

## DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

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**DEPARTMENT OF SMALL BUSINESS DEVELOPMENT  
NATIONAL BUSINESS LICENSING POLICY**

1. I, the Minister of Small Business Development, Ms. Stella Thembisa Ndabeni, hereby publish the National Business Licensing Policy as approved by Cabinet
2. The National Business Licensing Policy is published in the Government Gazette and can be accessed on the Department of Small Business Development's website at [www.dsbd.gov.za](http://www.dsbd.gov.za)

Stella Thembisa Ndabeni-Abrahams  


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**Ms. Stella Thembisa Ndabeni (MP)**  
**Minister of Small Business Development**  
**Date:** 09 June 2025



**small business  
development**

Department:  
Small Business Development  
**REPUBLIC OF SOUTH AFRICA**

## **NATIONAL BUSINESS LICENSING POLICY (NBLP)**

***‘Towards a Cohesive Approach to Business Licensing’***

**Approved by Cabinet on 28 May 2025**

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**Acronyms**

B-BBEE	Broad-based Black Economic Empowerment
DTI	Department of Trade and Industry
DTIC	Department of Trade, Industry and Competition
DSBD	Department of Small Business Development
DEMP	Digital Economy Mission Plan
LED	Local Economic Development
MSME	Micro, Small and Medium Enterprises
MSA	Municipal Systems Act
NDP	National Development Plan
NISED	National Integrated Small Enterprise Development
NLBP	National Business Licensing Policy
NPDF	National Policy Development Framework
PAP	Policy Action Plan
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act
SBDC	Small Business Development Corporation
SPLUMA	Spatial Planning and Land Use Management Act
UN	United Nations
WTO	World Trade Organisation

## EXECUTIVE SUMMARY

South Africa's current business licensing framework emerged from discriminatory practices that limited enterprise along racial lines. Restrictions in respect of land ownership, access to city centres and the granting of business licenses were a central feature of the policy framework for entrepreneurial activity in the period before the country's democratic dispensation, resulting in long-term negative impacts on the country's trading landscape.

The first phase of removing barriers to business licensing was pursued through the Business Act No. 71 of 1991 (the Business Act), which repealed 18 national Acts of Parliament and amended and/or repealed provincial ordinances of the Cape of Good Hope, Natal, the Orange Free State and the Transvaal administrations. The Act decentralised licensing power, with the local authority designated as the principal actor in the granting of the general business license. Guided by the 1991 Act, which remains in place, municipalities have developed and implemented their jurisdictions' business licensing policies and procedures. These cover the sale, supply and hawking of perishable foodstuffs and meals, the provision of entertainment and selected health facilities, and accommodation services.

In practice, the implementation of the business licensing function has been uneven, with effective implementation in place in better-resourced municipalities and metropolitan authorities, while most under-resourced municipalities have ineffective systems and procedures. As such, notwithstanding the improvements brought about by the Business Act, a coherent licensing regime has been lacking.

Since its first enactment, the Business Act has been successfully amended once, in 1993, mainly to provide for the power of the Minister to amend Schedule 2, which identifies the categories of businesses that require the general business license, as well as provides powers for licensing authorities to impound goods and equipment where appropriate. A more comprehensive review process initiated in 2010 was not brought to finality after the gazetting of the *Licensing of Businesses Bill* by the Trade and Industry Ministry in March 2013. Consequently, the legislative framework governing business licensing has not kept up with various key developments in the context such as the introduction of the Constitutional order through the Constitution of

South Africa Act No. 108 of 1996, the re-organisation of local governance through the Municipal Systems Act No. 32 of 2000 and evolving developments in the country's socio-economic realities.

The National Business Licensing Policy (NBLP) represents a second phase of instituting a responsive and updated business licensing framework relative to the current and envisaged future contexts. It actively promotes streamlining and common approaches in the granting of general business licenses and seeks to minimise undue burdens in the licensing process. It draws from Schedules 4 and 5 of the Constitution which designate trade and the regulation thereof as functional areas of concurrent National and Provincial legislative competency, and street trading as an exclusive area of Provincial legislative competence. A national policy to guide both Provincial and Local government in the exercise of their constitutional mandate in respect of business licensing matters is in line with national competence. The NBLP also seeks to further the objectives of the National Development Plan, 2030 (NDP) which encourages the advancement of a conducive business environment by organs of state and calls for smart and effective licensing arrangements to facilitate the reduction of red tape. A uniform national licensing policy provides predictability and helps lessen the regulatory burden on the business sector.

The policy adopts the following broad principles:

- *Dedicated Intergovernmental coordination and the effective streamlining of related policy frameworks and legislation.* The implementation of formalised coordination mechanisms is central to the vision of a common and simplified business licensing framework;
- *Business licensing is a regulatory rather than a fiscal tool.* Fees charged to license applicants should be intended to recoup the administrative costs associated with issuing the license rather than the generation of revenue;
- *Exemptions may be granted in respect of categories of businesses in pursuit of the overarching goals of the NBLP.* The application of exemptions should be managed in a transparent manner and reviewed when necessary;
- *Non-citizens are permitted to participate in the social and economic life of South Africa including engaging in trade.* The conditions set out in the Immigration Act

of 2002 as amended should guide the nature and form of such participation in addition to the laws and regulations governing the licensing of trading activities;

- *The NBLP seeks to give effect to section 22 of the Constitution which specifies the right to choose a trade, occupation and profession for citizens.* In this regard, the Constitutional Court has determined that the section, in specifically referring to citizens rather than “everyone”, gives scope for the prioritisation of citizens in some instances<sup>1</sup>;
- *Redress measures adopted within the NBLP are grounded in the country’s existing constitutional and legal framework.* The Constitution and targeted acts such as the Preferential Procurement Policy Framework, the Public Finance Management Act and the Broad-Based Black Economic Empowerment Act establish a comprehensive setting from which to draw and inform the incorporation of transformation in business licensing policies.

The scope of the National Business Licensing Policy is limited to the “general business license or license to conduct business”. This is a license issued by a local government to allow individuals or companies to conduct business within that local government’s geographical jurisdiction and encompasses varying sizes of businesses, either formal or informal. Separate, sector or Industry-specific licenses in respect of regulated industries, including those with safety and national security implications (gambling, mining, telecommunications and others), may be issued at either the National or Provincial level or both and fall outside the scope of the NBLP.

