

# Doing Business in iLembe 2015

## ECONOMY PROFILE



COMPARING BUSINESS REGULATIONS FOR DOMESTIC FIRMS  
WITH OTHER SOUTH AFRICAN CITIES AND 188 ECONOMIES WORLDWIDE

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## INTRODUCTION

*Doing Business* sheds light on how easy or difficult it is for a local entrepreneur to open and run a small to medium-size business when complying with relevant regulations. It measures and tracks changes in regulations affecting 11 areas in the life cycle of a business: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency and labor market regulation.

In a series of annual reports *Doing Business* presents quantitative indicators on business regulations and the protection of property rights that can be compared across 189 economies, from Afghanistan to Zimbabwe, over time. The data set covers 47 economies in Sub-Saharan Africa, 32 in Latin America and the Caribbean, 25 in East Asia and the Pacific, 26 in Eastern Europe and Central Asia, 20 in the Middle East and North Africa and 8 in South Asia, as well as 31 OECD high-income economies. The indicators are used to analyze economic outcomes and identify what reforms have worked, where and why.

Subnational *Doing Business* studies expand the *Doing Business* analysis beyond the largest business city of an economy. Undertaken at the express request of governments, subnational studies measure variation in regulations or in the implementation of national laws across locations within an economy (as in Nigeria) or region (as in Central America). Since 2005 subnational reports have covered more than 437 cities in over 65 economies, including Brazil, the Arab Republic of Egypt, China, India, Italy, Morocco, and Pakistan. 501 reforms have been documented in the seventeen economies

that have undertaken two or more rounds of benchmarking to measure progress over time.

This economy profile presents the *Doing Business* indicators on 5 topics—starting a business, dealing with construction permits, getting electricity, registering property and enforcing contracts—for the iLembe District in South Africa. To allow for useful comparisons, it also provides data for other selected countries (comparator economies) and the nine municipalities in South Africa measured in *Doing Business in South Africa 2015*<sup>1</sup>—Buffalo City, Cape Town, Ekurhuleni, eThekweni, Johannesburg, Mangaung, Msunduzi, Nelson Mandela Bay and Tshwane—for each indicator. The data in this report are current as of January 2015.

The *Doing Business* methodology has limitations. Other areas important to business—such as an economy's proximity to large markets, the quality of its infrastructure services (other than those related to trading across borders and getting electricity), the security of property from theft and looting, the transparency of government procurement, macroeconomic conditions or the underlying strength of institutions—are not directly studied by *Doing Business*. The indicators refer to a specific type of business, generally a local limited liability company operating in the selected city. Because standard assumptions are used in the data collection, comparisons and benchmarks are valid across economies. The data not only highlight the extent of obstacles to doing business; they also help identify the source of those obstacles, supporting policy makers in designing regulatory reform.

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<sup>1</sup> *Doing Business in South Africa 2015*—the first World Bank Group sub-national study on the ease of doing business in South Africa—compares business regulations in 9 South African cities: Buffalo City, Cape Town, Ekurhuleni, eThekweni, Johannesburg, Mangaung, Msunduzi, Nelson Mandela Bay and Tshwane. The report measures regulations relevant to 6 stages in the life of a small to medium-size

domestic firm: starting a business, dealing with construction permits, getting electricity, registering property, enforcing contracts, and trading across borders. The report measures cross-border trade through 4 maritime ports: Cape Town, Durban, Ngqura, and Port Elizabeth.

## OVERVIEW

Over the last two decades, South Africa has made notable strides in moving away from the legacy of its apartheid past and in consolidating the institutions and practices of democracy. The political transition and a vast number of policy reforms have brought not only economic growth for a privileged few, but more opportunities for society at large, including those previously excluded. Economic growth has moved from a historically erratic trajectory to a steady, albeit modest course with an annual average GDP growth rate of 3% in the first post-apartheid decade, to above 5% for 3 consecutive years immediately preceding the financial crisis of 2008.<sup>2</sup> South Africa is the second largest economy in Africa, contributing approximately 15% of the continent's GDP.<sup>3</sup> It is also much more closely integrated with the global economy, a feature that provides further opportunities for growth and development. These remarkable achievements may have seemed unattainable in the not-so-distant past, but as Madiba once said, "It always seems impossible until it's done."

Adjusting to a slow-growth global economy post the 2008 crisis has not been an easy feat for emerging market economies like South Africa. In addition, a number of unresolved internal issues continue to impede shared prosperity. The country still suffers from one of the highest income inequalities in the world.<sup>4</sup> Unemployment remains stubbornly high—1 in 4 South Africans is without a job. The situation is even worse among the youth<sup>5</sup>—1 in 2 is unemployed.<sup>6</sup> There are also marked regional differences across provinces: only Gauteng, Kwazulu-Natal and Western Cape matched or surpassed the national average GDP growth rate of 4% over the period of 2001 to 2011<sup>7</sup> (figure 1.1). Within cities, the relicts of the spatial divide between underserved and more developed areas are yet to be addressed. Service delivery protests are widespread, and labor unrests commonly occur, especially in the mining sector.

There is a growing consensus within South Africa that the economy is functioning below its potential and that more must be done to promote shared prosperity. The *National Development Plan 2030* is the footprint to guide the country towards eliminating poverty and reducing inequality.<sup>8</sup> Regulatory reforms and an enabling business environment have been identified as mechanisms to promote small and medium-size enterprises as the main job creators and drivers of exports—according to the plan, 90% of new jobs will be created by small and medium-size enterprises.

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<sup>2</sup> World Bank. 2014. *World Development Indicators*. Washington, DC: World Bank Group.

<sup>3</sup> GDP calculations are in current US\$. World Bank. 2014. *World Development Indicators*. Washington, DC: World Bank Group.

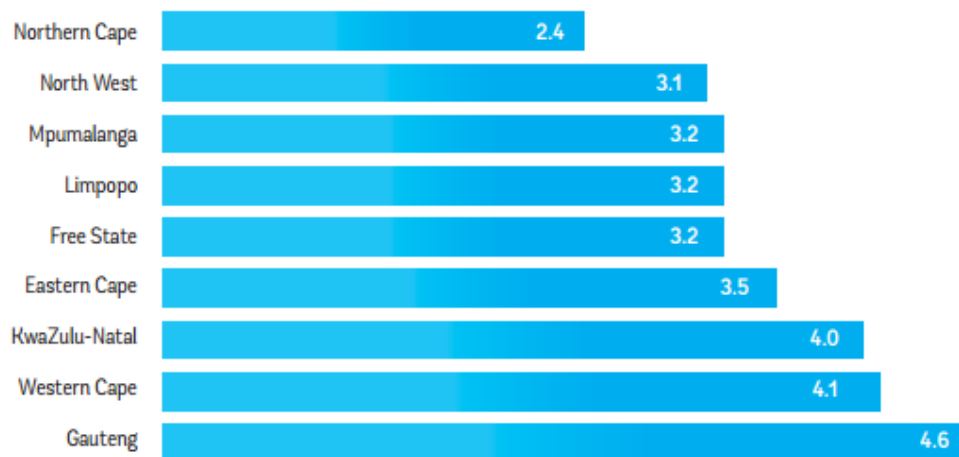
<sup>4</sup> According to World Bank estimates, South Africa's Gini coefficient is 0.65.

<sup>5</sup> 15 to 24 years of age.

<sup>6</sup> World Bank. 2014. *World Development Indicators*. Washington, DC: World Bank Group.

<sup>7</sup> Excluding the economic contraction in 2009 due to the global financial crisis.

<sup>8</sup> National Planning Commission, the Presidency of the Republic of South Africa. 2012. *Our Future—Make it Work: National Development Plan 2030*. Pretoria, South Africa.

**FIGURE 1.1 Average real annual economic growth rate (%) across provinces: 2001–2011**

Source: Statistics South Africa (beta2.statssa.gov.za).

*Doing Business* studies business regulations from the perspective of small and medium-size domestic firms. A fundamental premise of *Doing Business* is that economic activity benefits from good rules and institutions. These include rules that establish and clarify property rights, reduce the cost of solving commercial disputes, increase the predictability of economic outcomes and provide contractual partners with core protections against abuse. The objective: transparent regulations designed to be efficient, accessible to all and simple to implement.

Over the past decade, South Africa has implemented regulatory reforms improving 7 areas measured by *Doing Business* (table 1.1). The Companies Act No. 71 significantly lowered the cost of business incorporation

and simplified business registration. In registering property, electronic platforms for transfer duty declarations and payments were set up and some duties reduced. Credit information systems now give borrowers the right to challenge their credit records. Court costs have been minimized thanks to the repeal of the revenue stamp. Numerous taxes, such as the regional establishment levy, the regional services levy, the secondary tax on companies and the stamp duty were reduced or abolished. The reduction of taxes also lowered the cost to trade across borders. In addition, the documents and time needed to export and import goods were reduced by the ongoing customs modernization program. Lastly, a new reorganization regime has facilitated the resolution of insolvency.

**TABLE 1.1 Since 2007/08, South Africa has made major improvements in 7 *Doing Business* areas**

	2007-08	2008-09	2009-10	2011-12	2012-13	2013-14	2014-15
<b>Starting a business</b>		Eliminated the need to use a legal professional for document submission		Implemented a new company law			
<b>Registering property</b>				Reduced transfer duty and introduced electronic filing			
<b>Getting credit</b>	Gave the borrowers the right to access and challenge their credit records						*Required credit bureaus to remove negative credit information on a consumer's record before April 1, 2014
<b>Enforcing contracts</b>							Amended the monetary jurisdiction of lower courts and introduced voluntary mediation
<b>Paying taxes</b>	Reduced stamp duty	Abolished the regional establishment levy and regional services levy	Abolished stamp duty			Replaced the secondary tax on companies with a dividend tax borne by shareholders	
<b>Trading across borders</b>					Reduced the time and documents to export and import through ongoing customs modernization program		
<b>Resolving insolvency</b>				Introduced a new reorganization process to facilitate rehabilitation of financially distressed companies			

\*Change making it more difficult to do business

Source: *Doing Business* database.

Despite these reforms, South Africa's global ranking has been slipping. One reason is that other economies have reformed at a faster pace. Also, there are areas where South Africa is lagging behind, most notably with respect to getting electricity, trading across borders and registering property. In a recent investment climate assessment, South African enterprises identified electricity as one of the top constraints, only surpassed

by crime. One in 10 entrepreneurs also identified access to land as a constraint.<sup>9</sup>

South African exports have suffered since the global financial crisis. And while that is closely linked to external factors and certain problems with enterprise and sector performance, the burdens faced by South Africans when exporting goods through the country's major ports cannot be ignored—South Africa is among the 50 most expensive economies to export, as expensive as a landlocked economy like Paraguay.<sup>10</sup>

<sup>9</sup> World Bank. 2011. *Improving the Business Environment for Growth and Job Creation in South Africa: The Second Investment Climate Assessment*. Washington, DC: World Bank Group.

<sup>10</sup> As measured by *Doing Business*.

### What does *Doing Business in iLembe 2015* measure?

As the largest business city in South Africa, Johannesburg<sup>11</sup> represents the country in *Doing Business*, which annually compares 189 economies globally. However, in a large economy with a decentralized system of government comprising 9 provinces, 8 metropolitan areas, 44 district municipalities and 226 local municipalities, entrepreneurs face different local practices and regulations depending on where they operate. South Africa's 1996 Constitution granted increased autonomy to all municipalities. In short, Johannesburg does not tell the full story.

*Doing Business in South Africa 2015*<sup>12</sup> expanded the benchmarking exercise to all metropolitan areas<sup>13</sup> and the Msunduzi local municipality and *Doing Business in iLembe 2015* now adds 2 locations in the iLembe District Municipality: KwaDukuza and Mandeni. The focus is on indicators that measure the complexity and cost of regulatory processes, as well as the strength of legal institutions affecting 5 stages in the life of a small to medium-size domestic firm: starting a business, dealing with construction permits, getting electricity, registering property and enforcing contracts.

The indicators were selected because they are governed—at least partially—by local authorities. While the same legal and regulatory framework applies across locations, its implementation varies and local regulations may be different. Two of the areas measured—dealing with construction permits and

getting electricity—are almost entirely governed by municipalities. Across the other 3 areas, differences in implementation of national regulations drive variations across locations.

### What are the findings of *Doing Business in iLembe 2015*?

This study shows that South African entrepreneurs face different local practices depending on where they establish their business. The indicator results for iLembe are presented in table 1.2, along with the findings for larger South African cities. In addition to listing the number of procedures and the associated time and cost, the table provides the cities' distance to frontier (DTF) score. This score shows the distance between a city's performance and the "frontier," defined as the best performance globally across 189 economies benchmarked by *Doing Business*. The DTF score aids in assessing the absolute level of regulatory performance, allowing users to see the gap between a particular city's performance and the best performance at any point in time. This measure shows not only how economies are ordered on their performance on the indicators but also how far apart they are.

Calculation of scores for economies with 2 cities covered include the weighted average of the 2 cities based on the size of the population. In the case of iLembe, the weights to calculate the average are the following: 0.63 for KwaDukuza (based on a population size of 231,187) and 0.37 for Mandeni (based on a population size of 138,078).

<sup>11</sup> The 2015 data for Johannesburg for starting a business and dealing with construction permits have been revised and updated since the publication of the *Doing Business 2015: Going Beyond Efficiency* global report.

<sup>12</sup> See *Doing Business in South Africa 2015* (available at [www.doingbusiness.org/southafrica](http://www.doingbusiness.org/southafrica)) for a detailed analysis of the 9 cities measured in that report.

<sup>13</sup> Buffalo City, Cape Town, Ekurhuleni, eThekweni, Johannesburg, Mangaung, Nelson Mandela Bay and Tshwane.



