

LESOTHO

WEBBER NEWDIGATE



FIRM INFORMATION

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COUNTRY INFORMATION

The Kingdom of Lesotho is a landlocked country entirely surrounded by the Republic of South Africa. It is just over 30 000 square kilometres in size with a population of approximately two million. It is the only independent state in the world that lies entirely above 1 400 metres in elevation. Its capital and largest city is Maseru.

LATEST GDP FIGURES

Real gross domestic product (GDP) grew by an estimated 1.1% in 2018. Diamond mining in Lesotho has grown in recent years and according to the Minister of Finance contributed 5.7% to the GDP in 2018. Lesotho is also the top ranked diamond producer in the world by average US Dollar per carat value. Inflation was measured at 4.75% in 2018.

POLITICAL SYSTEM AND INVESTMENT ENVIRONMENT

Lesotho has a parliamentary system and constitutional monarchy. The Prime Minister is head of Government and has executive authority. The King largely serves a ceremonial function. The Constitution provides for an independent judicial system and protects civil liberties such as freedom of speech, freedom of association, freedom of the press, freedom of assembly and freedom of religion. Lesotho has a dual legal system consisting of customary and general laws.

Lesotho's economy is based on the export of diamonds, water sold to South Africa, manufacturing, agriculture, livestock and to some extent the earnings of labourers employed in South Africa. Lesotho also exports wool, mohair, clothing and footwear. Government revenue comprises of SACU receipts (41%), tax revenue (44%), grants (6%) and other (9%).

A new Companies Act came into force in May 2012 and introduced major changes to the corporate environment. The Companies Registry introduced an online webportal where all company related matters are transacted, including the registration of new companies.

FORMS OF BUSINESS

- Private or public limited liability companies
- Single Shareholding Companies
- Non-profit Companies
- External companies (being branches of foreign corporate bodies)

- Partnerships (which include consortiums and joint ventures)
- Sole proprietorships
- Co-operatives
- Statutory corporations
- Trusts

COMPANIES

The private limited liability company is the most common entity used for business. There is no longer a minimum share capital for companies.

The Companies Act allows a private limited liability company to be registered with only one shareholder (with a maximum of 50 shareholders). The Companies Act also provides for the electronic filing of documents. Under the Companies Act, directors face personal liability for breaches of duties owed to shareholders and shareholders are required to approve any major transaction by special resolution.

The financial accounts of a company must be audited by an auditor registered to practise in Lesotho although the Income Tax Department still accepts, without query, financial statements from South African external auditors.

The company registration process takes a few days at a cost of approximately 750 Maloti which includes all fees payable to the Registrar of Companies but does not cover Value Added Tax, licensing and related procedures.

EXTERNAL COMPANIES

A foreign company may register as an "external company" in terms of the Companies Act and must do so within 10 days after establishing a place of business in Lesotho. This will require filing (with the Lesotho Registrar of Companies) the foreign company's statutes of incorporation, the full names and addresses of one or more persons residing in Lesotho, who are authorised to accept service of documents in Lesotho, as well as the address of the place of business of the external company in Lesotho.



PARTNERSHIPS

Partnership agreements must be reduced to writing and signed by all the partners before a Notary Public. These agreements must be registered in the Deeds Registry under the Partnerships Proclamation of 1957. A partnership agreement must also be cancelled in writing. Partnerships are restricted to twenty persons. The Proclamation essentially records the common law applicable to partnerships.

BANKS AND CREDIT INSTITUTIONS

The Financial Institutions Act, 2012 provides for the licensing of banking and other credit providing institutions. There are different licensing requirements and conditions placed on the various types of banks or credit institutions governed by the Act.

INSURANCE COMPANIES

The establishment and operation of insurance companies is governed by the provisions of the Insurance Act, 2014. The regulations prescribe the forms to be used, fees payable and capital requirements. There are also requirements for the amount of working capital as well as margins of solvency.

TAXATION

This is regulated by the Income Tax Act and the Value Added Tax Act and their accompanying regulations. The tax rates, which are subject to change, are:

1. Individuals:
 - 1.1. Residents: the first M1.00 to M61 080.00 of income is taxed at 20% and any income exceeding M61 080.00 is taxed at 30%. The taxpayer is also entitled to a non-refundable tax credit of M9 600.00 per year.
 - 1.2. Non-residents: In general, 25% on gross amount of income received.
2. Corporate Income Tax is charged at a rate of 25%, with a special rate of 10% on manufacturing income.
3. Withholding tax must be deducted at source at a rate of 25% on dividends, interest, royalties, natural resource payments and charges for a management or administrative service. Withholding tax is levied at 10% of the gross amount of any payment to a non-resident under a Lesotho-source services contract. A lower rate may be applicable where there is a double taxation agreement applicable to cross-border payments. There is no withholding tax levied on dividends received by resident taxpayers.
4. Capital gains tax applies subject to certain exemptions.
5. Value added tax is payable on most goods sold and services at the rate of 15%. Basic foodstuffs are zero-rated. The registration threshold is turnover in excess of 850 000 Maloti per year.