Since October 2020, the Department of Small Business Development (DSBD) has assumed responsibility for the Business Act, 1991 and is accordingly responsible for the development of the NBLP and oversight over its implementation nationally once approved. A draft *National Business Licensing Policy* was published for Public Comment in March 2024. Inputs on the draft were received from business associations, municipalities and organised local government, government departments and private individuals. The DSBD also convened stakeholder workshops nationally and presented the draft policy at various intergovernmental forums. A Socio-Economic Impact Assessment (SEIAS) review of the draft developed

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<sup>1</sup> Union of Refugee Women and Others Vs. Private Security Industry Authority and Others 2007 (4) SA 395 (CC)

by the Department was duly approved by the SEIAS Unit in the Presidency. Inputs received through these consultative instruments were processed and incorporated as applicable into the final NBLP.

The policy is a guiding framework for the finalisation of updated National Business Licensing legislation and, in turn, local government business licensing policies. Its implementation will further be facilitated through the joint development of three-year policy action plans by the three spheres of government to ensure intergovernmental coordination in the implementation, and to foster coherence.



## 1. SECTION 1. INTRODUCTION

### 1.1. Background

*“By 2030, South Africa will have created an economic environment that is conducive to the dynamic formation and expansion of new businesses” (NDP, 2012).*

South Africa’s constrained economic growth relative to its socio-economic needs and aspirations is well documented. During the first decade of democracy, economic growth averaged 3% annually, but by 2013, it had declined to below 2%. Such growth rates were insufficient to address the nation’s persistently high unemployment and poverty levels. The Accelerated and Shared Growth Initiative for South Africa (ASGISA) identified the need for growth rates of at least 4.5% between 2005 and 2009, and 6% from 2010 to 2014 to achieve meaningful socio-economic transformation. Higher growth levels were deemed critical to halving unemployment and poverty by 2014. The economic downturn triggered by the COVID-19 pandemic from 2020 to 2022 compounded existing challenges, exerting severe strain on the economy and undermining progress toward these goals.

Micro, Small and Medium Enterprises (MSMEs) have consistently been identified as pivotal to South Africa’s growth strategies and development outcomes. The foundational White Paper on the Development and Promotion of Small Business (1995) and the Small Business Act (1996) were instrumental in articulating a comprehensive agenda for MSME development. These frameworks facilitated the creation of dedicated institutions to support the sector and advocated for an enabling environment, including reducing regulatory burdens. Subsequent initiatives, such as the Department of Trade and Industry (the DTI) guidelines for reducing red tape in partnership with the Department of Cooperative Governance and Traditional Affairs (COGTA), sought to create more favourable trading conditions, particularly at the municipal level.

Despite these efforts, however, the growth of MSMEs has remained largely stagnant. Overregulation and administrative inefficiencies – sometimes referred to as “red tape” - have often been cited as significant obstacles to business activity. Simplified and

streamlined licensing processes are therefore essential to fostering a more conducive business environment and enhancing the productivity of small and micro-enterprises.

The mandate for business licensing is rooted in Section 22 of the Constitution of the Republic of South Africa, which guarantees every citizen the right to freely choose their trade, occupation, or profession, subject to regulation by law. The National Business Licensing Policy (NBLP) provides a framework to guide provinces and municipalities in discharging their licensing responsibilities. By emphasising standardization and minimizing regulatory burdens, the NBLP aims to create a business-friendly environment that supports private sector growth and contributes to South Africa's broader developmental objectives.

## **1.2. The National Business Licensing Landscape**

The main legislative framework governing trading licenses is the Business Act No. 71 of 1991. The Act was introduced following the 1987 White Paper on "*Privatization and Deregulation in the Republic of South Africa*" which underlined the need to encourage entrepreneurship inclusively and away from narrow racial lines. During this period, many apartheid laws were abolished, initially the Influx Control Act in 1986 and subsequently the Group Areas Act, the Black Land Act, the Development Trust and Land Act, and later the Population Licensing Act in 1991. These laws restricted the movement of Black people into urban areas, prevented the ownership of valuable land and limited the granting of trading licenses to the same population group. As a result, the growth of Black-owned businesses in urban areas was severely constrained. With the abolishment of these Acts, much of the legal framework controlling and restricting Black business activity was removed, and municipalities started introducing a less restrictive approach to street vending and relaxed health and labour regulations that had negatively affected micro-enterprises.

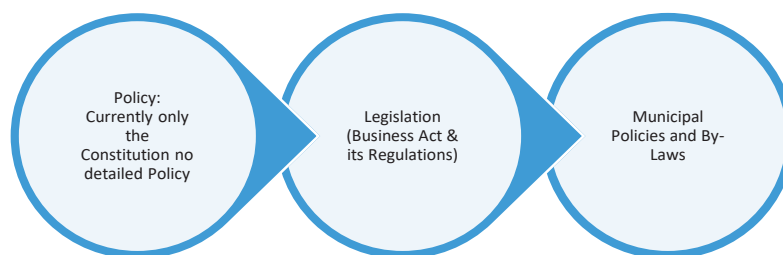
The Constitution recognises the critical role of municipalities in regulating trade and related activities. Schedule 4 of the Constitution assigns trade as a functional area of concurrent legislative competence for both national and provincial governments. Simultaneously, trading regulations are classified as a local government matter within the broader framework of concurrent national and provincial legislative authority.

Additionally, street trading is designated in Schedule 5 as a local government matter under the exclusive legislative competence of provincial governments. This municipal role is specific to metropolitan and local municipalities and excludes the 44 district municipalities.

The establishment of the new local government system was finalised in 2000, resulting in the creation of 284 municipalities categorised into three types: metropolitan, local, and district municipalities and subsequently rationalised to 257<sup>2</sup>.

Current policy and legislative arrangements for the trading license are indicated below:

*Figure 1: System of General Business Licensing Governance*



*Source: Compiled from DPME National Policy Development Framework (2020)*

The figure above illustrates the instruments that make up the system of governing the general business license. The process of developing the NBLP is to complete the policy circle through specific policy guidance on how licensing should be undertaken nationally.