TABLE 1.2 Doing Business indicators for iLembe compared with South African cities<sup>a</sup>

Indicator	iLembe	KwaDukuza	Mandeni	OECD high-income average	South African average <sup>b</sup>	Buffalo City	Cape Town	Ekurhuleni	eThekweni	Johannesburg	Mangaung	Msunduzi	Nelson Mandela Bay	Tshwane	Best global performer Doing Business 2015
<b>Starting a Business (DTF Score)</b>	78.67	78.67	78.67	91.24	79.51	78.67	78.67	81.18	78.67	81.18	78.67	78.67	78.67	81.18	New Zealand (99.96)
<b>Procedures (number)</b>	6	6	6	4.8	6	6	6	6	6	6	6	6	6	6	2 Economies (1.0) <sup>c</sup>
<b>Time (days)</b>	56	56	56	9.2	53	56	56	46	56	46	56	56	56	46	New Zealand (0.5)
<b>Cost (% of income per capita)</b>	0.3	0.3	0.3	3.4	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	Slovenia (0.0)
<b>Paid-in min. capital (% of income per capita)</b>	0	0	0	8.8	0	0	0	0	0	0	0	0	0	0	117 Economies (0.0) <sup>c</sup>
<b>Dealing with Construction Permits (DTF Score)</b>	76.47	76.25	76.85	76.03	74.15	77.50	78.08	76.84	76.15	68.52	68.22	74.07	78.05	69.88	Hong Kong SAR, China (95.53)
<b>Procedures (number)</b>	16	16	15	11.9	17	16	16	16	16	19	22	17	15	16	Hong Kong SAR, China (5.0)
<b>Time (days)</b>	110	104	119	149.5	110.8	88	83	98	104	141	109	117	88	169	Singapore (26.0)
<b>Cost (% of warehouse value)</b>	0.80	0.96	0.53	1.1	1.03	1.13	1.06	0.95	1.01	1.06	0.68	0.71	1.60	1.03	2 Economies (0.0) <sup>c</sup>
<b>Getting Electricity (DTF Score)</b>	49.16	51.68	51.76	81.83	69.88	75.32	81.81	71.83	75.73	55.74	83.88	63.00	53.14	68.51	Korea, Rep. (99.83)
<b>Procedures (number)</b>	7	8	5	4.7	5	6	4	6	5	5	4	5	5	6	13 Economies (3.0) <sup>c</sup>

Indicator	iLembe	KwaDukuza	Mandeni	OECD high-income average	South African average <sup>b</sup>	Buffalo City	Cape Town	Ekurhuleni	eThekwinini	Johannesburg	Mangaung	Msunduzi	Nelson Mandela Bay	Tshwane	Best global performer Doing Business 2015
Time (days)	188	124	295	76.8	141	66	87	90	98	226	80	184	333	104	2 Economies (18.0) <sup>c</sup>
Cost (% of income per capita)	1133.3	1,259.2	922.5	73.2	472.8	257.2	640.0	258.5	380.2	729.5	383.2	446.0	587.7	572.6	Japan (0.0)
Registering Property (DTF Score)	59.15	59.20	59.06	76.93	62.16	62.84	59.23	64.23	62.05	65.82	58.41	59.49	62.69	64.71	Georgia (99.88)
Procedures (number)	9	9	9	4.7	8	8	9	7	8	7	8	8	8	7	4 Economies (1.0) <sup>c</sup>
Time (days)	29	29	30	24.0	32.2	24	29	33	29	23	52	45	25	30	3 Economies (1.0) <sup>c</sup>
Cost (% of property value)	6.35	6.35	6.34	4.2	6.31	6.32	6.34	6.30	6.32	6.30	6.30	6.32	6.32	6.30	4 Economies (0.0) <sup>c</sup>
Enforcing Contracts (DTF Score)	74.43	74.43	74.43	69.82	67.85	62.54	67.53	68.26	69.27	66.14	71.04	70.81	66.89	68.17	Singapore (89.54)
Procedures (number)	29	29	29	31.5	29	29	29	29	29	29	29	29	29	29	2 Economies (21.0) <sup>c</sup>
Time (days)	390	390	390	539.5	550.6	696	545	513	521	600	473	469	611	527	Singapore (150.0)
Cost (% of claim)	26.4	26.4	26.4	21.4	32.2	35.8	33.5	33.9	30.6	33.2	29.4	30.3	30.4	33.1	Iceland (9.0)

Note: The distance to frontier (DTF) score shows how far on average an economy is at any given point in time from the best performance achieved by any economy on each *Doing Business* indicator since 2005. The measure is normalized to range between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). For details, see the *Doing Business* website (<http://www.doingbusiness.org/data/distance-to-frontier>).

a. The data for the 9 South African cities are obtained from *Doing Business in South Africa 2015*.

b. The South African average includes the 9 cities benchmarked in *Doing Business in South Africa 2015*.

c. Two or more economies share the top ranking on this indicator. A number shown in place of an economy's name indicates the number of economies that share the top ranking on the indicator. For a list of these economies, see the *Doing Business* website (<http://www.doingbusiness.org>).

Source: *Doing Business* database.

## Comparing regulations in iLembe with other South African cities and the world

The indicators, on their own or in comparison with a good practice or comparator economies, may reveal bottlenecks reflected in large numbers of procedures, long delays or high costs. Or they may reveal unexpected strengths in an area of business regulation—such as a regulatory process that can be completed with a small number of procedures in a few days and at a low cost.

### Starting a business

Starting a business is regulated pursuant to the Companies Act No. 71 of 2008. The Companies and Intellectual Property Commission (CIPC) is in charge of business registration, the South African Revenue Service (SARS) handles tax registration, while the Unemployment Insurance Fund (UIF) and the Compensation Fund manage registration for unemployment and disability benefits. Starting a private company in iLembe requires 6 procedures, 56 days and costs 0.3% of income per capita. While compared globally it is inexpensive, the average time is over 6 times longer than in the average OECD high-income economy. The procedural requirements and cost in iLembe are the same as in other municipalities across South Africa, but the time required to start a business is slightly longer than the South African average of 53 days. The longer time in iLembe is driven by delays in registering with the Compensation Fund. The registration is centralized in the Compensation Fund office in Pretoria. Unlike entrepreneurs in Gauteng, who have easier access to the main Compensation Fund office due to their relative proximity, entrepreneurs in iLembe submit their applications to the local labor center, which in turn forwards the application to the Compensation Fund office by mail.

CIPC recently transitioned from a paper-based to a fully electronic system. The platform is yet to achieve full functionality—glitches and bandwidth issues have plagued the system creating delays. Over the short term, improving online functionality is a necessary step to speed up registration. In the medium- to long-term, the electronic platform could be expanded into a one-stop

shop that would integrate the 4 agencies involved in the business startup process, enabling entrepreneurs to register their companies through a single interface.

### Dealing with construction permits

Dealing with construction permits in iLembe takes on average 16 procedures, 110 days and costs 0.80% of the warehouse value. This average is higher than the OECD high-income economies' average. Conversely, it presents fewer procedural requirements and is cheaper and slightly shorter than the South African average. The number of steps ranges from 15 in Mandeni to 16 in KwaDukuza, which is shorter than the South African average of 17 steps. In KwaDukuza the municipal Fire Department's inspection is done separately from the final inspection conducted by the municipal Building Control once construction is complete, resulting in a higher number of procedures. In Mandeni all departments conduct the inspection at once, after the construction is complete. The time to deal with construction permits in KwaDukuza (104 days) is shorter than the South African average (111 days), meanwhile it is longer in Mandeni (119 days). The largest share of the time is spent obtaining a building plan approval—in both cities it takes 60 days. The variation in time is driven by the number of days needed to obtain the occupancy certificate—it takes 14 days in KwaDukuza and 30 days in Mandeni. The cost of dealing with construction permits in iLembe is cheaper than the South African average of 1.03% of the warehouse value. It varies from 0.53% of the warehouse value in Mandeni to 0.96% in KwaDukuza, depending on the building permit fee, which constitutes on average two thirds of the total cost.

Reorganizing the approval of building plans is important, especially for cities where it creates delays and would be a key factor in facilitating the construction permitting process in iLembe. The use of electronic platforms to connect all relevant approving departments is also a recognized international good practice that could be beneficial.

### Getting electricity

Obtaining a new electricity connection for a business takes on average 7 procedures, 188 days and costs 1,133.3% of income per capita. This is more complex and expensive, as well as longer than the South African average. The process is two and a half times longer and over fifteen times as expensive compared to the average of OECD high-income economies.

Getting an electricity connection is easier in Mandeni than in KwaDukuza. In Mandeni it takes 5 procedures, while in KwaDukuza the customer has to go through 8 steps, making the process more complex than in any other South African municipality. In Mandeni the external works are entirely performed by the distribution utility. In KwaDukuza the external works are performed in part by the municipality and in part by an electrical contractor. Before selecting a contractor, the customer has to request a meeting with the municipality and the potential electrical contractors to explain the type of work required. Additionally, while in Mandeni the electrical contractor only submits the Certificate of Internal Wiring Compliance (COC) to the distribution utility, in KwaDukuza two agencies require the COC: the municipality's electricity department and finance department.

The time to obtain a new connection in KwaDukuza (124 days) is shorter than the South African average of 141 days. The same process is much longer in Mandeni (295 days). The Mandeni municipality outsources the external connection works to a subcontractor; however, the process takes longer than in KwaDukuza because, according to anecdotal evidence, Mandeni's procurement department is understaffed. As a result, delays occur in subcontracting the external works and in procuring the materials needed for the connection. In addition, the utility also lacks staff to carry out the external inspection needed to issue a cost estimate. This prolongs the wait time for an estimate. The main cause of delay is the time—6 to 8 weeks—to purchase a mini-substation and 3 to 5 weeks to conduct the external connection works.

Connection costs can usually be divided into 2 categories: a clearly regulated connection fee based on

a formula or set as a fixed price and variable costs for the connection, accounting for the actual labor and materials required. Some municipalities in South Africa, including KwaDukuza and Mandeni, also charge customers the cost of materials, such as the meter box, cables and the excavation works. Additionally, both cities' utilities require customers to pay for the distribution transformer needed to accommodate the power demand of the connection. Consequently, the cost for each city—1,259.19% of income per capita in KwaDukuza and 922.53% of income per capita in Mandeni—is significantly higher than the South African average.

Reforms that streamline utilities' internal processes, reduce the burden of security deposits, and increase the transparency of connection costs and procedures would make the process of getting electricity in iLembe easier.

### Registering property

Registering property in iLembe takes on average 9 procedures, 29 days, and costs 6.35% of the property value. It is thus more cumbersome and more expensive than in OECD high-income economies. Registering property in iLembe is comparable to the South African average—8 procedures, 32 days and 6.31% of the property value—and faster in KwaDukuza, where it takes 1 day less than in Mandeni. The delay is largely caused by the time needed to obtain the rates clearance certificate from the municipality, as required under Section 118 of the Local Government Municipal Systems Act 32 of 2000. The average time to obtain a rates clearance certificate across South Africa is 19 days, but it can vary from 7 (in cities where conveyancers can make the request online) to 42 days, depending on the municipality. In Mandeni obtaining a rates clearance certificate takes 7 days, whereas in KwaDukuza it takes 10 days.

Across South African cities, the time needed to process transfer deeds at regional Deeds Registries also varies between 9 and 14 days, depending on the locality. At the Deeds Registry of Pietermaritzburg, KwaDukuza and Mandeni's corresponding registry, registration takes 14 days. Setting effective service delivery time limits for the deeds registries and/or introducing fast-track approvals,

as well as developing an integrated registry system for electronic registration, would reduce the overall time to register property in iLembe.

### Enforcing contracts

On average, it takes 29 procedures, 390 days and costs 26.4% of the claim value to resolve a commercial dispute in iLembe. This is over 5 months shorter and nearly 20% cheaper than the South African average—29 procedures, 551 days and 32.2% of the claim value. Resolving a commercial dispute in iLembe is also more efficient than the OECD high-income economies' average. Despite relative court efficiency in iLembe, like other locations across South Africa, litigants spend most of their time waiting for pre-trial hearings, trial or both. The trial and judgment phase ranges from just under 12 months to 19 months across South Africa. In iLembe trial and judgment last 10 months on average, which is 5 months shorter than the South African average. Requiring 2 months, enforcing a judgment in iLembe is also shorter than the South African average of 79 days. Waiting for the sheriff to attach, remove and sell an insolvent judgment debtor's assets takes the greatest share of time needed to enforce a judgment. At 26.4% of the claim value, the cost of litigation is lower in iLembe than the South African average, largely due to lower attorney fees than in other locations.

To make enforcing contracts more efficient, authorities could increase the use of electronic tools. South African courts already use a tool known as NOC to collect statistics; however, the tool is limited as it fails to capture important information, such as the number of backlogged or settled cases, which are important for monitoring and evaluation purposes. E-filing is another good international practice that could reduce delays and minimize the risk of document misplacement and improper allocation of case numbers.

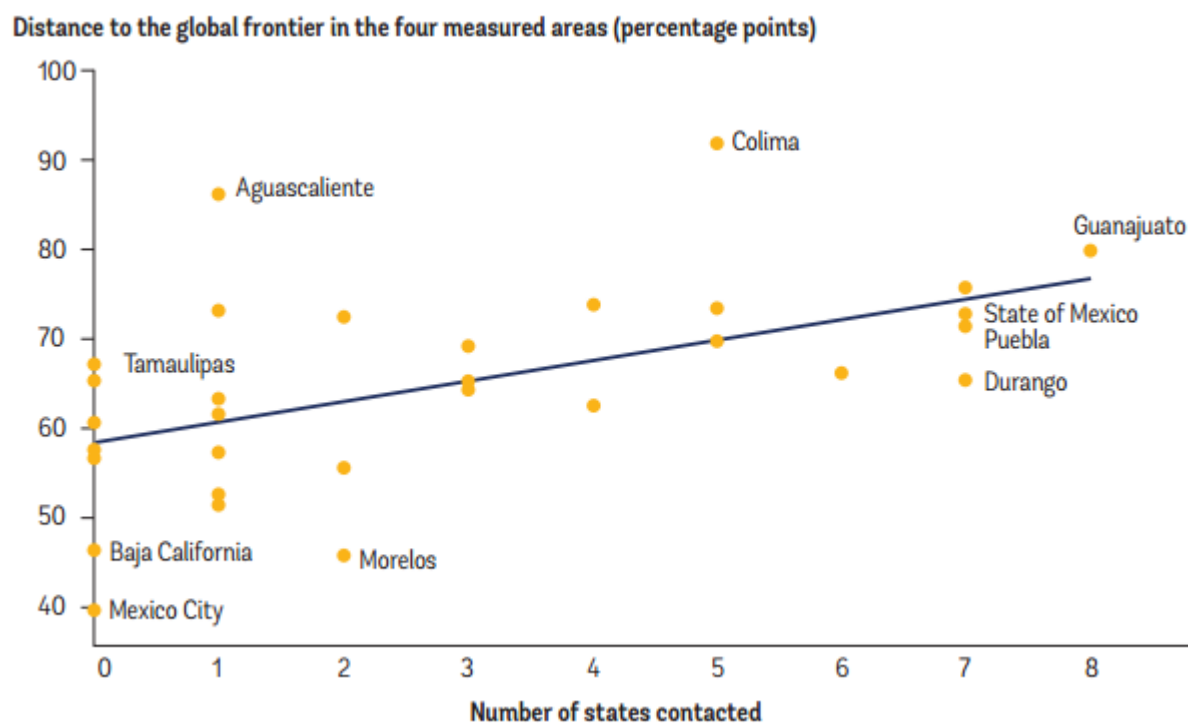
### Learning from each other

Benchmarking exercises like *Doing Business* inspire governments to reform. Comparisons of locations within the same country may be even stronger drivers of reform as it is more difficult for local governments to justify why doing business in their city is more burdensome than in the neighboring location. In South Africa and even within iLembe there are good practices to be found across locations.

The good news is that there is no need to reinvent the wheel, and tangible improvements can be achieved by introducing measures already successfully implemented elsewhere in South Africa. Sharing the same national legal and regulatory framework facilitates the replication of good local practices. Small administrative improvements not requiring major regulatory changes can make a big difference in the life of a small or medium-size firm.

Peer-to-peer learning can facilitate knowledge sharing and provide opportunities for local authorities to lobby the national government for nation-wide reforms that push the agenda for the country as a whole. Some economies have built a strong track record in peer-to-peer learning and use *Doing Business* indicators and good practices as a framework for discussion. Such is the case in Mexico, where the Federal Commission for Regulatory Improvement *COFEMER* organizes biannually a regulatory conference, allowing every state to share its experience with regulatory improvements. Peer learning also takes place when local policy makers visit neighboring states and cities. For example, policy makers of the state of Colima paid a visit to Sinaloa, where they learned about how to issue land use authorizations electronically. Soon Colima set up a similar system on its own website. Not surprisingly, data shows that the better-performing states are those that make the most efforts to maintain a dialogue with their peers (figure 1.2).

**FIGURE 1.2 In Mexico, states that strive the most to maintain an active dialogue with their peers have a better business regulatory environment**



Note: The correlation between the distance to frontier and the number of states that were contacted by other states is 0.53 and the relationship is significant at 1%.

Source: *Doing Business* database—obtained in November 2013 during consultative meetings with authorities from Mexican states.