DOUBLE TAXATION AGREEMENTS

Lesotho has signed bilateral treaties relating to double taxation with the United Kingdom, South Africa, Mauritius and Botswana. Lesotho is negotiating a tax treaty with the Seychelles. The

Government has also approved negotiations with Namibia, Swaziland, India, China, United States of America and Australia.

EXCHANGE CONTROLS, TREATIES, BILATERAL AGREEMENTS AND MEMBERSHIP OF INTERNATIONAL AND REGIONAL ORGANISATIONS

Lesotho is part of the Rand Common Monetary Area. Both South African Rand and Maloti are accepted as currency on the basis of a 1:1 ratio. Exchange controls apply and are subject to the provisions of the Exchange Control Order and Exchange Control Regulations administered by the Central Bank of Lesotho, which functions in conjunction with the South African Reserve Bank. The commercial banks in Lesotho are appointed as authorised dealers in foreign exchange subject to certain limits. The movement of currency between Lesotho, South Africa and Eswatini, is not subject to the same exchange control measures as other countries.

Lesotho is a member of the Preferential Trade Area (PTA), the Southern African Development Community (SADC), the British Commonwealth, the United Nations (UN), the Southern African Customs Union (SACU), African Union (AU) and the Rand Common Monetary Area.

MONETARY POLICY

Implementation of monetary policy is entrusted to the Central Bank of Lesotho. Price stability is the main goal of monetary policy using indirect policy instruments and a framework for forecasting inflation.

TRADING LICENCES

The Business Licensing and Registration Act, 2019 replaced the Trading Enterprises Order with effect from the 17th of November 2020. The Act sets out the business activities which can only be undertaken with a business licence. The Business Licensing and Registration Regulations, 2020 however go further and restricts the undertaking of certain business activities to non-naturalised Lesotho citizens and companies which do not have any foreign shareholders or directors.

INTELLECTUAL PROPERTY

Intellectual property in Lesotho is governed by the Copyright Order, 1989, Industrial Property Order, 1989 and Regulations. Additionally, Lesotho uses the Nice Classification System. Lesotho is a party to the Madrid System for international registration of trademarks, the African Regional Intellectual Property Organisation (ARIPO) and the Paris Convention for Protection of Industrial Property.

LEGAL SYSTEM

The legal system of Lesotho is a mixture of common law principles and statutory law. There are also local systems of tribal law and custom in rural districts which govern everyday disputes and property relations but are subordinate to statutory law. The superior courts in Lesotho are the Court of Appeal and the High Court.



INFRASTRUCTURE

The road network is estimated at 6000km with only 1 404km of tarred roads. Several projects are under way to upgrade roads and other infrastructure including water purification plants. The country's only international airport outside Maseru has two asphalt runways and offers a direct link to South Africa's main airports.

TELECOMMUNICATIONS

The telecommunications sector is regulated in terms of the Communications Act, 2012 and like other African countries, Lesotho is experiencing rapid growth in the mobile telephone market.

MINING

Lesotho is world renowned for its diamonds recovered from kimberlite and the diamonds from some of its mines are of exceptional quality. Mining is also a major contributor of direct foreign investment. The mining sector is regulated by the Mines and Minerals Act, 2005.

AGRICULTURE

Agriculture is undeveloped and consists largely of subsistence crops (mainly maize and wheat). It contributed 4.38% of Lesotho's GDP in 2019. Lesotho is not self-sufficient in terms of food production and relies on food imports.

LABOUR RELATIONS

The labour force is estimated at 854 600, the vast majority of which is employed in subsistence farming. Lesotho has a very high unemployment rate (estimated at 45%). Labour relations are governed by the Labour Code Order of 1992 and foreign workers require a work permit before taking up employment in Lesotho.

TOURISM

Lesotho has unparalleled natural beauty and the tourism sector offers growth opportunities in setting up accommodation, tour operating and high altitude adventure businesses.

CANNABIS

Lesotho is currently at the forefront of legalising cannabis for medicinal and research purposes. The sector is regulated by the Drugs of Abuse Act, 2008 and the Drugs of Abuse (Cannabis) Regulations, 2018. The market has seen intense movement in this sector. The Government issued a limited number of operators licences. Some of these licence holders are at advance stages of cultivation. The main market for export of the product is Canada but in time other markets will open as the product becomes more acceptable in other countries.