The Business Act outlines the powers to issue the general business license through a decentralised system of implementation mainly by municipalities. The license grants individuals or companies the authority to conduct business within the respective geographical jurisdiction of the local municipality. The Act is implemented at the sub-

<sup>2</sup> <https://sacn.org.za>

national sphere of government and in view of over 200 municipalities in existence nationally, the function is relatively dispersed.

The Department of Small Business Development (DSBD) conducted a municipal survey to evaluate the administration of general business licenses and gain insights into the implementation landscape. The findings revealed that the business licensing function is typically housed within the Local Economic Development (LED) unit of municipalities. However, only a few municipalities—primarily metropolitan ones—reported having dedicated business licensing units. In most cases, manual application systems remain in use, contributing to administrative backlogs that are largely attributed to limited personnel capacity.

The survey also highlighted that municipalities issue licenses for various types of businesses, including those involved in the sale of meals and perishable foodstuffs. Many municipalities maintain a database to record issued business licenses, which serves as a valuable tool for monitoring business activities within their jurisdictions.

In terms of enforcement, municipalities frequently conduct joint operations with state agencies such as the South African Police Service (SAPS) and the South African Revenue Service (SARS). These collaborative efforts were identified as the most common enforcement strategy.

Municipalities were further consulted on the feasibility of introducing five-year validity periods for business licenses. The majority supported this approach, citing potential benefits such as a reduction in non-compliant businesses, decreased reliance on confiscation operations by enforcement officers, and reduced administrative burdens on both business owners and municipal offices. Longer validity periods were seen as a practical step toward improving compliance and administrative efficiency.

Over the period of the implementation of the Business Act, court rulings have clarified a range of principles to inform the management of licensing of businesses to trade, and the future regulatory context. Among others, the power of the municipality to remove a street trader from a site they had occupied for a lengthy period without authorisation was confirmed in a case against the eThekweni municipality<sup>3</sup>. It was

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<sup>3</sup> Bizimana and Another v eThekweni Municipality (7262/2005) (2005) ZAKZHC 22

highlighted that the length of time in occupation of the trading spot did not do away with the obligation on the part of the trader to bring themselves into compliance with the applicable general business license requirements. The courts have also directed that powers given to inspectors should be subject to guidelines and not be unfettered; and that any goods confiscated should be stored under safe conditions and returned to the owners, with appropriate compensation paid where applicable<sup>4</sup>. Clarity has also been provided that refugees and asylum seekers are within their rights to apply for trading licenses<sup>5</sup>.

The policy framework outlined in the NBLP takes into account the above insights and their implications and integrates this understanding into the key proposed interventions.

### **1.3. Why a National Business Licensing Policy?**

*“The regulatory environment will be simplified” (NDP, 2012)*

Both the National Development Plan (NDP) and the National Integrated Small Enterprise Development (NISED) strategy emphasise the importance of a simplified and coordinated regulatory environment as a cornerstone for fostering economic growth. This is particularly pertinent to the administration of general business licenses, which are managed across multiple local authority points, often resulting in fragmentation. To address this challenge, a robust policy framework is necessary to systematically promote synergy and coordination, as advocated by NISED. Such a framework should harmonise approaches at a national level while preserving the mandates of local and provincial administrations in overseeing this critical function.

The socio-economic context further underscores the urgency of these reforms. Rising unemployment and poverty levels have placed increased pressure on the Micro, Small, and Medium Enterprise (MSME) sector to serve as a driver of job creation and income generation. The NDP projects that by 2030, up to 90% of new jobs will be created by small and medium enterprises. However, this potential cannot be realised

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<sup>4</sup> Makwicana vs EThekweni Municipality, KZN EDETEA, DTIC

<sup>5</sup> Somali Association of South Africa and Others v Limpopo Department of Economic Development Environment and Tourism and Others

if regulatory frameworks, such as the general business license, act as barriers rather than enablers of trade. Excessive red tape risks stifling economic activity and undermining the sector's capacity to deliver on its growth and employment potential.

Small and micro businesses are particularly vulnerable to the burdens of red tape, as they often lack the administrative resources and time to navigate complex regulatory requirements. Therefore, the general business license framework aims to minimise administrative burdens, recognising that most entities requiring these licenses fall within the small or micro enterprise category. Simplifying these processes is essential to fostering a business environment that enables, rather than impedes, economic participation and growth.

The cost impacts of Red Tape are highlighted below.

*Table 1: Adapted from dti Guidelines for Reducing Municipal Red Tape (2013)*

Red Tape Aspect	Impact	Impact on
Compliance Costs	Time, fees	MSMEs, the economy
Efficiency and Opportunity Costs	Reduced business activity or scope	Jobs, MSMEs
Administrative costs	Municipal activities in administering the function	The economy, MSMEs
Non-compliance	Paying fines	Non-compliant firms

## Immigration

South Africa has emerged as one of the high immigrant recipient countries in Sub-Saharan Africa, and the resident immigrant population has increased substantially in the last three decades. This development has not been addressed systematically, including setting conditions under which foreign-owned businesses can operate, the skills and other attributes required of those businesses, and how they complement capabilities deficits in South Africa.

## **Digital Transformation**

The global advancement of technologies and South Africa's commitment to capitalise on the opportunities it presents for the digital economy also have implications for the provision of public services. The primary objective is to achieve the National Development Plan (NDP) goals to improve digital infrastructure, create digital skills, encourage digital innovation, strengthen e-government services, stimulate digital commerce, increase cybersecurity, and promote digital transformation across vital industries. According to this plan, the government and its organs should utilise and strengthen digital government platforms for the improved efficiency and accessibility of public services. A policy of digitised and streamlined regulation processes for business licenses takes advantage of these technological advancements whilst promoting a less onerous regulatory regime, especially for businesses in digital services.

The NBLP informs the updating of the Business Act and by extension, the municipal and provincial policies to comprehensively guide the approach to general business licensing going forward. This will also serve to limit the potential for contradictory approaches and enforcement mechanisms by local and provincial authorities. Business licensing practices to address unique regional and local requirements where required will also be included in the national policy.