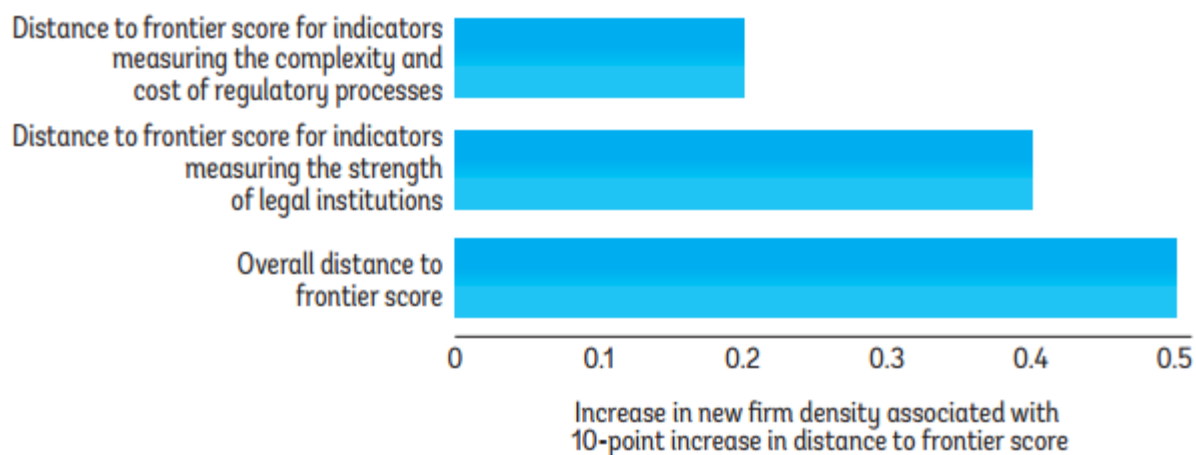
In addition, the Mexican Ministry of Economy uses *Doing Business* and other indicators for monitoring and evaluation purposes. The funding vehicle “Fondo PYME” offers subsidies to states and municipalities that implement regulatory reform projects to improve the investment climate and competitiveness. Showing improvement in the indicators is an integral part of the terms of references for locations that are seeking funds.

The findings of this study provide an opportunity for policy makers to substantively address a number of impediments to the investment climate that have plagued the country over decades. Some potential

reforms can be made at minimal cost in terms of budget resources.

In a time of tight budgets and high unemployment, reforms making it easier to do business make more sense than ever, because they help create jobs and boost growth at a relatively affordable cost. Successful regulatory reform programs tend to take a comprehensive approach that targets improvements across multiple areas of the investment climate. Analyzing time series of *Doing Business* data shows the effectiveness of cumulative reforms—an improvement of 10 points in the overall DTF score is linked to an increase of 0.5 in new firm density (figure 1.3).

**FIGURE 1.3 Combined regulatory reforms are likely to have greater effects on new business registration than isolated ones**



*Note:* New firm density is defined as the number of newly registered limited liability companies per 1,000 working-age people (ages 15 to 64). Indicators measuring the strength of legal institutions are those on getting credit, protecting minority investors, enforcing contracts and resolving insolvency. Indicators measuring the complexity and cost of regulatory processes are those on starting a business, dealing with construction permits, getting electricity, registering property, paying taxes and trading across borders. The analysis uses data from 2003-13 for all economies covered by *Doing Business*.

*Source:* Divanbeigi, Raian, and Rita Ramalho. 2014. "Business Regulations and Growth." Draft paper, Doing Business Unit. Washington, DC: World Bank Group.

## STARTING A BUSINESS

Formal registration of companies has many immediate benefits for the companies and for business owners and employees. Legal entities can outlive their founders. Resources are pooled as several shareholders join forces to start a company. Formally registered companies have access to services and institutions from courts to banks as well as to new markets. And their employees can benefit from protections provided by the law. An additional benefit comes with limited liability companies. These limit the financial liability of company owners to their investments, so personal assets of the owners are not put at risk. Where governments make registration easy, more entrepreneurs start businesses in the formal sector, creating more good jobs and generating more revenue for the government.

### What do the indicators cover?

*Doing Business* measures the ease of starting a business in an economy by recording all procedures officially required or commonly done in practice by an entrepreneur to start up and formally operate an industrial or commercial business—as well as the time and cost required to complete these procedures. It also records the paid-in minimum capital that companies must deposit before registration (or within 3 months). The ranking of economies on the ease of starting a business is determined by sorting their distance to frontier scores for starting a business. These scores are the simple average of the distance to frontier scores for each of the component indicators.

To make the data comparable across locations, *Doing Business* uses several assumptions about the business and the procedures. It assumes that all information is readily available to the entrepreneur and that there has been no prior contact with officials. It also assumes that the entrepreneur will pay no bribes. And it assumes that the business:

- Is a limited liability company, located in the selected city and is 100% domestically owned.
- Has between 10 and 50 employees.
- Conducts general commercial or industrial activities.

### WHAT THE STARTING A BUSINESS

#### INDICATORS MEASURE

#### Procedures to legally start and operate a company (number)

- Preregistration (for example, name verification or reservation, notarization)
- Registration in the selected city
- Postregistration (for example, social security registration, company seal)

#### Time required to complete each procedure (calendar days)

- Does not include time spent gathering information
- Each procedure starts on a separate day (2 procedures cannot start on the same day)
- Procedures that can be fully completed online are recorded as ½ day
- Procedure completed once final document is received
- No prior contact with officials

#### Cost required to complete each procedure (% of income per capita)

- Official costs only, no bribes
- No professional fees unless services required by law

#### Paid-in minimum capital (% of income per capita)

- Deposited in a bank or with a notary before registration (or within 3 months)

- Has a start-up capital of 10 times income per capita.
- Has a turnover of at least 100 times income per capita.
- Does not qualify for any special benefits.
- Does not own real estate.



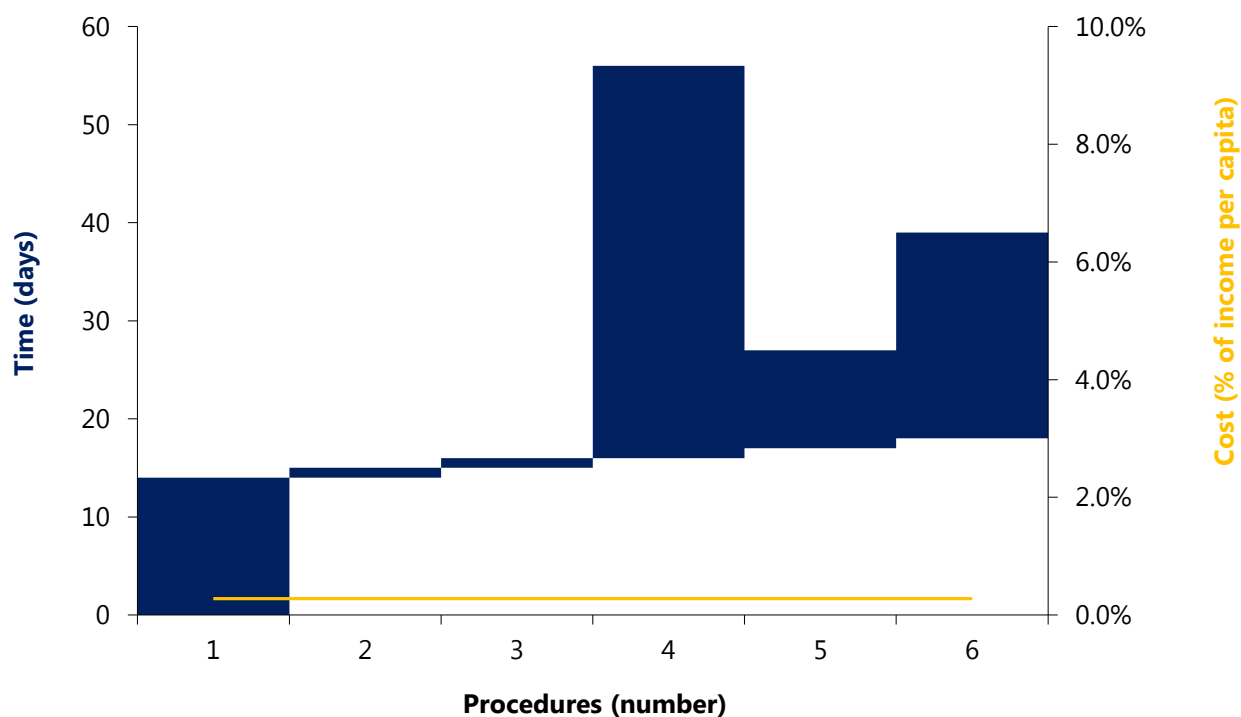
## How does starting a business work in iLembe?

What does it take to start a business in iLembe? According to data collected by Subnational *Doing Business*, starting a business in iLembe requires 6

procedures, takes 56 days, costs 0.3% of income per capita and requires paid-in minimum capital of 0.0% of income per capita (figure 2.1).

**FIGURE 2.1 What it takes to start a business in iLembe**

Paid-in minimum capital (% of income per capita): 0.0



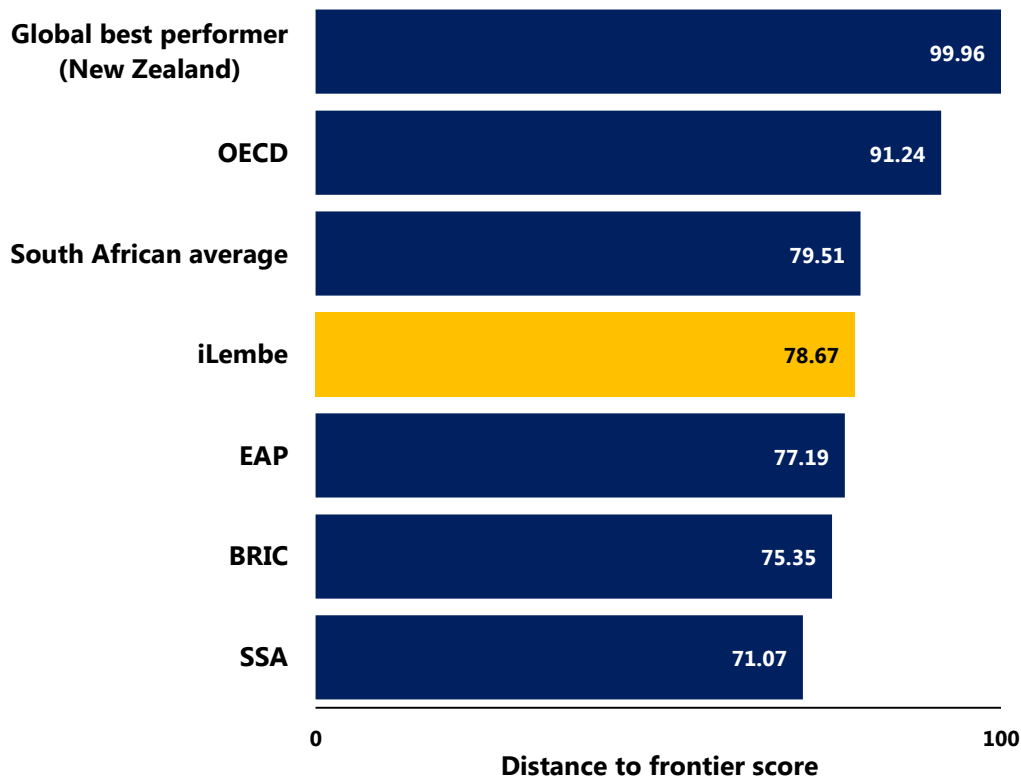
Note: Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the starting a business indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

Source: *Doing Business* database.

iLembe’s average distance to frontier score for starting a business allows for comparison with other economies (figure 2.2). The performance of comparator economies is useful in assessing how easy it is for an entrepreneur in iLembe to start a

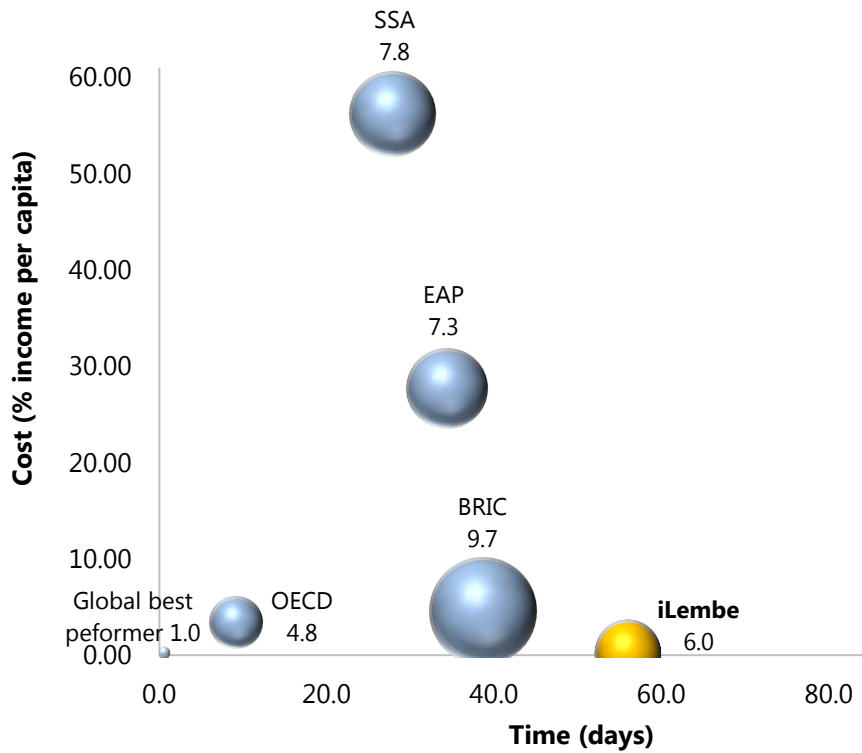
business. Indicator values provide further insight, and, when compared internationally, may reveal constraints and strengths in specific areas of business regulation (figure 2.3).

**FIGURE 2.2 How iLembe and other economies compare on the ease of starting a business**



*Note:* BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. KwaDukuza and Mandeni have the same indicator values and are represented by iLembe.  
*Source:* Doing Business database.

**FIGURE 2.3 Time, cost and procedures to start a business compared globally**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. The size of the bubble denotes the number of procedures—the larger the bubble, the higher the number of procedures.  
 Source: *Doing Business* database.

Economies around the world have taken steps making it easier to start a business—streamlining procedures by setting up a one-stop shop, making procedures simpler or faster by introducing technology and reducing or eliminating minimum capital requirements. Many have undertaken business registration reforms in stages—and they often are part of a larger regulatory reform

program. Among the benefits have been greater firm satisfaction and savings and more registered businesses, financial resources and job opportunities.

Suggested reform recommendations to improve the ease of starting a business in iLembe can be found in table 2.1 below.

**TABLE 2.1 Policy reform recommendations for starting a business**

### **Make the CIPC online platform fully operational**

Glitches and bottlenecks in the system have plagued the online registration process and led to backlogs. This is partly due to the transition from a paper-based to an electronic system. All paper-based applications and supporting documents have to be digitized (scanned), which is time consuming for the CIPC staff. In addition, internal procedures for document storage have also created delays. The CIPC recently enabled uploading of supporting documents directly on the online platform or sending them via e-mail. As a result, the CIPC staff had to download and index the documents from e-mail and upload them into the database. Lastly, the platform has continually received new upgrades, which have created glitches and bandwidth issues and caused further delays.

As a consequence, registration still takes longer than what the CIPC aspires—processing applications within 3 days. Also, the fact that some applicants still opt to use the manual application process, despite the fact that the postal service is not always reliable, might indicate possible lack of confidence in the online system. A similar problem plagued the Mexican online registration system [tuempresa.gob.mx](http://tuempresa.gob.mx) in 2012. When a new version of the online portal was launched, the system was down for over a month. A year later, the percentage of new businesses registered through this channel was still below 3% and it has not recovered since. On the other hand, economies like Chile and Rwanda have successfully implemented similar platforms in the recent past. As a result, registration times have been cut exponentially.

The CIPC online platform has certainly been improved and become more user-friendly over time. Moving forward, to achieve higher efficiency, the bandwidth issues have to be resolved. Having a well-functioning platform free of glitches would certainly reduce the time applicants spend on it. During this transitional period, efficient customer care to provide guidance to applicants is also critical. This could ensure that the enquiry system works well, leading to better quality of the submitted documents and ultimately to lower turnaround times.

