall digitally transform the visa application process by implementing an automated online system to enhance efficiency, transparency, and security for all visa applications.

10. 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.

11. Re-introduction of administrative fines

- Re-Introduction of Administrative fines for overstayers - this will create a clear consequence for non-compliance without blocking future travel unnecessarily and importantly, it will generate income for the BMA while reducing the administrative burden.

12. Introduction of 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.

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Strategic Planning for 2026/29

Output:	Submission of the Revised White Paper on CIRP to Cabinet		
Output Indicator	Estimated Performance 2025/26	Annual Target 2026/27	Annual Target 2027/28
Revised White Paper on Citizenship, Immigration and Refugee Protection submitted to Cabinet for approval	Revised White Paper on Citizenship, Immigration and Refugee Protection submitted to Cabinet for approval	Citizenship, Immigration and Refugee Bill published for Public comments	Citizenship, Immigration and Refugee Bill submitted to Parliament

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**THANK YOU,
NGIYABONGA,
DANKIE, ENKOSI
NDO LIVHUWA,
KEA LEBOGA,
NDZI KHENSE NGOPFU**



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SUBMISSION OF COMMENTS

- The Draft Revised White Paper on CIRP, together with the questionnaire, can be downloaded from the DHA website (www.dha.gov.za). Written submissions may be forwarded to the DHA in any of the following manners:
 - a) delivered by hand to the Department of Home Affairs, 230 Johannes Ramokhoase Street, Hallmark Building, Pretoria, 0001, for **attention** of Mr Sihle Mthiyane or Ms Diketso Ratau;
 - b) mailed to the DHA at Private Bag X114, Pretoria, 0001; or
 - c) e-mailed to whitepaper@dha.gov.za.
- Any enquiries should be directed to **Mr Sihle Mthiyane** at (012) 406 4353/ 073 762 0575 or **Ms Diketso Ratau** at (012) 406 2712/ 082 825 8511.

Closing date for submission of public comments has been extended from 31 January 2026 to 15 February 2026.

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