### **1.4. Vision and Policy Objectives**

The vision of the NBLP is to ensure a harmonised, predictable, competitive, equitable and socially responsive business licensing environment, conducive to investment, trade and enterprise development.

This policy aims to ensure standardised and common policies across the country for business licensing and the further objectives are:

- To provide a policy basis for smart and effective licensing legislation, by-laws and administrative procedures that not only contribute to reducing the

regulatory and administrative burden but also drive transformation and empowerment.

- To provide for a fair and transparent allocation of business operating licenses in a particular jurisdiction, in a manner that enables the citizens to actively participate in the economic life in that jurisdiction, while ensuring the protection of the environment, health and safety of all other citizens and residents.
- To promote and strengthen the coordination of concurrent constitutional national and provincial legislative competencies with respect to trade and trading regulations, as well as support provinces in their exclusive provincial legislative competence with regard to street trading.
- To give effect to the guaranteed rights of citizens as per section 22 of the Constitution which states every citizen has the right to choose their trade freely, and that the practice of such trade may be regulated by law.
- To delineate South Africa's sovereign right to determine the business licensing conditions for foreign nationals in line with its national interest.
- To provide for the reservation of sectors in respect of which a license may only be granted to South African citizens.
- To provide for preferential business licensing for MSMEs and the historically disadvantaged groups, thus increasing their opportunities to participate in the economy and contribute to economic growth.
- To provide for measures to mitigate the effects of economic shocks, crises, or disasters through the easing and emergency adjustment of business licensing regulations, procedures and requirements; as well as any other financial and non-financial relief.



### 1.5. Policy Guiding Principles

The NBLP is guided by the following principles:

- Dedicated inter-governmental coordination and the effective streamlining and implementation of related policy frameworks and legislation are central to the NBLP in line with the vision of a common and simplified business licensing framework;
- Business licensing is a regulatory rather than a fiscal tool. This means that fees should be intended to recoup the administrative costs associated with issuing the license and not the generation of revenue;
- Exemptions may be granted in respect of categories of businesses and reviewed when necessary, in pursuit of the overarching principles of the NBLP;
- Non-citizens are permitted to participate in the social and economic life of South Africa as per conditions set out in the Immigration Act of 2002 as amended, and can legally engage in trade subject to the laws and regulations governing business operations;
- The NBLP will give effect to section 22 of the Constitution which specifies the right to choose trade, occupation and profession for citizens. The Constitutional Court interpretation has determined that the provision gives scope for the prioritisation of citizens in some instances<sup>6</sup>;
- Differentiation and redress measures will be grounded in the Constitution and other legislative provisions such as the Preferential Procurement Policy Framework Act, the Public Finance Management Act and the Broad-Based Black Economic Empowerment Act; and
- The objectives of standardisation may be pursued through the issuing of norms and standards as deemed appropriate and for application by all licensing authorities nationally.

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<sup>6</sup> Union of Refugee Women and Others Vs. Private Security Industry Authority and Others 2007 (4) SA 395 (CC)

## 2. SECTION 2. A GLOBAL OUTLOOK

### 2.1 Licensing as a Regulatory Tool

The regulation aims to achieve various social, economic, environmental and other objectives. They function to promote economic stability and growth as well as exercise oversight over economic activity. The level at which Governments involve themselves in the economy varies, with some more involved in the economy, others opting for minimal involvement and others being in between the two extremes.

Through regulation, Governments provide rules, standards and other guidance that underpin markets and protect the rights and safety of citizens. Regulations also seek to ensure that the delivery of public goods and services takes appropriate of the interests of the public and the promotion of an optimal economy.

The administration, process and features of trading licenses vary between and within different countries. However, the relevant processes typically involve the following four broad features:

- a) Search and application:** Businesses identify regulatory requirements that apply to them and proceed to lodge an application to the relevant authority. The submission of any prescribed documents and fees is also undertaken.
- b) Prior approval to operate which requires specified conditions to be met:** The authority receives the license application conducts the applicable assessments and verification and issues formal approval if conditions are met.
- c) Conditions:** Identification and communication of license conditions and any applicable fees.
- d) Enforcement:** The authority enforces the license through pre-screening, audits and inspections. Administrative costs may result from this aspect.

Within the broad licensing context, permits may also be used as a subset of licenses. They can include governments providing businesses with permission to enter a market and/or undertake a specified activity on a once-off basis such as a permit allowing hawkers to trade in public stalls or parks for a specified event.

## **2.2 The Benefits and Costs of Licensing**

Licensing offers a number of potential benefits in the regulatory context including:

- Enabling the identification and verification of business information through the application and notification component of the licensing process;
- Pre-approval processes allow for the assessment of businesses and the identification of those unlikely to meet minimum standards which are relevant for managing risks related to health, safety and the environment;
- Utility as a tool for the controlled use of valuable and scarce community resources; and
- Licensing conditions can often be modified easily, ensuring adaptable and responsive regulation.

At the same time, licenses can in some instances be associated with significant costs and inherent risks which can be pronounced where poor business licensing practices are prevalent. Direct costs on business can include unnecessary duplication and inconsistencies, delays, uncertainties and formal (and informal) compliance activities associated with obtaining a license and complying with license requirements. Indirect impacts on the business sector and the broader community include lower levels of investment and economic activity, revenue lost, lower employment, reduced technology transfer and economic growth potential.

Weaknesses in the licensing system can therefore become a significant regulatory constraint to the business enabling environment. Relatedly, they may result in unnecessary restrictions to entry into the market, limit the supply of important goods and services and constrain the potential for enterprise progression from informal to formal levels.

### 2.3 Global Approaches to Licensing: Selected Country Examples

Most jurisdictions globally require general business licenses for enterprises operating in various industries. Such licensing is part of the regulatory frameworks and broader development strategies. A comparative analysis of South Africa's Business Act of 1991 with the business licensing legislation of countries such as Botswana, Japan, Zambia, Belize, Kenya, and Uganda reveals both commonalities and distinct approaches.