### **Make registration with the Compensation Fund more efficient**

Although applications to the Compensation Fund can be submitted at any of the 126 local labor centers across the country, all applications must then be forwarded to the Compensation Fund office in Pretoria. There, the rate will depend on the risk assigned to the company according to its activity. Simplifying the complex risk classification system could make it easier to delegate the Compensation Fund registration to the local labor centers or provincial offices. Applications would not travel across the country, which in turn would minimize the risk of misplacement and reduce turnaround times. The registration with the UIF is already decentralized and can be done locally after submitting the application to the local labor offices.

The whole process is paper-based. During the last 6 months, the Compensation Fund, with nearly 100 staff working in Pretoria, received approximately 19,000 applications. Following up multiple times with the agency is generally necessary, and according to anecdotal evidence, customer service is often unresponsive. Enabling an electronic

platform to allow online registration could cut the turnaround of the Compensation Fund procedure by 36 days on average.

### **Over the medium term, develop a fully integrated online one-stop shop**

Today, entrepreneurs must interact with 4 different government agencies when starting a business: the CIPC, SARS, the UIF and the Compensation Fund. Integrating different services with a single ID number under one single interface would not only save time and resources, but it would also make procedural requirements more transparent. In fact, as most agencies require much of the same data, designing a single electronic form to provide the required information only once would be helpful.

The CIPC and SARS are already linked electronically. However, entrepreneurs still interact with SARS to complete the registration for different taxes. On the other hand, the Compensation Fund and the UIF have no direct access to the CIPC database. To develop an online one-stop shop, appropriate data exchange among the agencies involved should be secured. The entrepreneur would navigate only through one interface without having to provide the same information multiple times, and once the information is submitted, it would be shared with all the relevant agencies electronically. In Mauritius, for instance, once an entrepreneur submits a registration application, the information is stored in a central database to which all the relevant agencies have access, allowing them to retrieve the needed information. The Social Security Ministry, for example, downloads information from the central server on a daily basis. Once the information is on the server, 50 local Social Security offices can produce reports showing business located in a specific area. On the other hand, evidence shows that storing the same kind of data in multiple databases, as in Egypt, has resulted in inconsistencies and in additional costs. Norway successfully moved from a business registration process administered by 97 courts to an electronic one-stop shop, cutting the number of days to register a business exponentially. Creating a collaborative environment across agencies involved was key to the success of the reform. The Tax Authorities, the Labor Services, the Register of Business Enterprises and Statistics Norway signed a legal agreement obligating them not only to use a single identification number but also to share basic company information.

Recent examples show how online business registration platforms make the process faster, cheaper and more transparent. Denmark and New Zealand also provide modern single electronic interfaces for entrepreneurs.

## What are the details?

The indicators reported here for iLembe are based on a set of specific procedures—the bureaucratic and legal steps that an entrepreneur must complete to incorporate and register a new firm. These are identified by Subnational *Doing Business* through collaboration with relevant local professionals and the study of laws, regulations and publicly available information on business entry in that location. Table 2.2 provides a detailed summary of those procedures, along with the associated time and cost. These procedures apply to a company matching the standard assumptions (the “standardized company”) used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators measure).

### STANDARDIZED COMPANY

**Legal form: Private Limited Liability Company**

**Paid in minimum capital requirement: ZAR 1**

**Location: iLembe**

**Start-up Capital: 10 times GNI per capita**

**TABLE 2.2 Summary of time, cost and procedures for starting a business in iLembe**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Register the company online with the Companies and Intellectual Property Commission (CIPC)</b></p> <p>To register the company online, the user must first register as a customer on the CIPC website and transfer ZAR175 (ZAR 50 for the name reservation + ZAR 125 for the registration). After a couple of days, the user’s account will be credited, and he or she will be able to complete the required steps online.</p> <p>During the registration process, the following information must be provided:</p> <p>a. Details about the owners/directors:</p> <ul style="list-style-type: none"> <li>• Name/s</li> <li>• Country of origin</li> <li>• ID/Passport number</li> <li>• Appointment date</li> <li>• Date of Birth</li> <li>• Phone, e-mail</li> <li>• Physical address and postal code.</li> </ul> <p>b. Details about the company:</p> <ul style="list-style-type: none"> <li>• Financial year end</li> <li>• Authorized shares</li> <li>• E-mail address, website, physical address, and postal code</li> </ul> <p>c. Company name reservation (5 days). Once the steps above are completed, an e-mail will be sent to the applicant requesting additional documentation, which should be e-mailed to the CIPC:</p> <ul style="list-style-type: none"> <li>• Certified copies of IDs of all indicated initial directors and incorporators</li> <li>• Certified copy of the applicant’s ID if not the same as one of the indicated initial directors or incorporators</li> </ul>	14 days	ZAR 175 (ZAR 125 registration fee + ZAR 50 name reservation fee)

No.	Procedure	Time to complete	Cost to complete
	<ul style="list-style-type: none"> <li>Signed registration forms</li> </ul> <p><i>Agency: CIPC</i></p>		
2	<p><b>Open a bank account</b></p> <p>To open a bank account, the applicant must submit:</p> <ol style="list-style-type: none"> <li>Proof of the director's identity and address;</li> <li>Proof of business address;</li> <li>Original company documents.</li> </ol> <p>The Financial Intelligence Centre Act 38 of 2001 (FICA) requires all banks to verify the information listed above.</p> <p><i>Agency: Bank</i></p>	1 day	no charge
3	<p><b>Register for income tax and withholding taxes at the South African Revenue Service (SARS) office</b></p> <p>SARS is linked electronically to the CIPC. When an entrepreneur visits a SARS branch to register for income tax, SARS retrieves the information previously provided in procedure 1 by the entrepreneur to the CIPC. SARS will access this information and update it.</p> <p>The entrepreneur needs to visit the closest SARS office for:</p> <ol style="list-style-type: none"> <li>Income tax registration: The applicant needs to present:                             <ul style="list-style-type: none"> <li>Owner ID</li> <li>Registration Certificate</li> <li>Bank Statement</li> </ul> </li> <li>Employees pay-as-you-earn tax (PAYE), Unemployment Insurance Fund (UIF), and Skills Development Levy (SDL) registration: The entrepreneur must submit the EMP 101e form available online or at the local SARS office. Registration is immediate.                             <ul style="list-style-type: none"> <li>PAYE tax refers to the tax the employer is required to deduct from an employee's paid remuneration. The employer is required to register pursuant to Schedule 4, paragraph 15, of the Income Tax Act.</li> <li>UIF: This is a compulsory contribution to fund employment benefits. The funds are used to provide short-term relief should workers become unemployed or unable to work for various reasons. Any employer required to register for the PAYE tax is also required to register with SARS for the unemployment insurance contributions.</li> <li>SDL: This levy is used by the government to fund education and training as stated in the Skills Development Act 1998. This levy is payable monthly by employers to SARS.</li> </ul> </li> </ol> <p><i>Agency: SARS (Uhmlanga branch)</i></p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
4	<p><b>Register with the Compensation Fund</b></p> <p>The applicant must submit form W.As.2 at the closest labor center (Stager). The form can be downloaded from the Department of Labor website.</p> <p>After completing and submitting the documents, the company will receive the following documents to complete periodically or as needed (although these are not required for registration):</p> <ul style="list-style-type: none"> <li>a. W.As.8, which must be filed within 30 days of the financial year end and which must balance with the employer's CF account;</li> <li>b. W.As.6a, which details the assessment of the Commissioner for premiums payable, less any amounts paid in advance;</li> <li>c. WG30, W.As.2, and W.Ac1 (E), which are claim forms.</li> </ul> <p><i>Agency: Compensation Fund</i></p>	40 days	no charge
5	<p><b>* Register for VAT at the SARS office</b></p> <p>The applicant must submit the VAT 101 form in person at the closest local SARS Branch Office.</p> <p>Businesses with annual taxable turnover of more than ZAR 1,000,000 must register for VAT. A business may also choose to register voluntarily if the income earned in the past twelve-month period exceeded ZAR50 000. The registration process can take from 1 to 21 working days depending on the risk level assigned to the company. The risk depends on different factors, including business activity and turnover.</p> <p><i>Agency: SARS (Uhmhlanga branch)</i></p>	10 days	no charge
6	<p><b>*Register with the Unemployment insurance fund</b></p> <p>According to the Unemployment Insurance Act and the Unemployment Insurance Contributions Act, all employees working more than 24 hours per month must be registered with the UIF. The employer is liable for the registration of the employees. The employer must submit forms UI-8 (company registration) and UI-19 (employees registration) either at the Pretoria UIF office, one of the labor centers, or by e-mail. When the process is completed, the applicant will receive a confirmation letter (form UI-33) by e-mail.</p> <p>UIF contributions are 2% of the employee's salary. The employer covers 50% and withholds the other 50% from the employee. Payment is done through SARS, but employee claims are requested through the UIF.</p> <p><i>Agency: Unemployment Insurance Fund</i></p>	21	no charge

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.



## DEALING WITH CONSTRUCTION PERMITS

Regulation of construction is critical to protect the public. But it needs to be efficient, to avoid excessive constraints on a sector that plays an important part in every economy. Where complying with building regulations is excessively costly in time and money, many builders opt out. They may pay bribes to pass inspections or simply build illegally, leading to hazardous construction that puts public safety at risk. Where compliance is simple, straightforward and inexpensive, everyone is better off.

### What do the indicators cover?

*Doing Business* records the procedures, time and cost for a business in the construction industry to obtain all the necessary approvals to build a warehouse in the selected city, connect it to basic utilities and register the warehouse so that it can be used as collateral or transferred to another entity.

The ranking of economies on the ease of dealing with construction permits is determined by sorting their distance to frontier scores for dealing with construction permits. These scores are the simple average of the distance to frontier scores for each of the component indicators.

To make the data comparable across locations, *Doing Business* uses several assumptions about the business and the warehouse, including the utility connections.

The business:

- Is a limited liability company operating in the construction business and located in the selected city.
- Is domestically owned and operated.
- Has 60 builders and other employees.

The warehouse:

- Is valued at 50 times income per capita.
- Is a new construction (there was no previous construction on the land).

### WHAT THE DEALING WITH CONSTRUCTION PERMITS INDICATORS MEASURE

#### Procedures to legally build a warehouse (number)

Submitting all relevant documents and obtaining all necessary clearances, licenses, permits and certificates

Submitting all required notifications and receiving all necessary inspections

Obtaining utility connections for water and sewerage

Registering the warehouse after its completion (if required for use as collateral or for transfer of the warehouse)

#### Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day

Procedures that can be fully completed online are recorded as ½ day

Procedure considered completed once final document is received

No prior contact with officials

#### Cost required to complete each procedure (% of warehouse value)

Official costs only, no bribes

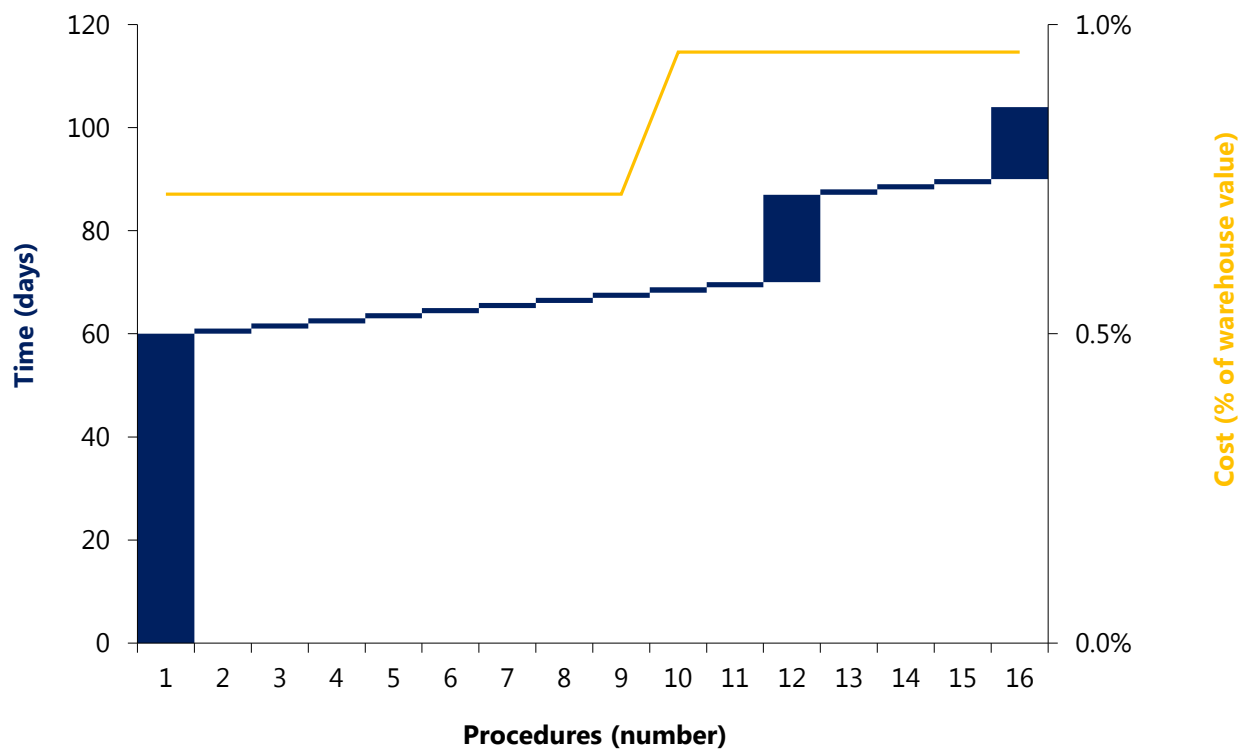
- Will have complete architectural and technical plans prepared by a licensed architect or engineer.
- Will be connected to water and sewerage (sewage system, septic tank or their equivalent). The connection to each utility network will be 150 meters (492 feet) long.
- Will be used for general storage, such as of books or stationery (not for goods requiring special conditions).
- Will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

### How does it work in iLembe?

What does it take to comply with the formalities to build a warehouse in iLembe? According to data collected by Subnational *Doing Business*, dealing with construction permits in iLembe requires on average 16 procedures, takes 110 days and costs 0.80 % of the warehouse value.

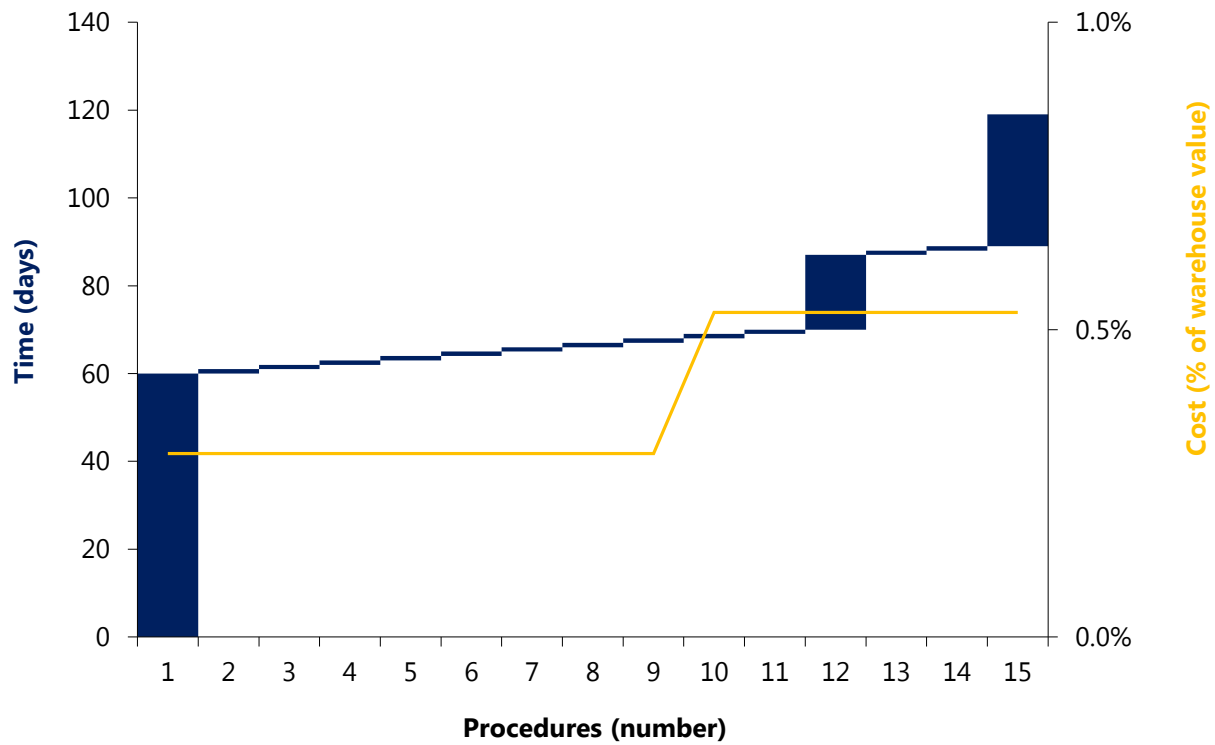
It takes 16 procedures, 104 days and 0.96% of the warehouse value in KwaDukuza (figure 3.1) and 15 procedures, 119 days and 0.53% of the warehouse value in Mandeni (figure 3.2).

