

# 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 3.3% in 2016. Diamond mining in Lesotho has grown in recent years and may contribute 8.5% to GDP by 2015, according to current forecasts. Inflation was measured at 3.2% in 2015.

### 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.

In May 2015, after competitive elections, a coalition government was formed, the second in Lesotho's history.

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). A new set of filing forms have replaced those used under the old Companies Act and a new regulatory filing regime has been introduced. 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.

At least 51% of the shares in a company must be held by Lesotho citizens if specified trading licences are needed or where it is intended to acquire title to land by lease from the State (under the leasehold land tenure system which applies in Lesotho).

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.



Company registration process takes a few days at a cost of approximately 7500 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 resident 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

The issue of banking licences is governed by the provisions of the Financial Institutions Act. A minimum paid-up capital of ten million Maloti is required.

### 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 together with regulations promulgated under the Act. The tax rates are:

- Residents: the first 54770 Maloti at 20%, this excess at 30% (these are small abatements)
- Non-residents: 25%
- Withholding tax must be deducted at source at the standard rate 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
- Capital gains tax applies subject to certain exemptions
- Value added tax is payable on most goods sold and services rendered 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 and Mauritius. It is negotiating tax treaties with Botswana and 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. Lesotho is also a member of the Preferential Trade Area (PTA), the Southern African Development Community (SADC), the British Commonwealth, the United Nations (UN) and the Southern African Customs Union (SACU).

### 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 issue of licences is governed by the Trading Enterprises Order and the Trading Enterprises Regulations. Certain licences are restricted to local citizens or companies controlled by local citizens. There is currently under review a proposal to replace the trade licence regime and to introduce a system where licences will be issued on a risk based approach. It is unclear as to how and when this system will be introduced.

### INTELLECTUAL PROPERTY

Protection is provided by statute (there is a public registry in Maseru) for patents, trademarks, designs and copyright.

### 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, the High Court, the Commercial Court and the Land 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 contributes 7.8% of Lesotho's GDP. 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 purposes and the legal framework is now being drawn up to encourage investors. During the fourth quarter of 2017 and the start of 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.