Most countries share similar objectives in their licensing frameworks namely: promoting compliance, ensuring consumer safety, and fostering a predictable business environment. However, the implementation approaches vary. South Africa's business licensing system emphasises decentralisation and local control, which can lead to administrative fragmentation. In contrast, countries like Malta adopt a more centralised model, with the national government overseeing business licensing processes to ensure uniformity and ease of compliance. Botswana's licensing regulations, while less complex than South Africa's, are more comprehensive and provide clearer guidance for businesses, including detailed provisions for the incorporation of informal enterprises into the formal economy.

Globally, the administration of business licenses reflects diverse governance models. In some jurisdictions, such as Japan, business licenses are regulated and issued primarily at the national level by designated ministries, ensuring consistency across regions. Conversely, in Kenya and Uganda, the responsibility is shared across national, provincial, and local governments, with coordination mechanisms to align regulatory standards. Zambia offers an interesting hybrid model, where licensing processes are administered nationally but executed locally, creating a balance between oversight and accessibility.

South Africa's decentralised approach aligns with its constitutional framework but has led to significant variability in the efficiency and effectiveness of licensing across municipalities. This contrasts with Botswana's streamlined system, which integrates national oversight with local implementation, reducing bottlenecks and enhancing predictability for businesses.

South Africa could benefit from adopting elements of these global best practices to refine its business licensing framework. Introducing a centralised digital platform, akin to Kenya's e-Citizen programme, could reduce the complexity of the current system and improve service delivery. Additionally, clearer guidelines and streamlined processes, as seen in Botswana, could help address the regulatory challenges faced by small and informal businesses. Harmonising national and municipal roles, while preserving decentralisation, would enhance consistency without compromising local responsiveness.

While South Africa's decentralised licensing approach is constitutionally embedded, it must evolve in dynamic ways to meet the demands of a competitive global economy. Drawing lessons from international benchmarks while contextually grounded can guide the development of a more efficient, inclusive, and growth-oriented licensing system.

A survey of fifty-five (55) countries by DLA Piper<sup>7</sup> as indicated in the next table showed that thirty-nine (39) required a general business license and additional licenses while sixteen (16) required other types of licenses in place of the general business license.

*Table 2: Comparative Country Licensing Requirements*

<b>License Requirements in Various Countries</b>	
<b>General license and other requirements to conduct business: (39 Jurisdictions)</b>	<b>No general license required to conduct business: (16 Jurisdictions)</b>
Austria, Bahrain, <b>Brazil</b> , Canada, <b>China</b> , Colombia, Czech Republic, Egypt, France, Germany, <b>India</b> , Indonesia, Israel, Italy, Japan, Luxembourg, Malaysia, Mauritius, Mexico, New Zealand, Nigeria, Norway, Peru, Philippines, Poland, Puerto Rico, Romania, <b>Russia</b> , Saudi Arabia, Singapore, South Africa, Spain, Taiwan,	Argentina, Australia, Belgium, Chile, Denmark, Finland, Greece, Hong Kong, SAR, Hungary, Ireland, Netherlands, Portugal, South Korea, Sweden, Switzerland, United Kingdom, Vietnam

<sup>7</sup> Global Expansion Guidebook, 2018

China, Thailand, Turkey, Ukraine, United Arab Emirates United States,	
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The general business license is in operation in all the BRICS countries as well as Egypt, Mauritius and Nigeria being the only surveyed countries from the African continent in the study. Further African countries (Botswana, Kenya, Uganda, and Zambia) surveyed are highlighted elsewhere in the document.

## 2.4 Easing the Burden of Licensing

Since the White Paper for the Development and Promotion of Small Business (1995), the simplification of systems impacting MSMEs and the reduction of Red Tape have been a national strategic goal for South Africa. The NDP proposes *smart and effective* licensing arrangements to reduce Red Tape and the NISED Masterplan requires that policies and regulations should be governed efficiently and enabling MSME growth.

The Presidency established a Red Tape reduction unit since 2019 to drive this imperative and the DSBD is a central partner in the efforts pursued by the unit nationally.

In their capacity as the authority for business licence regulations, municipalities have an obligation to counter any negative impacts of regulation. The NBLP provides a basis for this reduction of Red Tape and the easing of the burden of compliance, including through leveraging digital technologies such as the use of electronic and digital online business licensing solutions and platforms.

## 2.5 Concluding Notes

Regulation in the economy should be intended to serve a broad public function. The orientation of the general business license and its administrative processes should focus on minimising barriers to trade and fostering a thriving business environment. The NBLP responds to this objective and seeks to both standardise and simplify licensing approaches nationally.

### 3. SECTION 3. THE SOUTH AFRICAN CONTEXT

In determining some of the focus areas for the business licensing policy, a set of global instruments, local strategies and legislation have a bearing on the mandate of trade and its regulation. Globally, selected United Nations treaties and protocols are highlighted as well as key national strategies and Acts of Parliament.

#### 3.1 The Context for Business Licensing

Several frameworks inform the context for South Africa's policy approach to general business licensing. Internationally, the country's membership of the World Trade Organisation (WTO) and United Nations (UN) among others obligates adherence to rules and regulations set out in the various multilateral treaties with implications on trade regulation. Obligations include the treatment of investors and foreign investments to the same standards as local investors<sup>8</sup>, and the receipt and granting of trading rights to refugees.

Locally, the Constitution and the Business Act provide the core context for the regulation of the general business license. Some key laws that inform the implementation of the function include the *Municipal Systems Act, 23 of 2000* (MSA), the *Immigration Act, 13 of 2002*, the *Refugees Act, 130 of 1998*, the *Spatial Planning and Land Use Management Act 16 of 2013* (SPLUMA) and the *Companies Act 71 of 2008*.

The MSA grants municipalities the power to make and enforce by-laws. In this capacity, municipal authorities will assume responsibility for implementing the NBLP and the updated Business Act and for administering enforcement accordingly. The MSA also empowers the Minister and Members of Executive Councils responsible for local government to make standard by-laws for adoption by Municipal Councils where practical.