**FIGURE 3.1** What it takes to comply with formalities to build a warehouse in KwaDukuza



*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the dealing with construction permits indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.  
*Source:* *Doing Business* database.

**FIGURE 3.2 What it takes to comply with formalities to build a warehouse in Mandeni**

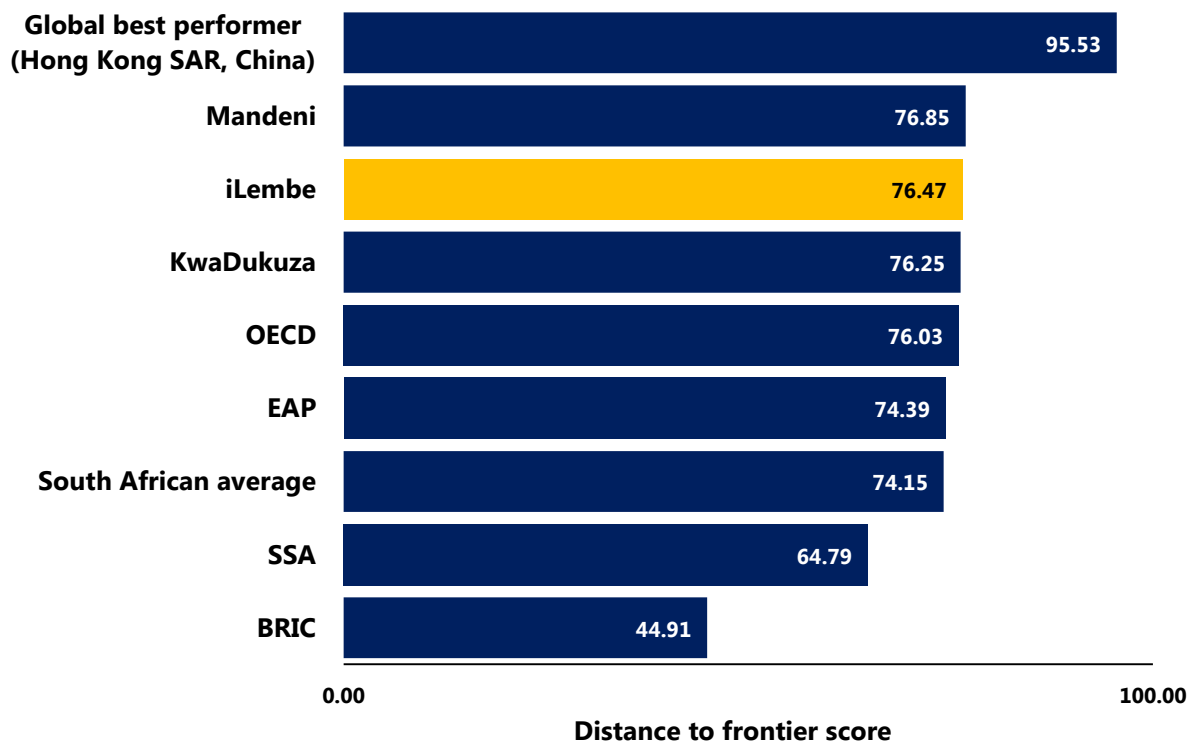


*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the dealing with construction permits indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.  
*Source:* *Doing Business* database.

iLembe’s average distance to frontier score for dealing with construction permits allows for comparison with other economies (figure 3.3). The performance of comparator economies is useful in assessing how easy it is for an entrepreneur in iLembe

to legally build a warehouse. Indicator values provide further insight, and, when compared internationally, may reveal constraints and strengths in specific areas of business regulation (figure 3.4).

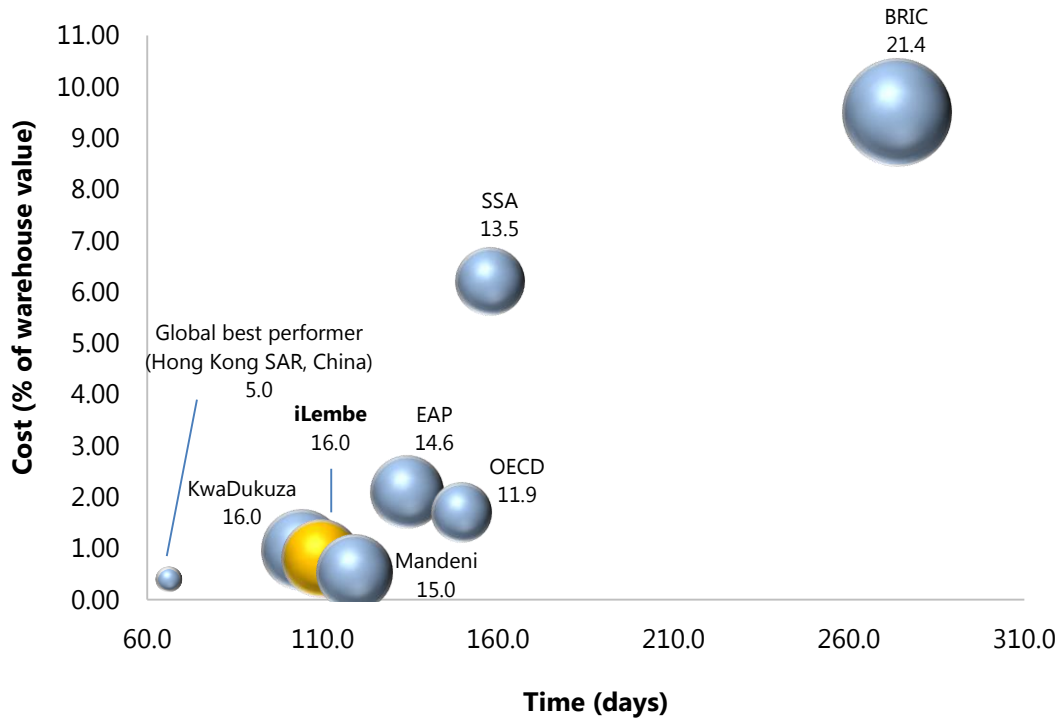
**FIGURE 3.3 How iLembe and other economies compare on the ease of dealing with construction permits**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average.

Source: Doing Business database.

Figure 3.4 Time, cost and procedures for dealing with construction permits compared globally



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. The size of the bubble denotes the number of procedures—the larger the bubble, the higher the number of procedures.  
 Source: Doing Business database.

Sound regulation of construction helps protect the public from faulty building practices. Besides enhancing public safety, well-functioning building permitting and inspection systems also strengthen property rights and contribute to the process of capital formation. But if procedures are too complicated or costly, builders may decide to proceed without a permit.<sup>14</sup>

Denmark, Germany and New Zealand are examples of countries that regulate the construction permitting process with relatively few requirements, yet regulations in these countries are considered prudent and the buildings safe.

Suggested reform recommendations to improve the ease of dealing with construction permits in iLembe can be found in table 3.1 below.

**TABLE 3.1 Policy reform recommendations for dealing with construction permits**

### Reorganize the approval of building plans

In iLembe, the interaction between the applicant and the municipalities is minimal but lengthy as it takes on average 2 months to obtain the building plan approval. Mandeni has generally less capacity and resources than KwaDukuza, but the process in both cities is pretty similar. In KwaDukuza a Development Review Committee undertakes the technical review of the building plan proposal once the relevant departments have submitted their comments. The final approval is given separately by another municipal committee that usually meets once a month. In Mandeni the final decision relies on a screening committee—which usually seats once a month or less depending on the number of proposals submitted—that assesses the comments received by the relevant departments.

As processes vary among cities, KwaDukuza and Mandeni could both look to other cities in South Africa that perform faster when it comes to delivering building plan approvals. In Nelson Mandela Bay—where standing commissions meet regularly to approve applications—obtaining the building plan approval is faster. There, the Building Control convenes and chairs application review meetings on a weekly basis. All applications received by the middle of each week are reviewed the following week. The meetings are attended by representatives from the various municipal departments that must comment on the plans.<sup>15</sup> Once the application review meetings are concluded, the Building Control meets with the applicant to provide feedback on the project and inform the applicant whether the application is approved or referred for further review. If the project is referred for minor issues, the applicant has the possibility to resubmit the application as soon as the issues are addressed.

In KwaDukuza and Mandeni, the real bottleneck is the absence of a timeframe for the municipal departments to comment on the applications. In addition, only a few paper-based application files are submitted, and hence the circulation of the files from department to department takes time. This causes substantial delays in the final approval of the building plan. The municipalities could set up internal time limits for each department commenting on the submitted plans. To be effective, the time limit should work based on the silence-is-consent principle for low-risk projects. The decision-making committee could proceed and decide without the comments of a specific technical department that failed to respect its assigned timeframe. Authorities failing to respect the established timeframe would be fined. In most economies time limits have been accompanied by broader changes, such as computerization and reorganization.

### Enhance the use of electronic platforms

Technology can also help in cutting delays. Currently, building plan approval applications are processed manually in most South African cities, as is the case in KwaDukuza and Mandeni. As part of a broader digitalization initiative, the City of Cape Town started implementing a Development Application Management System (DAMS), which entails two distinctive phases. The first phase started in April 2014 and has been rolled out across the 8 district offices of

<sup>14</sup> Moullier, Thomas. 2009. *Reforming Building Permits: Why Is It Important and What Can IFC Really Do?* Washington, DC: International Finance Corporation.

<sup>15</sup> Water and Sewage Department, Road Agency, Health Department, Gas Department, City Power, Fire Department, City Parks and Waste Management.

the city's Planning and Building Development Management Department. Applications are digitally circulated simultaneously to all relevant departments—such as Water and Sanitation, Electricity Services, City Health, Transport for Cape Town, Fire and Rescue and Environmental Resource Management—for their input. Now public officials can collaborate in formulating their final responses by viewing each other's comments. The second phase—expected to be implemented by April 2015—will enable homeowners, property developers and professionals to submit building plans and land use applications electronically. The electronic system will have 2 modules, one for approval and one for inspections. Following Cape Town's example, computerization should be accelerated and implemented in KwaDukuza and Mandeni.

Automating the construction permitting process from scratch can be a daunting task. Such overhaul is typically linked to larger regulatory reforms and e-government programs. Core staff has to be trained to operate and maintain electronic systems. Last but not least, the right technological infrastructure and high levels of internet penetration are important prerequisites.

A step further would be the implementation of a Geographic Information System (GIS).<sup>16</sup> In order to be fully functional, the GIS must be linked to a detailed master plan of the city. This would allow applicants to overlay the project plans with the zoning, planning and utility requirements captured in the GIS system. For low-risk constructions, this system can also allow automatic preapprovals of the parts of the project related to utility connections and compliance with planning requirements.

#### **Adopt a risk-based approach to inspections**

iLembe authorities should develop a risk classification for buildings and adopt risk-based rules for each building category. Complex and risky structures should be subject to stricter standards than simpler construction projects.

The National Building Regulations Act does not regulate inspections strictly, leaving building inspectors a high degree of discretion. iLembe could look to economies that have adopted risk-based inspection systems. Risk-based inspections allow planning authorities to concentrate manpower on riskier projects, such as high rises or complex structures, without compromising safety.<sup>17</sup> The effectiveness of risk-based regulation depends on several factors, including a comprehensive classification of risks for building categories, typically defined by size, construction method and final use. The classification and assessment of buildings are important steps when determining the frequency of inspections. Because not all buildings are similar in terms of risk levels, the ability to understand the risks associated with different types of buildings is essential. A good case in point is the European Standard EN 1990. This standard sets 3 "consequence classes," as determined by the risks to users, as well as social and economic consequences. Each consequence class includes recommended interactions with building authorities.

A further example comes from New Zealand, where the system relies on a project-specific risk assessment carried out by the building designer. A risk profile is matched by project-specific risk management strategies. National standards provide broad guidance on risk thresholds and categories. The designer develops a risk profile and risk-management strategy for each individual project, and, subsequently, the local building authority examines it for quality. Building authorities in New Zealand therefore carry out minimal traditional inspections. They do conduct some checks and audits, but usually these are selective, ex post, and focus on the technical verifications and the methodology applied by the builder. To be effective and not present a threat to safety, these types of measures must be carefully implemented. The liability and the competence of the building designer must be strictly identified by law. Strong professional certifications and solid insurance systems are prerequisites for successful and safe ex-post verification initiatives.

<sup>16</sup> A GIS is an integrated system of computer hardware, software and trained personnel capable of assembling, storing, manipulating and displaying topographic, demographic, utility, facility, image and other resource data that is geographically referenced.

<sup>17</sup> Delion, Marie Lily and Joyce Ibrahim. 2013. "What Role Should Risk-Based Inspections Play in Construction?" *Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises*. Washington, DC: World Bank Group.

### **Merge postcompletion inspections and the issuance of the Occupancy Certificate**

The municipal postconstruction inspections and the issuance of the Occupancy Certificate take on average more than 3 weeks in iLembe. The inspections are prerequisites for the issuance of the Occupancy Certificate and ensure that the building conforms to applicable regulations.

Separate inspections not only cause delays but also create the risk of different agencies interpreting rules inconsistently. Setting up a combined final inspection in one visit would save time and hassle for developers. A step further would be adopting a system where construction becomes immediately operative once the final inspection shows that the project does not present irregularities and complies with the approved building plans. This method has been implemented in some economies. In Canada, for example, if all required inspections have been carried out and the building is deemed substantially complete and fit for occupancy, the certificate of occupancy is issued on the spot, avoiding additional interactions for the builder. Singapore has an integrated online system through which builders can request the final inspection and the occupancy certificate without delay. In Portugal the Municipality of Lisbon adopted a tracking system that is automatically updated once the final inspection has taken place. The certificate of occupancy is available immediately after the final inspection.

For construction projects involving low or limited risks in terms of structural integrity and fire safety, iLembe authorities could also consider providing qualified engineers with the authority to self-certify that the building can be occupied. Austria, Mauritius, Morocco and Norway, for example, have such systems in place. The occupancy certificate would be effective immediately after its filing. Once all the required documents are properly filed, municipalities grant the occupancy certificates immediately. Random, ex-post inspections are performed to ensure that the construction is in compliance. The ex-post controls guarantee the same level of safety, and the process is faster.

### **Introduce joint responsibility of the permitting process with private building professionals**

With building codes becoming more complex and with sustained increases in construction across the world, the trend of sharing the workload for regulatory control functions, and hence leveraging expertise, has led to a growing involvement of the private sector. In many economies a more systematic use of private building professionals for permits and inspections has helped to remove bottlenecks associated with resource-constrained public building authorities.

Good-practice economies have all introduced some private sector solutions at different stages of the process, with the goal of increasing efficiency and providing consistent, high-quality services and delivery. Reforms in Austria, Colombia and New Zealand have led to increased cooperation with private sector engineers at different stages of the permitting and inspection process. Austria and Germany use qualified professionals to review plans and to inspect sites. Austria, Australia, Canada, Germany, Japan, New Zealand, Singapore and United Kingdom make private inspectors responsible for ensuring buildings' safety and thus responsible for conducting the required inspections based on the type of building. Norway has gone one step further, creating a system of self-confirmation pursuant to which the project's designer is responsible for confirming compliance with building codes. Liability is closely linked to the qualifications of the building practitioners, verified through a centralized registration system of qualified building firms. In fact, moving toward practitioner-focused enforcement of building controls requires developing robust professional qualification systems and professional supervision.

### **Make the permitting process more transparent**

Unlike many South African cities, building plan approval applications in iLembe are rejected because of minor errors. Providing checklists of necessary preconditions saves the applicants' and the approving authorities' time. In South



Africa the websites of the municipalities of Cape Town<sup>18</sup> and eThekweni<sup>19</sup> are examples of portals providing detailed information on the requirements needed to obtain permits. These municipalities also make application forms available online. Moreover, in Cape Town several dedicated hotlines providing information on services related to construction permits (water and sanitation, road and waste) exist. Other cities could ensure that their technical regulatory requirements are clear and publically available.

An additional measure to simplify building plan approvals would be to set a time limit for the municipality to assess the completeness of applications. Separating formal and substantial checks makes the process more efficient. Checking if all documents have been duly provided is faster than scrutinizing the content of the application. Nevertheless, this can save valuable time to the applicant.

Facilitating public access to information strengthens governance, fosters accountability and improves transparency. Evidence shows that the availability of basic regulatory information is associated with lower costs, better regulatory quality and greater overall regulatory efficiency.<sup>20</sup> In economies that provide such information online or via brochures, applications are processed more quickly and building plan approvals granted in less time. Policies promoting access to information cannot on their own increase the accountability of officials and actively counteract corrupt practices. But easier access to information needed to comply with regulatory requirements is associated with lower transactions costs, lower levels of perceived corruption, and stronger voice and accountability mechanisms.

Exhaustive guidelines should cover information about key steps, the agencies involved, the documents required for each approval, the names of certificates, permits and approvals required, as well as corresponding timeframes and fees.

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<sup>18</sup> City of Cape Town Official Website - Local Government Services. <https://www.capetown.gov.za/en/Pages/default.aspx>.

<sup>19</sup> Geginat, Carolin, Adrian Gonzalez and Valentina Saltane. 2012. *Transparency and Access to Information in Business Regulation*. Washington, DC: World Bank Group.

<sup>20</sup> Geginat, Carolin, Adrian Gonzalez and Valentina Saltane. 2012. *Transparency and Access to Information in Business Regulation*. Washington, DC: World Bank Group.

## What are the details?

The indicators reported here for iLembe are based on a set of specific procedures—the steps that a company must complete to legally build a warehouse—identified by *Doing Business* through information collected from experts in construction licensing, including architects, civil engineers, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations. Tables 3.2 and 3.3 provide a detailed summary of those procedures, along with the associated time and cost. These apply to a company and structure matching the standard assumptions used by Subnational *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover).

### BUILDING A WAREHOUSE

**Estimated cost of construction :**

**ZAR 3,129,500**

**Location :**

**iLembe (KwaDukuza & Mandeni)**

**TABLE 3.2 Summary of time, cost and procedures for dealing with construction permits in KwaDukuza**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Obtain approval of building plans from the municipal Building Control authority</b></p> <p>Any person intending to erect any building (the architect or any other declared and authorized person on behalf of the owner) submits sketch plans of the building to the building control authority (applicant submits building plans, application forms and other required documents). Several sets should be submitted.</p> <p>The application is then circulated internally for comment and approval to various relevant departments within the Municipality (Health, Water and Sanitation, Fire, Traffic, Roads, Electricity, Environmental, etc.).</p> <p>This is when the applicant gets the Fire Safety approval (the final clearance will be obtained upon completion of the building and once Fire Department will inspect the building). A Fire Safety Plan should be included in the submission of the building plan. Once all approvals and comments are obtained, the building control authority stamps and approves the building plans - subject to all requirements being met and with consideration to other departments' comments. The application is approved if statutory compliance has been achieved. If not the application is refused and the reasons for refusing approval are given in writing.</p> <p>When plans are submitted, a building inspector should do a site inspection to see if the planned construction will fit on the site and if the building will be within the allowed building lines.</p>	60 days	ZAR 22,720

	<p>The local authority should grant or refuse its approval in less than 30 days (for any building which architectural area is less than 500 square meters) and in less than 60 days (for any building which architectural area is less than 500 square meters).</p> <p><i>Agency: Building Control authority</i></p>		
2	<p><b>Submit notification of commencement of building work to the provincial Department of Labour</b></p> <p>According to the Occupational Health and Safety Act 1993 (OHASA) related to Constructions Regulations, building companies must, at least 7 days before the construction work starts, submit a notification of commencement of the work to the provincial Department of Labour. The building company should also ensure that periodic health and safety audits and document verification are conducted, and also keep on site a health and safety file that includes all the required documentation.</p> <p><i>Agency: Provincial Department of Labour</i></p>	1 day	No charge
3	<p><b>*Submit notification of commencement of building work to the municipal Building Control authority</b></p> <p>The National Building Regulations Act 1977 requires developers to submit a notification of commencement of the work to the Municipality stating the date on which the construction will commence. The notice must be submitted at least 4 working days prior to the starting of the construction (10 days in case of demolition). The approved plan must be available on site and remain available until an Occupancy Certificate is issued. During the construction phase, the owner must ensure that the building is erected within the surveyed boundaries and prescribed building lines of the site, and that it is in full accordance with the approved building plans. The Municipality must be notified of any modifications to the originally approved plans, and it may require the submission of a new set of plans and the payment of additional building plan submission fees.</p> <p><i>Agency: Building Control authority</i></p>	1 day	no charge
4	<p><b>Receive inspection from the provincial Department of Labour</b></p> <p>The building site may be inspected at any time during the construction phase by a representative of the Department of Labour to ensure compliance with the Constructions Regulations (OHASA).</p> <p><i>Agency: Provincial Department of Labour</i></p>	1 day	no charge

5	<p><b>Receive inspection of all foundation trenches from the municipal Building Inspectorate</b></p> <p>The National Building Regulations Act 1977 requires a mandatory inspection of all foundation trenches prior to placing of concrete.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
6	<p><b>Receive inspection of first floor slab from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the building site when the first floor slab is ready.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
7	<p><b>Receive inspection of wastewater drainage systems from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the construction site when wastewater drainage systems are ready in order to test the sewage system connection point and drains prior to backfilling. The inspection of the wastewater drainage system takes place prior to the closing of the work site.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
8	<p><b>Receive inspection of the roof from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the building site when the roof is completed.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
9	<p><b>Obtain certificate of compliance (plumbing, sewage)</b></p> <p>The building company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. The certification must be signed by a certified professional. The registered plumber conducts a pressure test and certifies that the plumbing work has been done according to the appropriate standards. The pressure test and the plumber certification are compulsory in order to obtain a certificate of compliance from the Municipality.</p> <p><i>Agency: Registered plumber</i></p>	1 day	no charge

10	<p><b>*Apply for water and sewage connection at the municipal Water and Sewer Department</b></p> <p>The application for water and sewage connection is done in the beginning: prior to the start of construction (same as telephone connection) as the building company, BuildCo, will need temporary water connection (a builder water supply) during construction.</p> <p><i>Agency: Water and Sewer Department</i></p>	1 day	ZAR 7,173
11	<p><b>Receive inspection from the municipal Water and Sewer Department</b></p> <p>Once the application has been processed and the water/sewage systems/drains are in place, an official will need to visit the property before giving a final quote on a connection fee and ensuring that all construction work is correct as per approved building plans. The communication pipes and the meter are also installed.</p> <p>The building company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. Self-certification is done by a certified professional. The registered plumber (separate from the inspection done by municipality) comes and does a pressure test and certifies that plumbing work is done according to the standards.</p> <p><i>Agency: Water and Sewer Department</i></p>	1 day	no charge
12	<p><b>Receive final water connection from the Water and Sewer Department</b></p> <p>The application for water and sewage connections is done prior to the start of construction, because the building company needs a temporary water connection (a builder water supply) during construction.</p> <p><i>Agency: Water and Sewer Department</i></p>	17 days	no charge
13	<p><b>Submit notification of completion of building work to the municipal Building Control authority</b></p> <p>The National Building Regulations Act 1977 requires building companies to submit a notification of completion of the work to the Municipality.</p> <p><i>Agency: Building Control authority</i></p>	1 day	no charge

14	<p><b>Receive inspection from the municipal Fire Department</b></p> <p>The National Building Regulations Act 1977 requires a fire safety clearance before obtaining an Occupancy Certificate for all non-residential buildings.</p> <p>The Fire Department visits the site to check whether what was previously approved (during the building plan submission) has been implemented in the building. The Municipality will not issue an Occupancy Certificate without clearance from the Fire department. All fire notes, fire equipment, and escape routes have to comply with the regulations laid down in SANS 10400 S and T.</p> <p><i>Agency: Fire Department</i></p>	1 day	no charge
15	<p><b>Receive final inspection from municipal authorities</b></p> <p>The inspection is a prerequisite to obtaining the Occupancy Certificate. The building company must confirm that the products, materials, and systems comply with the South African National Standard (SANS10400). To do so, developers must provide certificates of compliance to the Municipality. Generally, certificates of compliance for electrical, structural, glazing, roof, and plumbing work are required. Others could be requested from the Municipality. The engineer or professional in charge of one or several of these specific elements is allowed to provide the owner with such certificates. A certificate of compliance is proof that the installations are safe and comply with the rules and regulations.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
16	<p><b>Obtain Occupancy Certificate from the municipal Building Control authority</b></p> <p>This certificate is issued after the final inspection by the Building Control authority (and other relevant municipal departments if deemed necessary) has been carried out, and upon approval by the chief building Inspector. The law prescribes that an Occupancy Certificate may only be issued at the written request of the owner of the property being developed. The building cannot be used or occupied without the issuance of the Occupancy Certificate.</p> <p><i>Agency: Building Control authority</i></p>	14 days	no charge

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

**TABLE 3.3 Summary of time, cost and procedures for dealing with construction permits in Mandeni**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Obtain approval of building plans from the municipal Building Control authority</b></p> <p>Any person intending to erect any building (the architect or any other declared and authorized person on behalf of the owner) submits sketch plans of the building to the building control authority (applicant submits building plans, application forms and other required documents). Several sets should be submitted.</p> <p>The application is then circulated internally for comment and approval to various relevant departments within the Municipality (Health, Water and Sanitation, Fire, Traffic, Roads, Electricity, Environmental, etc.).</p> <p>This is when the applicant gets the Fire Safety approval (the final clearance will be obtained upon completion of the building and once Fire Department will inspect the building). A Fire Safety Plan should be included in the submission of the building plan. Once all approvals and comments are obtained, the building control authority stamps and approves the building plans - subject to all requirements being met and with consideration to other departments' comments. The application is approved if statutory compliance has been achieved. If not the application is refused and the reasons for refusing approval are given in writing.</p> <p>When plans are submitted, a building inspector should do a site inspection to see if the planned construction will fit on the site and if the building will be within the allowed building lines. The local authority should grant or refuse its approval in less than 30 days (for any building which architectural area is less than 500 square meters) and in less than 60 days (for any building which architectural area is less than 500 square meters).</p> <p><i>Agency: Building Control authority</i></p>	60 days	ZAR 9,344
2	<p><b>Submit notification of commencement of building work to the provincial Department of Labour</b></p> <p>According to the Occupational Health and Safety Act 1993 (OHASA) related to Constructions Regulations, building companies must, at least 7 days before the construction work starts, submit a notification of commencement of the work to the provincial Department of Labour. The building company should also ensure that periodic health and safety audits and document verification are conducted, and also keep on site a health and safety file that includes all the required documentation.</p> <p><i>Agency: Provincial Department of Labour</i></p>	1 day	No charge

No.	Procedure	Time to complete	Cost to complete
3	<p><b>*Submit notification of commencement of building work to the municipal Building Control authority</b></p> <p>The National Building Regulations Act 1977 requires developers to submit a notification of commencement of the work to the Municipality stating the date on which the construction will commence. The notice must be submitted at least 4 working days prior to the starting of the construction (10 days in case of demolition). The approved plan must be available on site and remain available until an Occupancy Certificate is issued. During the construction phase, the owner must ensure that the building is erected within the surveyed boundaries and prescribed building lines of the site, and that it is in full accordance with the approved building plans. The Municipality must be notified of any modifications to the originally approved plans, and it may require the submission of a new set of plans and the payment of additional building plan submission fees.</p> <p><i>Agency: Building Control authority</i></p>	1 day	no charge
4	<p><b>Receive inspection from the provincial Department of Labour</b></p> <p>The building site may be inspected at any time during the construction phase by a representative of the Department of Labour to ensure compliance with the Constructions Regulations (OHASA).</p> <p><i>Agency: Provincial Department of Labour</i></p>	1 day	no charge
5	<p><b>Receive inspection of all foundation trenches from the municipal Building Inspectorate</b></p> <p>The National Building Regulations Act 1977 requires a mandatory inspection of all foundation trenches prior to placing of concrete.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
6	<p><b>Receive inspection of first floor slab from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the building site when the first floor slab is ready.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge



No.	Procedure	Time to complete	Cost to complete
7	<p><b>Receive inspection of wastewater drainage systems from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the construction site when wastewater drainage systems are ready in order to test the sewage system connection point and drains prior to backfilling. The inspection of the wastewater drainage system takes place prior to the closing of the work site.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
8	<p><b>Receive inspection of the roof from the municipal Building Inspectorate</b></p> <p>The Building Inspectorate inspects the building site when the roof is completed.</p> <p><i>Agency: Building Inspectorate</i></p>	1 day	no charge
9	<p><b>Obtain certificate of compliance (plumbing, sewage)</b></p> <p>The building company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. The certification must be signed by a certified professional. The registered plumber conducts a pressure test and certifies that the plumbing work has been done according to the appropriate standards. The pressure test and the plumber certification are compulsory in order to obtain a certificate of compliance from the Municipality.</p> <p><i>Agency: Registered plumber</i></p>	1 day	no charge
10	<p><b>*Apply for water and sewage connection at the municipal Water and Sewer Department</b></p> <p>The application for water and sewage connection is done in the beginning: prior to the start of construction (same as telephone connection) as the building company, BuildCo, will need temporary water connection (a builder water supply) during construction.</p> <p><i>Agency: Water and Sewer Department</i></p>	1 day	ZAR 7,173
11	<p><b>Receive inspection from the municipal Water and Sewer Department</b></p> <p>Once the application has been processed and the water/sewage systems/drains are in place, an official will need to visit the</p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
	<p>property before giving a final quote on a connection fee and ensuring that all construction work is correct as per approved building plans. The communication pipes and the meter are also installed.</p> <p>The building company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. Self-certification is done by a certified professional. The registered plumber (separate from the inspection done by municipality) comes and does a pressure test and certifies that plumbing work is done according to the standards.</p> <p><i>Agency: Water and Sewer Department</i></p>		
12	<p><b>Receive final water connection from the Water and Sewer Department</b></p> <p>The application for water and sewage connections is done prior to the start of construction, because the building company needs a temporary water connection (a builder water supply) during construction.</p> <p><i>Agency: Water and Sewer Department</i></p>	17 days	no charge
13	<p><b>Submit notification of completion of building work to the municipal Building Control authority</b></p> <p>The National Building Regulations Act 1977 requires building companies to submit a notification of completion of the work to the Municipality.</p> <p><i>Agency: Building Control authority</i></p>	1 day	no charge
14	<p><b>Receive final inspection from municipal authorities</b></p> <p>The inspection is a prerequisite to obtaining the Occupancy Certificate. The building company must confirm that the products, materials, and systems comply with the South African National Standard (SANS10400). To do so, developers must provide certificates of compliance to the Municipality. Generally, certificates of compliance for electrical, structural, glazing, roof, and plumbing work are required. Others could be requested from the Municipality. The engineer or professional in charge of one or several of these specific elements is allowed to provide the owner with such certificates. A certificate of compliance is proof that the installations are safe and comply with the rules and regulations.</p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
	<i>Agency: Building Inspectorate</i>		
15	<p><b>Obtain Occupancy Certificate from the municipal Building Control authority</b></p> <p>This certificate is issued after the final inspection by the Building Control authority (and other relevant municipal departments if deemed necessary) has been carried out, and upon approval by the chief building Inspector. The law prescribes that an Occupancy Certificate may only be issued at the written request of the owner of the property being developed. The building cannot be used or occupied without the issuance of the Occupancy Certificate.</p> <p><i>Agency: Building Control authority</i></p>	30 days	no charge

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

## GETTING ELECTRICITY

Access to reliable and affordable electricity is vital for businesses. To counter weak electricity supply, many firms in developing economies have to rely on self-supply, often at a prohibitively high cost. Whether electricity is reliably available or not, the first step for a customer is always to gain access by obtaining a connection.