The Immigration Act sets out categories of permits available to foreign nationals and their conditions in relation to trade. Through SPLUMA, a uniform system of spatial planning and land use management throughout South Africa is provided for municipalities to apply in relation to other policies such as the trading license. Finally,

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<sup>8</sup> Further detailed in the Protection of Investment Act 22 of 2015

the *Companies Act* regulates the incorporation and registration of companies of any size, from micro to large.

In respect of areas located within Traditional Councils as recognised by the *Traditional Leadership and Governance Framework Act, 2003* as amended, municipal business licensing policies may outline the manner and extent of participation by traditional leadership. Such participation and consultation should be provided for with due regard to the interests of minimising Red Tape for MSMEs.

As delineated in the Business Act, the general business license covers the sale and supply of food, health and entertainment facilities, and hawking. It does not apply to sector or industry-specific licenses which govern regulated industries. These relate to industries that may impact public safety and national security among others, and may be issued at either the National or Provincial level or both. Examples of business activities that are governed under sector or industry-specific licensing in South Africa include banking, broadcasting, construction, gambling operations, mining and transport operations.

### **3.2 Who Does What in the Ecosystem**

A number of players are involved in the processing of the general business license by the Municipality. The designated trade license unit receives and ultimately issues the license. However, inputs from up to five other business units in the municipality are required. An extract from the policy of the City of Johannesburg (CoJ) highlights that concurrence must be obtained from the following Units before the license can be granted:

- Environmental health;
- Noise and air pollution control;
- Public safety;
- Urban planning and
- Building control.

The receipt of positive reports from all the units is required for the approval to start trading to be granted. In a metropolitan municipality such as the CoJ, the different business units would all be internal sections of the municipality and thus within the authority of the organisation. In the context of a local municipality, functions such as Health Services, Public Safety and Environmental Health would be services performed



by the District Municipality within which the local Municipality falls. Accordingly, cooperation and structured coordination between the local and District Municipalities are a central input for achieving efficiencies in the licensing process.

### **3.3 A Synopsis of the Challenges: the KZN Case Study**

A study commissioned by the KwaZulu-Natal Economic Development, Tourism and Environmental Affairs to assess the state of the general business licensing in all municipalities provided useful insights into the administration of the function in practice.

Amongst the challenges, it was found that most municipal licensing approaches lack a system of coordination for the role-players in the value chain. The interface between the district and local municipalities is not adequately understood and managed for the purpose of maximising efficiencies in the process. Some Municipalities do not have access to services required to assess applications such as Fire Services and Building Inspection due to staff capacity constraints.

There was also a prevalence of businesses operating without lodging any applications to start trading within the municipality. Other authorities reported that they only received one type of license application (e.g. liquor trading) whilst other (unlicensed) types of businesses were in operation. Backlogs and delays in the processing of applications were also noted as recurrent.

### **3.4 Responding to the Challenge**

The NBLP's objective of fostering uniformity in business licensing nationally requires that there is even capacity to perform the function. The Policy Action Plan that is to be developed to implement the NBLP should accommodate a programme for the capacity assessments of all licensing authorities and the implementation of interventions to supplement gaps as appropriate. The intergovernmental mechanisms to be established under the NBLP Education will enable the sharing of lessons and best practices and inform the national roll-out of targeted capacity-building programmes.

### 3.5 Concluding Note

The involvement of over two hundred licensing authorities in the administration of the trading license lends it to fragmentation and this is exacerbated by varying capacity levels at different municipalities. Within the municipal environment, there are up to five complementary mandates to be administered before the granting of the general business license such as town planning and environmental health. These are, in turn, guided by a range of distinct legislative frameworks. The system therefore operates through a complex set of interdependencies, giving further impetus for a policy of uniform approaches and simplification.

## 4. SECTION 4: Pillars to the Licensing Process

The NBLP introduces a common national licensing framework for the regulation of trade governed under the general business license. Once the policy is approved for implementation, it will guide the development, implementation of any business licensing legislation, regulations and systems underpinned by the following pillars:

4.1 Efficient, simplified and transparent business licensing procedures driven by the need for the seamless enablement of trade including the following measures:

- a) Clear license application parameters and procedures and consistent application thereof in respect of all applications;
- b) The optimal use of digital technologies to support the implementation of licensing must be prioritised taking into consideration each Municipality's financial resources and e-government services should be pursued in respect of licensing;
- c) Licensing authorities should recognise licensing as a regulatory tool and not view the function as a fiscal tool. Accordingly, fees should be limited to recovering the administrative costs of the licensing and not serve as instruments for revenue generation;
- d) Licensing policies should be designed such that they lessen the burden of regulation and compliance and contribute to the reduction of red tape.

4.2 The promotion of social and economic inclusion through the following:

- a) Licensing policies that provide for transparent measures to empower disadvantaged groups as classified by the country's transformation and redress frameworks. Measures to promote trading in disadvantaged areas such as informal settlements to be provided for in this regard;
- b) Policy interventions guided by the Constitution and related legislative provisions including the Broad-Based Black Economic Empowerment Act and the Preferential Procurement Policy Framework Act;
- c) The implementation of exemptions whereas appropriate from time to time subject to clear and consultative processes of arriving at the categories of exemptions;
- d) The identification and declaration of reserved areas of business licensing as appropriate and subject to transparent administrative processes;

4.3 The accommodation of foreign nationals in the granting of general business licenses:

- a) Business licensing policies should have proactive provisions for the granting of licences to foreign nationals. The provisions should clarify the additional criteria to be met by this category of applicants guided by the Immigration Act of 2002 as amended and any other relevant legislation;
- b) Licensing authorities should also consider awareness programmes to educate both the citizens and non-nationals on the relevant criteria and promote open and harmonious trading conditions within their jurisdiction.

4.4 Placing intergovernmental coordination at the centre of implementation of the National Business Licensing Policy through:

- a) The establishment of national and provincial Intergovernmental co-ordination mechanisms for the effective streamlining and implementation of the NBLP and the identification and resolution of any barriers to the goals of a common and simplified business licensing framework;
- b) Periodic formal assessments and reporting on the coordinated implementation of the NBLP to identify gaps and avenues for enhanced integration.

The pillars outlined above will guide the development, implementation of future business licensing legislation, regulations and systems, and thereby foster uniformity in the overall general business licensing ecosystem.