**What do the indicators cover?**

*Doing Business* records all procedures required for a local business to obtain a permanent electricity connection and supply for a standardized warehouse, as well as the time and cost to complete them. These procedures include applications and contracts with electricity utilities, clearances from other agencies and the external and final connection works. The ranking of economies on the ease of getting electricity is determined by sorting their distance to frontier scores for getting electricity. These scores are the simple average of the distance to frontier scores for each of the component indicators. To make the data comparable across locations, several assumptions are used.

The warehouse:

- Is owned by a local entrepreneur, located in the selected city, in an area where other warehouses are located.
- Is not in a special economic zone where the connection would be eligible for subsidization or faster service.
- Is located in an area with no physical constraints (i.e. property not near a railway).
- Is a new construction being connected to electricity for the first time.
- Is 2 stories, both above ground, with a total surface of about 1,300.6 square meters (14,000 square feet), is built on a plot of 929 square meters (10,000 square feet), and is used for storage of refrigerated goods.

The electricity connection:

- Is 150 meters long and is a 3-phase, 4-wire Y, 140-kilovolt-ampere (kVA) (subscribed capacity) connection.

### WHAT THE GETTING ELECTRICITY

#### INDICATORS MEASURE

##### Procedures to obtain an electricity connection (number)

Submitting all relevant documents and obtaining all necessary clearances and permits

Completing all required notifications and receiving all necessary inspections

Obtaining external installation works and possibly purchasing material for these works

Concluding any necessary supply contract and obtaining final supply

##### Time required to complete each procedure (calendar days)

Is at least 1 calendar day

Each procedure starts on a separate day

Does not include time spent gathering information

Reflects the time spent in practice, with little follow-up and no prior contact with officials

##### Cost required to complete each procedure (% of income per capita)

Official costs only, no bribes

Excludes value added tax

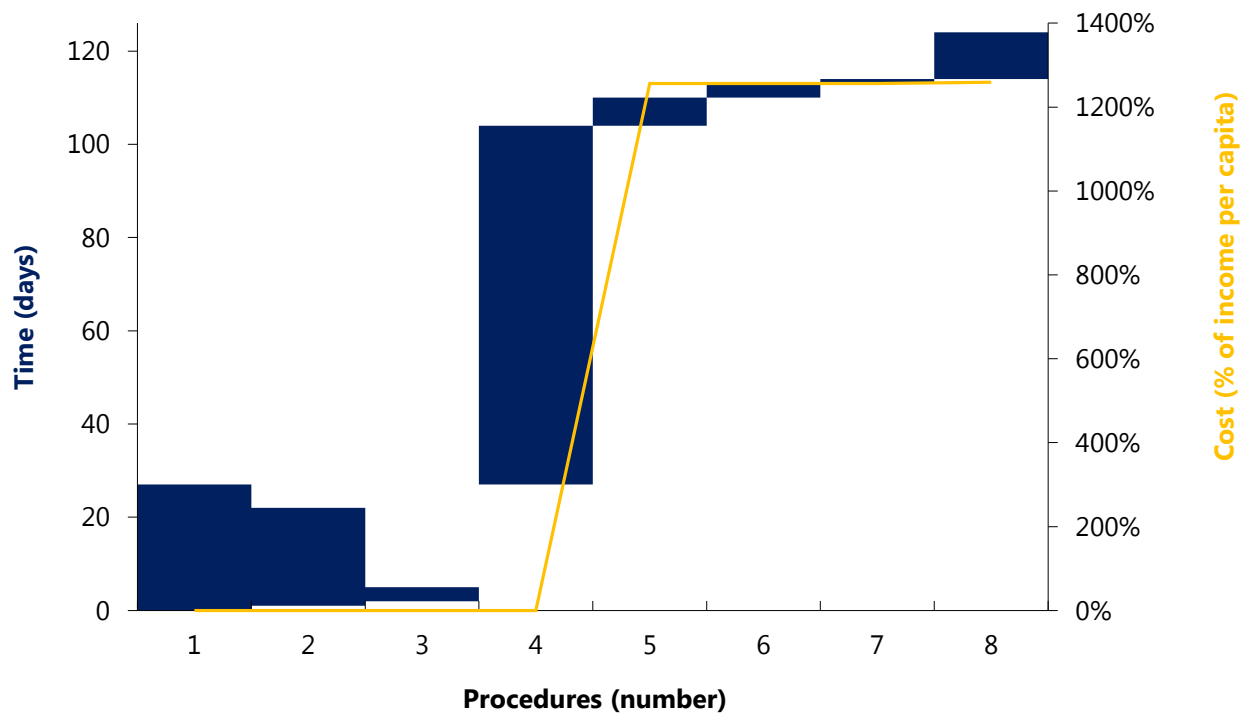
- Is to either the low-voltage or the medium-voltage distribution network and either overhead or underground, whichever is more common in the area where the warehouse is located. Included only negligible length in the customer's private domain.
- Requires crossing of a 10-meter road but all the works are carried out in a public land, so there is no crossing into other people's private property.
- Involves installing one electricity meter. The monthly electricity consumption will be 26880 kilowatt hour (kWh). The internal electrical wiring has been completed.

## How does Getting Electricity work in iLembe?

What does it take to obtain a new electricity connection in iLembe? According to data collected by Subnational *Doing Business*, getting electricity in iLembe requires on average 7 procedures, takes 188 days and costs

1,133.3% of income per capita. It takes 8 procedures, 124 days, 1,259.2% of income per capita in KwaDukuza (figure 4.1) and 5 procedures, 295 days and 922.5% of income per capita in Mandeni (figure 4.2).

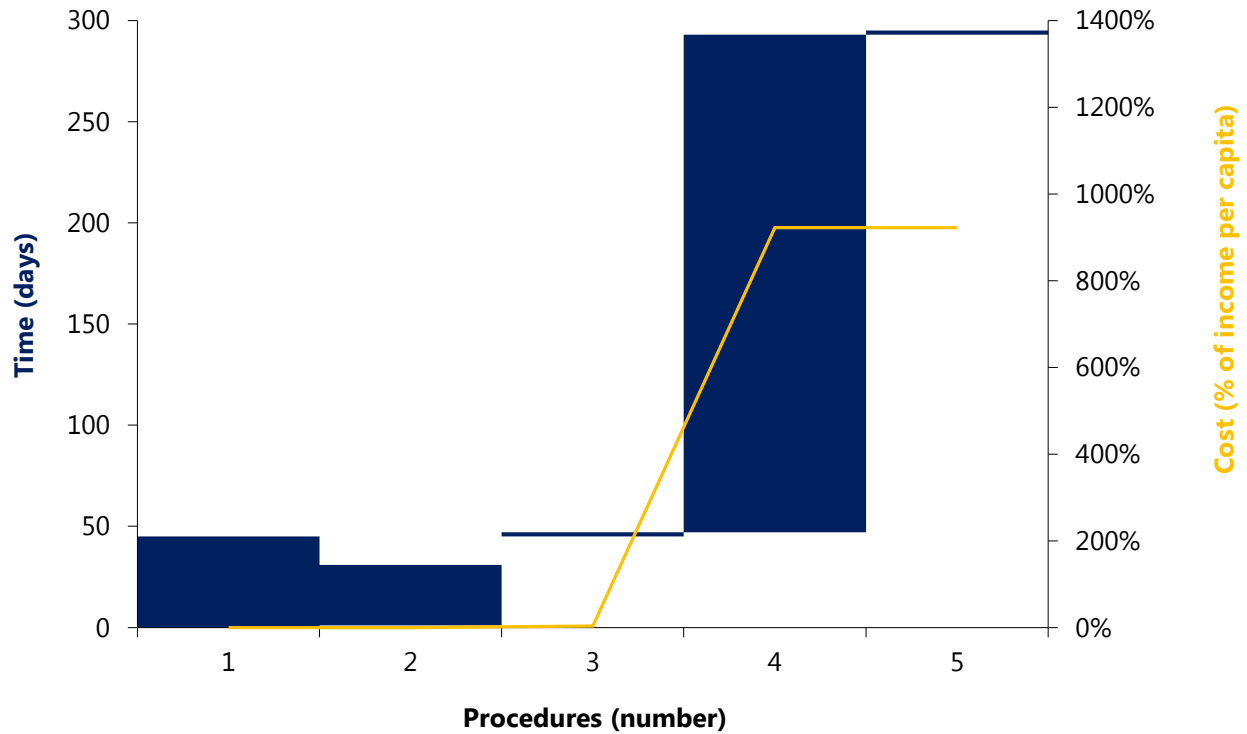
**FIGURE 4.1** What it takes to obtain an electricity connection in KwaDukuza



*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the dealing with construction permits indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

*Source:* *Doing Business* database.

**FIGURE 4.2** What it takes to obtain an electricity connection in Mandeni



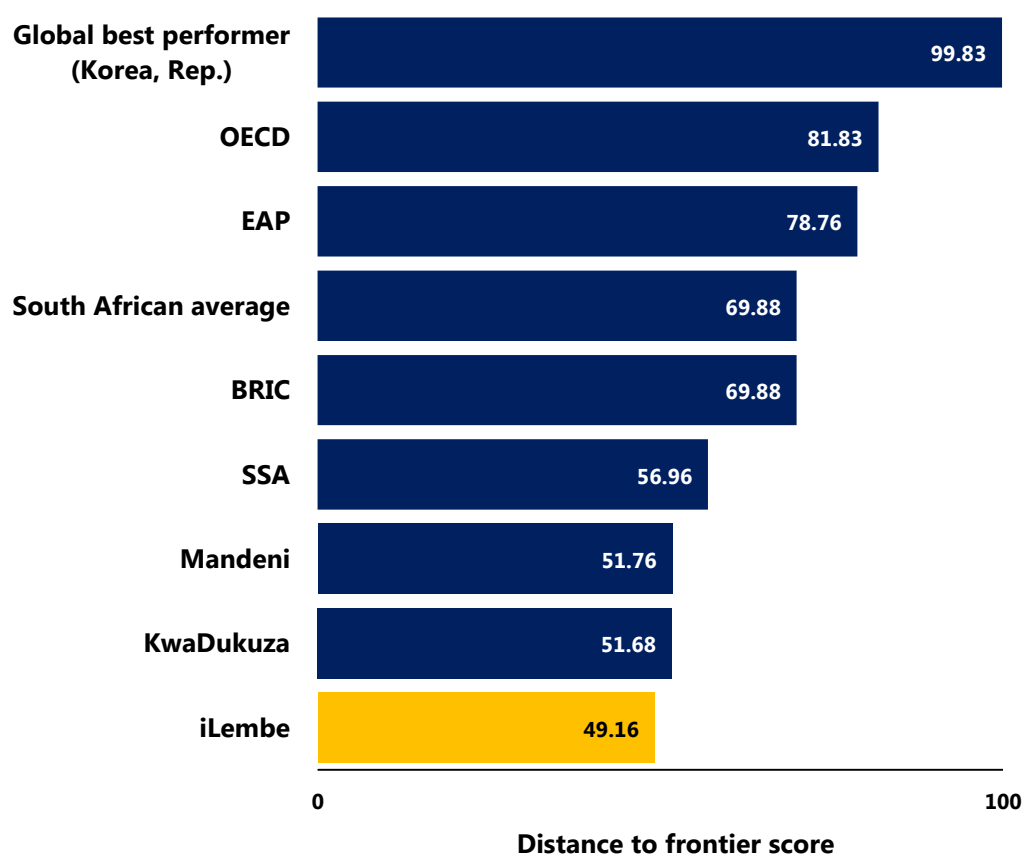
*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the dealing with construction permits indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

*Source:* *Doing Business* database.

iLembe's average distance to frontier score for getting electricity allows for comparison with other economies (figure 4.3). The performance of comparator economies is useful in assessing how easy it is for an entrepreneur in iLembe to connect a warehouse to electricity.

Indicator values provide further insight, and, when compared internationally, may reveal constraints and strengths in specific areas of business regulation (figure 4.3).

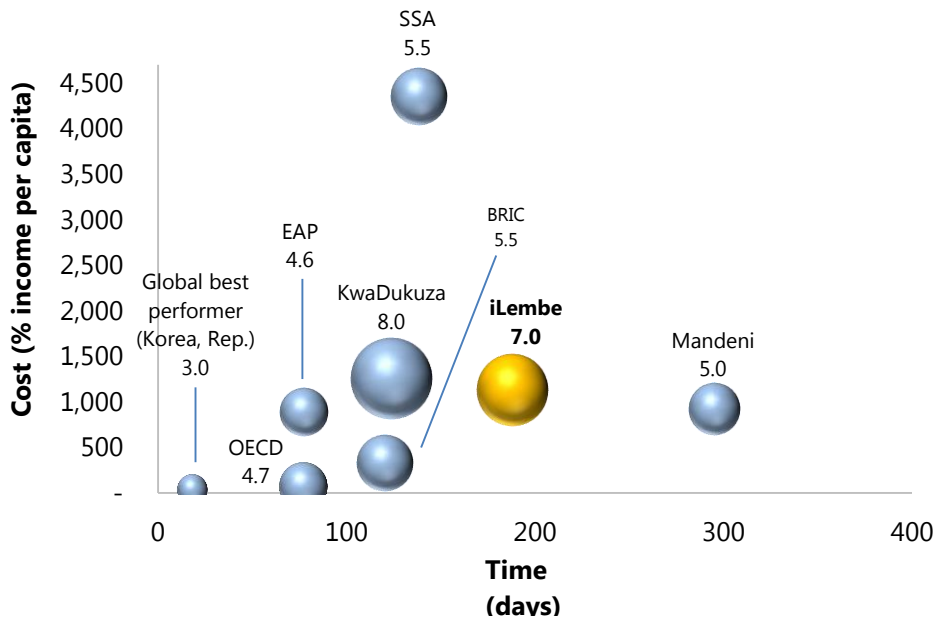
**FIGURE 4.3 How iLembe and other economies compare on the ease of getting electricity**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average.

Source: Doing Business database.

**FIGURE 4.3 Time, cost and procedures for getting electricity compared globally**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. The size of the bubble denotes the number of procedures—the larger the bubble, the higher the number of procedures.

Source: Doing Business database.



Obtaining an electricity connection is essential to enable a business to conduct its most basic operations. In many economies the connection process is complicated by the multiple laws and regulations involved—covering service quality, general safety, technical standards, procurement practices and internal wiring installations. In an effort to ensure safety in the

connection process while keeping connection costs reasonable, governments around the world have worked to consolidate requirements for obtaining an electricity connection. Suggested reform recommendations to improve the ease of getting electricity in iLembe can be found in table 4.1 below.