## 5. SECTION 5. KEY AREAS OF INTERVENTION

### 5.1. Area of Intervention 1: Development of NBLP Policy Action Plan

#### Problem Statement

The National Business Licensing Policy has ambitious aims to set the future general business licensing landscape on a path characterised by intergovernmental coherence, uniform and seamless procedures supportive of the needs of businesses seeking licensing and conducive to sustainable business growth. For these positive policy goals to be systematically pursued, there is a need for appropriate implementation mechanisms to be embedded in the policy and to ensure the development of detailed actions and indicators for their implementation.

#### Policy Intervention

- a) A national NBLP coordination and integration structure to be established and be responsible for the overall development and implementation coordination of the Policy Action Plan led by the national department responsible for Small Business Development.
- b) A provincial NBLP coordination and integration structure to be established in each *Province*, be responsible for the development, and provincial implementation coordination of the Policy Action Plan led by the Departments responsible for economic development.
- c) Policy Action Plan Structures to comprise relevant stakeholders including the private sector, trading associations, and public sector actors in the business license environment.

- d) The NBLP Policy Action Plan to be developed as a three-year iterative plan, adapted and reviewed as appropriate.

### **Anticipated Outcomes**

- a) A clear roadmap for the implementation of the policy, supported by regularly accessed feedback information on the implementation landscape, associated challenges and potential solutions.
- b) The implementation structures will provide a platform to identify inconsistencies across the licensing delivery points and to foster and promote uniform approaches and streamlining of business licensing nationally.
- c) The implementation of the Policy Action Plan will produce data that will inform decision-making and future policy and regulatory approaches.

## **5.2. Area of Intervention 2: Business Licensing Governance, Intergovernmental Support and Monitoring**

### **Problem Statement**

All three spheres of government have a constitutional role to play in the general business licensing function. The national and provincial spheres have concurrent legislative competence over trade, whilst trading regulations are the responsibility of the local sphere and provinces have exclusive legislative competence over street trading. This calls for policy interventions to ensure systematic and consistent coordination.

## **Policy Intervention**

- a) Harmonisation of the national, provincial, and municipal business licensing to ensure synergy and alignment with regulations and business licensing by-laws.
- b) Support and monitoring of the implementation of the NBLP ensuring appropriate Provincial licensing and Municipal business licensing by-laws.
- c) Comprehensive review and realignment of provincial licensing requirements, municipal business licensing by-laws and the licensing legislation.

## **Anticipated Outcomes**

- a) Increased efficiency of the licensing system due to improved collaboration between national, provincial, and local governments as well as horizontal coordination.
- b) Streamlined coordination in respect of national licensing legislation, provincial licensing and licensing by-laws and uniform application of licensing principles across all spheres.
- c) Improved compliance rates, as businesses will have clearer and more consistent guidelines to follow.

### **5.3. Area of Intervention 3: Preferential Business Licensing**

#### **Problem Statement**

The targeted empowerment and promotion of the participation of previously disadvantaged groups in economic activity is well recognised in South Africa. Although some local authority licensing policies do provide for various

empowerment measures, the NBLP needs to provide for the implementation of these measures at a national policy level.

### **Policy Intervention**

- (a) Outlining policy parameters nationally for the avenues for promoting targeted groups through general business licensing.
- (b) Provide measures for identifying local industries where MSMEs and previously disadvantaged communities could benefit from preferential licensing.
- (c) Provide for measures to increase opportunities for MSMEs and previously disadvantaged groups' participation in the economy and for designating business activities in respect of which a license may only be granted to South African citizens or juristic persons wholly owned by South African citizens.

### **Anticipated Outcomes**

- a) Clear policy parameters nationally in respect of avenues for promoting targeted groups through general licensing.
- b) Contribution to inclusion in line with NDP principles which identify licensing as one of the measures through which inclusion can be facilitated.
- c) Minimisation of entry barriers through preferential licensing which can be positive for specific industries lacking inclusion.

## 5.4. Area of Intervention 4: Mitigating Economic Shocks and Disasters

### Problem Statement

Economic and other shocks affect various aspects of the economy. The enforcement of business licensing conditions during an economic crisis or disaster presents various challenges. Among others, there may be reduced capacity for inspection and licensing checks due to the prioritisation of emergency-related activities and budget cuts or staff shortages. Businesses may also experience financial distress due to the crisis and thus struggle to meet specific licensing conditions, such as safety standards or waste disposal regulations. This can lead to inadvertent non-compliance. There is a gap in the policy in terms of providing policy responses in respect of the general business licensing mandate in the event of such crises.

### Policy Intervention

- a) The policies on business licensing must incorporate measures to be implemented in cases where major shocks and disasters occur. Measures in this regard may include support and education, temporary modification of licensing requirements and processes, non-compliance grace periods and temporary fee reductions or waivers. Partnership approaches should also be embedded in all responses to crises including coordinating responses with social partners and relevant public sector structures and players.

### Anticipated Outcomes

- a) Uniform policy guidance to licensing authorities on approaches to regulatory flexibility in the context of crises and support of local economies.
- b) Improved compliance and operations by streamlining processes, alternative compliance methods, and support resources thus making it easier for businesses to stay compliant with licensing regulations, allowing them to focus on recovery and innovation.



- c) Reduced administrative burden as a result of streamlined processes and targeted interventions that had been necessitated by the crisis response.
- d) Increased morale and motivation flowing from receiving speedy and timely support from the government, resulting in business confidence and perseverance through the crisis.
- e) Improved economic recovery and retention of jobs.
- f) Enhanced public health and safety as a result of relief measures helping businesses to be sustained while ensuring essential licensing requirements are met even during a crisis.

## **5.5. Area of Intervention 5: Strengthening the Capacity of the Licensing System**

### **Problem Statement**

The absence of a structured and regularly updated training framework for business licensing practitioners restricts professional development opportunities and limits the availability of knowledge and skills for optimal performance of the practitioners' regulatory roles. This increases the risk of inconsistencies in the interpretation and application of regulations, potentially compromising the quality and fairness of licensing procedures and enforcement efforts.

### **Policy Intervention**

- g) Provide a comprehensive assessment of existing business licensing training programmes and standards to align current regulations with best practice training standards and embed continuous review and improvement of training programmes and standards.

- h) Detailed intervention to be outlined in the Policy Action Plan and to include the principle of collaborating with industry partners and educational institutions in finalising training intervention approaches.

### **Anticipated Outcomes**

- a) Assuring the increased understanding of licensing regulations amongst officials and businesses, resulting in improved enforcement and compliance.
- b) Establishment of partnerships with training agencies, eliminating duplicate functions, and strengthening partnerships within the public and private sectors in relation to capacity building.
- c) Continuing professional development for licensing officials and inspectors and enhanced skills, efficiency and consistency in regulatory enforcement.
- d) Broader access to information through redesigned awareness campaigns reaching diverse demographics and industries.

## **5.6. Area of Intervention 6: Leveraging Digital Technologies**

### **Problem Statement**

There is sub-optimal use of digital technologies to support the licensing function. Where systems exist at Provincial, District and Municipal levels, these are not integrated and do not serve to lessen the regulatory burden or to improve the business environment for MSMEs. The opportunity for ease of application submission, real-time tracking and seamless communication between businesses and regulatory authorities is not positively exploited.

**Policy Intervention**

- a) Provide a framework for the design of integrated systems to enable online processes for applications, renewals, status tracking, fee payments and real-time communication between businesses and regulatory authorities.
- b) Promote data sharing and the integration of existing databases and systems within regulatory bodies to ensure data consistency and accuracy.
- c) Establish a support process for licensing authorities to adopt digitalisation including the promotion of awareness on the value proposition, training and other collaboration.

**Anticipated Outcomes**

- a) Streamlining of licensing procedures, reduced administrative burden and time required for businesses to obtain licenses, renewals, or permits.
- b) Transparent and standardised processes, ensuring businesses have clear visibility into requirements, procedures, and application statuses. Better adherence to licensing regulations, reducing the likelihood of unintentional non-compliance.
- c) Improved data collection, analysis, and monitoring capabilities, allowing for more effective oversight, enforcement and data-driven decision-making.
- d) A more efficient and business-friendly licensing environment encourages entrepreneurship, investment, and economic growth by reducing barriers to entry.

## **5.7. Area of Intervention 7: Knowledge Management and Evaluation**

### **Problem Statement**

There is a limited body of research on business licensing either through independent bodies or Government entities, which is not positive for the goals of evidence-based policy-making. Administrative data is also limited partly due to a lack of systems (electronic or otherwise) on the part of municipalities to enable its collection. The future development of business licensing policies, legislation and regulations needs to rely on a strengthened evidence base and administrative data. Updated and reliable data on the state of business licensing in municipalities is also critical in measuring the success of business licensing policies, legislation and regulations and their contribution to the improvement of the ease of doing business and the increased growth of businesses operating within municipalities.

### **Policy Intervention**

- a) Introduce a framework for the systematic collection of administrative data and support ongoing qualitative and quantitative research on licensing.
- b) The monitoring and evaluation intervention would include the development of a monitoring and evaluation framework for business licensing to be implemented by all spheres of government aligned to their respective roles and mandates. The framework will be detailed in the Policy Action Plan and should incorporate data analysis and stakeholder insights.

### **Anticipated Outcomes**

- a) A comprehensive data management system will promote accurate and updated data; and reduce unauthorised trading. It will promote fair competition among businesses by ensuring that all enterprises comply with licensing requirements.
- b) A more conducive regulatory environment grounded in data and an understanding of international business licensing trends and best practices.

- c) The availability of reliable data will empower policymakers and programme developers to make informed decisions based on evidence, leading to more effective and efficient policies that support the growth of businesses.

## 6. CONCLUSION

The licensing of businesses is a vital component in the creation of a positive, enabling local environment for trade to thrive and for the empowerment of Micro, Small and Medium enterprises to fulfil their potential. Through the license to trade, entities can execute their business ventures, create jobs and revenue for the economy and pursue growth and sustainability.

South Africa's aspirations for an environment that is user-friendly and conducive to small enterprise growth are long-standing. The country's economic development plans acknowledge that regulation and governance practices have the potential to introduce constraints to the business environment. The National Development Plan thus identifies the need to reduce Red Tape among other interventions in support of small enterprises. Red Tape arises not only from the administrative burden of the processes of the business license but also from the dispersed nature of the delivery of the function. Over 200 municipalities are the licensing authority for the relevant jurisdiction and this has a Red Tape effect on enterprises. The simplification of both the content and process of licensing aims to counter this, among others, through advocating for the use of digital technologies and the implementation of e-government.

Historically, business licensing was characterised by discriminatory practices and operated as a tool for restricting Black business activity. Until the late 1980s, certain trades, businesses and professions were by law not available for this group and accordingly, licenses could not be granted for the identified trades. The right to trade and practice a profession has since been guaranteed in the Constitution (s.22) and redress is provided for as an imperative to support the equality that is pledged in the Bill of Rights.

In view of South Africa, being a high immigrant recipient country, business licensing is impacted by the global phenomenon of immigrant entrepreneurship. This necessitates a policy response to address this sector and ensure clarity for the licensing authorities. Other gaps that the NBLP responds to are knowledge management and structured intergovernmental mechanisms to facilitate cohesion.

The National Business Licensing Policy is the first policy-level guidance on general business licensing in South Africa. It provides broad guidance on measures to improve the licensing environment, taking into account the current and envisaged future context, and focuses on facilitating trade as the key policy objective driving licensing. The Policy emerges after more than three decades of the implementation of the main legislation governing business licensing, the Business Act 71 of 1991. It provides a basis for the updating of the Business Act and brings the business licensing regime into compliance with the National Policy Development Framework (DPME, 2020) which requires that all legislation should be informed by policy.

As a next step after the approval of the NBLP, the Department of Small Business Development will lead the development and implementation of a three-year iterative Policy Action Plan to detail targets, indicators, and facilitate ongoing integrated implementation of the policy. All programme-level interventions will be outlined in the PAP and their implementation facilitated through an inclusive implementation mechanism structure involving all relevant actors in the licensing ecosystem.