**Table 4.1 Policy reform recommendations for getting electricity**

#### **Streamline procurement practices**

In KwaDukuza, the customer is given a list of works needed for the connection and a list of approved contractors based on a municipal database for external works. The customer identifies 3 contractors from the list and calls a site meeting with the contractors and municipality to explain the level of work needed. The contractors submit quotes to the customer, who in turn makes a selection and gives the quote to the municipality to issue a formal quotation that includes all the charges to be borne by the customer. After receiving the official estimate letter, the customer makes a payment at the finance services department.

This process could be further streamlined and the procurement practice of hiring a subcontractor improved. For example, the utility could consider making the customer's participation in the meeting to select a subcontractor unnecessary and instead provide the customer with each subcontractor's proposals in electronic form or by mail. To simplify the process further, the utility could consider selecting and hiring a subcontractor without the involvement of the customer or allowing the customer to select and hire a prequalified electrical contractor directly to carry out the external connection works. In Mandeni, the external connection works can take several months because the procurement department is understaffed. This causes long delays in subcontracting the external works and in procuring materials needed for the connection. The utility may consider outsourcing the hiring of a prequalified contractor to the customer directly to shorten the delay.

#### **Improve internal communication processes**

In KwaDukuza, the Certificate of Internal Wiring Compliance (COC) has to be submitted to the same office where the application fees were paid. The municipality stamps the certificate. The contractor together with the customer takes the original and submits it to the finance department to get an account on the meter and pay the security deposit. The utility could consider improving internal communication between departments to make it unnecessary for the electrical contractor of the customer to submit the COC to two different departments.

#### **Improving process efficiency**

All municipalities across South Africa, including the iLembe district, conduct an external inspection of the site of the warehouse before issuing a cost estimate to the customer. In iLembe it is required that the customer or his/her electrical contractor is present during the inspection conducted by the utility. The external inspection is needed for the utility to check the exact surroundings of the building and to determine the precise location for cables and meter installation, before a cost estimate is issued. In other economies worldwide, utilities use Geographic Information Systems (GIS) to make it obsolete to conduct a site visit. In Mexico, for example, the distribution utility developed a GIS to map the electricity distribution network in 2011/12 and thus no longer carries out a physical inspection before issuing the feasibility study. Likewise, with the widespread use of GIS in Turkey, the utility Boğaziçi Elektrik Dağıtım A.Ş. no longer conducts external inspections for new electricity connections. For all new connections, the utility can now check via GIS whether an additional transformer is needed to provide electricity to

the new customer. The utilities in iLembe could consider using GIS in a way to make it unnecessary for the customer's side to be present during the inspection, or even to make a site visit obsolete.

### **Consider lessening the burden of security deposits**

All surveyed distribution utilities in South Africa charge customers security deposits as a guarantee against nonpayment of future electricity bills. Utilities in 91 of the 189 economies surveyed by *Doing Business* in 2013/2014 charge customers security deposits. Security deposits are particularly common in Latin America and the Caribbean and in Sub-Saharan Africa. All surveyed distribution utilities in South Africa hold the deposit until the end of the contract and repay it without interest. This is the same case for iLembe. The exception is the distribution utility in Johannesburg, which pays the same interest as the national bank interest rate. The requirement of a security deposit can impose a substantial financial burden on a small or medium-size business, especially those facing credit constraints. In eThekweni for example, a medium-size company must effectively grant the utility an interest-free credit equivalent to 169% of income per capita—while meanwhile being prevented from putting the money to more productive use.

The majority of distribution utilities request a security deposit equal to 2 to 3 months of consumption charges. In KwaDukuza of the iLembe district, however, the security deposit is calculated based on the maximum demand for 2.5 months. This approach improves transparency of the related connection cost because the customer knows the exact amount of the security deposit in advance. While security deposits based on estimated monthly consumption make it difficult for the customer to know in advance the exact amount due, the customer in iLembe knows the exact amount of the security deposit in advance—improving transparency of the related connection cost.

However, utilities in the iLembe District could also consider lessening the financial burden that security deposits represent for customers. A start would be to return the deposit after 1 or 2 years and not at the end of the connection contract. In KwaDukuza, the utility allows customers to settle the security deposit with a bank guarantee or bond, rather than deposit the entire amount with the utility. The service cost for such bank guarantees usually amounts to less than the interest that customers would lose on the deposit. More importantly, bank guarantees allow customers to keep control of their financial assets and improve their cash flow.

### **Improving regulation of connection cost**

The type of connection works can vary depending on the network's capacity. If the capacity is constrained, a more complicated connection may be required. The resulting capital investments (such as the installation of a distribution transformer) are often covered by the new customer. This obligation, more common in low-income economies, substantially raises the total connection cost. Thus, connection costs should be as transparent as possible to allow customers to contest them when they feel they are paying more than they should. However, in many economies connection costs are not fully transparent. Utilities often present customers with individual budgets rather than following clearly regulated capital contribution policies aimed at spreading the fixed costs of expanding the network over several customers. This is also true for the utilities in iLembe because they charge variable costs to the customer in addition to the connection fees. Chile is among the economies that provide clear regulation of fees. For the 140-kilovolt-ampere (kVA) connection assumed in the case study, costs are fixed and based on an average for similar projects in the area. Utilities in the iLembe district could consider making connection cost more transparent by charging only clearly regulated fees and charges based on a formula or set as a fixed price.

In iLembe the customer has to carry the cost of installing a new distribution transformer to meet the requested power demand. However, low capacity of the network does not necessarily mean high cost for the customer. Where the new connection requires a more complicated installation (such as installing a distribution transformer), utilities

can still regulate the cost that customers must pay. This would not only make cost more transparent, but it can also contribute to reducing connection cost. Take the example of Trinidad and Tobago. Trinidad and Tobago clarified connection costs and made them more transparent through a new capital contribution policy. Before August 2009 connection costs were calculated on a case-by-case basis, making it difficult for customers to assess whether they were overcharged. Now the utility bears the connection costs and then distributes them across all customers through clearly regulated consumption tariffs. This approach reduced the connection cost for the case study customer in Port of Spain by 52% of income per capita.

#### **Increasing availability of information on connection processes**

In addition, utilities should consider easing customers' access to the necessary information regarding connections costs. This would make the process of obtaining a new connection more transparent. A start can be to make information on the application process, the connection cost and consumption tariffs available not only in their customer service offices, but also on their website. Currently, the distribution utilities in the iLembe district provide only little or no information on the connection cost on their websites. The utilities could also consider providing information on the actual connection process and legal time limits in a user-friendly way.

## What are the details?

The indicators reported here for iLembe are based on a set of specific procedures—the steps that an entrepreneur must complete to get a warehouse connected to electricity by the local distribution utility—identified by Subnational *Doing Business*. Data are collected from the distribution utility, then completed and verified by electricity regulatory agencies and independent professionals, such as electrical engineers, electrical contractors and construction companies. The electricity distribution utility surveyed serves the area (or areas) in which warehouses are located. If there is a choice of distribution utilities, the one serving the largest number of customers is selected. Tables 4.2 and 4.3 provide a detailed summary of those procedures, along with the associated time and cost.

### OBTAINING AN ELECTRICITY CONNECTION

**Name of utility:** KwaDukuza Municipality

**Location:** iLembe (KwaDukuza & Mandeni)

The procedures apply to a warehouse and electricity connection matching the standard assumptions used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover).

**TABLE 4.2 Summary of time, cost and procedures for getting electricity in KwaDukuza**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Submit an application for electricity connection to distribution utility and await an estimate of connection fees</b></p> <p>The Municipality will only accept an application submitted for a supply connection from the customer appointed electrical contractor who must be Registered on the Kwadukuza Municipality Data Base of registred contractors thus permitting such contractor to perform installation wiring work within the Municipal Electricity Supply area of Jurisdiction.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	27 days	ZAR 0
2	<p><b>* Receive external inspection by distribution utility</b></p> <p>The commencement of Wiring Notice together with the site plan is passed to the Electricity Planning section for attention. The Senior Technical assistant arranges to meet the Electrical contractor on site to discuss the full requirements of the applicant and determine the optimum position for the mini substation and the metering kiosk.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	21 days	ZAR 0
3	<p><b>* Meet with electrical contractors and municipality to select contractor and to receive quote</b></p> <p>The applicant is given a list of works needed to be done and a list of approved contractors (based on a municipal database) for external works. The applicant identifies 3 contractors from the list and calls a site meeting w/ contractors and municipality to explain the level of work needed. The contractors submit quotes to the applicant. Applicant makes a selection and gives the quote to the municipality who issues a formal</p>	3 days	ZAR 0

No.	Procedure	Time to complete	Cost to complete
	<p>quotation that includes all the charges to be borne by applicant. After receiving the official estimate letter, the applicant makes a payment at the Finance Services Department.</p> <p><i>Agency: KwaDukuza Municipality</i></p>		
4	<p><b>Receive external connection works by electrical contractor</b></p> <p>The company hired by customer does installation of Mini substation &amp; wired point of control distribution kiosk. Kwadukuza Municipality supplies and installs the Metering equipment into the Distribution kiosk and programs the meter . - Kwadukuza Municipality attends to the necessary isolation of supply and issuing of work permit to Electrical contractor appointed to attend to supply of Mini substation and connecting into existing Mv Network. - Upon completion of work by Contractor Kwadukuza Electricity Department officials inspect completed work , clear work permits issued and thereafter engrise new Mini substation installation and perform required tests.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	77 days	ZAR 0
5	<p><b>Receive external connection works, meter installation and works inspection by KwaDukuza Municipality</b></p> <p>Upon completion of the Electrical Installation Wiring for the Warehouse the Electrical Installation Electrician appointed by the Customer is by Legislation required to perform a scheduled series of inspections and Tests on the completed Electrical Installation Wiring. The Electrical Contractor makes arrangement for the KwaDukuza Municipality to Temporarily Switch On the power supply in order that certain tests as specified on the Certificate of Compliance may be performed with the Electrical Wiring Installation having been made Alive. At conclusion of the compliance testing the Supply is switched off until such time the Finance Directorate have confirmed all necessary payments have been made and Customer Registration is complete.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	6 days	ZAR 786,367 (ZAR 321,450 material and labor + ZAR 350,000 transformer + ZAR 114,917 service connection component and demand base component)
6	<p><b>Electrical contractor obtains Certificate of Internal Wiring Compliance (COC) and submits it to the KwaDukuza Municipality</b></p> <p>The electrical contractor of the customer has to issue a Certificate of Internal Wiring Compliance. The COC has to be submitted to the same office where the application fees were paid. The municipality stamps the certificate.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	3 days	ZAR 0

No.	Procedure	Time to complete	Cost to complete
7	<p><b>Electrical contractor submit COC to the Finance Department</b></p> <p>The contractor together with the customer take the original COC and submit it to the finance department to get an account on the meter and pay security deposit. Prior to the Power Supply being Switched -On by the KwaDukuza Municipality the Finance Directorate is to be furnished with a copy of the original Electricity Certificate of Compliance completed by a registered Installation Electrician. Upon receipt of the Compliance Certificate and subject to Customer Registration having been completed and the calculated Security Deposit also having been paid to the Finance Directorate the the supply connection is formally switched on at which point for account purposes the opening meter reading is recorded by the Meter Reader of the Finance Directorate.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	1 day	ZAR 0
8	<p><b>Sign supply contract and receive final connection</b></p> <p>The customer is required to complete and sign the E-Form which contractually binds the customer to be in agreement to access to a supply of electricity in accordance with the rates charged as per the Tariff of Charges amended from time to time as well as abide by the dictates of the KwaDukuza Municipality Electricity Supply By-Laws.</p> <p><i>Agency: KwaDukuza Municipality</i></p>	10 days	ZAR 1,760 (security deposit)

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

**TABLE 4.3 Summary of time, cost and procedures for getting electricity in Mandeni**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Submit an application for electricity connection to distribution utility and await an estimate of connection fees</b></p> <p>The Municipality will only accept an application submitted for a supply connection from the customer appointed electrical contractor who must be registered on the Mandeni Municipality Data Base of registered contractors thus permitting such contractor to perform installation wiring work within the Municipal Electricity Supply area of Jurisdiction.</p> <p><i>Agency: Mandeni Municipality</i></p>	45 days	ZAR 0

No.	Procedure	Time to complete	Cost to complete
2	<p><b>* Receive external inspection by distribution utility</b></p> <p>The commencement of Wiring Notice together with the site plan is passed to the Electricity Planning section for attention. The Senior Technical assistant arranges to meet the Electrical contractor on site to discuss the full requirements of the applicant and determine the optimum position for the mini substation and the metering kiosk.</p> <p><i>Agency: Mandeni Municipality</i></p>	30 days	ZAR 0
3	<p><b>Sign a supply contract</b></p> <p>The customer is required to complete and sign the E-Form which contractually binds the customer to be in agreement to access to a supply of electricity in accordance with the rates charged as per the Tariff of Charges amended from time to time as well as abide by the dictates of the Mandeni Municipality Electricity Supply By-Laws.</p> <p><i>Agency: Mandeni Municipality</i></p>	2 days	ZAR 2,010 (security deposit)
4	<p><b>Await completion of the external connection works by distribution utility</b></p> <p>The Mandeni Municipality installs the cable, circuit breakers, metering equipment, glands, labeling, and lock (everything outside the stand boundary, as well as the equipment in the stand boundary connection box). The private electrical contractor is responsible for all electrical work from this point in the stand boundary.</p> <p><i>Agency: Mandeni Municipality</i></p>	246 days	ZAR 575,400 (ZAR 15,000 connection fees + ZAR400 cable + ZAR 800 excavation works + ZAR 150 cable laying + ZAR 450 road excavation + ZAR 500,000 substation)
5	<p><b>The client obtains and submits a Certificate of Internal Wiring Compliance to distribution utility</b></p> <p>The customer needs to have its licensed electrical contractor conduct the COC test. The contractor goes to the municipality and asks for a temporary release of electricity in order to conduct the COC test. After the test, the contractor issues the certificate and provides one copy to the municipality--the customer keeps the original.</p> <p><i>Agency: Mandeni Municipality</i></p>	2 days	ZAR 0

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

## REGISTERING PROPERTY

Ensuring formal property rights is fundamental. Effective administration of land is part of that. If formal property transfer is too costly or complicated, formal titles might go informal again. And where property is informal or poorly administered, it has little chance of being accepted as collateral for loans—limiting access to finance.

### What do the indicators cover?

*Doing Business* records the full sequence of procedures necessary for a business to purchase property from another business and transfer the property title to the buyer's name. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it as collateral for a bank loan or resell it. The ranking of economies on the ease of registering property is determined by sorting their distance to frontier scores for registering property. These scores are the simple average of the distance to frontier scores for each of the component indicators. To make the data comparable across economies, several assumptions about the parties to the transaction, the property and the procedures are used.

The parties (buyer and seller):

- Are limited liability companies, 100% domestically and privately owned and perform general commercial activities.
- Are located in selected city.
- Have 50 employees each, all of whom are nationals.

The property (fully owned by the seller):

- Has a value of 50 times income per capita. The sale price equals the value.
- Is registered in the land registry or cadastral, or both, and is free of title disputes.
- Property will be transferred in its entirety.

### WHAT THE REGISTERING PROPERTY INDICATORS MEASURE

#### Procedures to legally transfer title on immovable property (number)

Preregistration (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)

Registration in the selected city

Postregistration (for example, filing title with the municipality)

#### Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day

Procedures that can be fully completed online are recorded as ½ day

Procedure considered completed once final document is received

No prior contact with officials

#### Cost required to complete each procedure (% of property value)

Official costs only, no bribes

No value added or capital gains taxes included

- Is located in a periurban commercial zone, and no rezoning is required.
- Has no mortgages attached, has been under the same ownership for the past 10 years.
- Consists of 557.4 square meters (6,000 square feet) of land and a 10-year-old, 2-story warehouse of 929 square meters (10,000 square feet). The warehouse is in good condition and complies with all safety standards, building codes and legal requirements. There is no heating system.

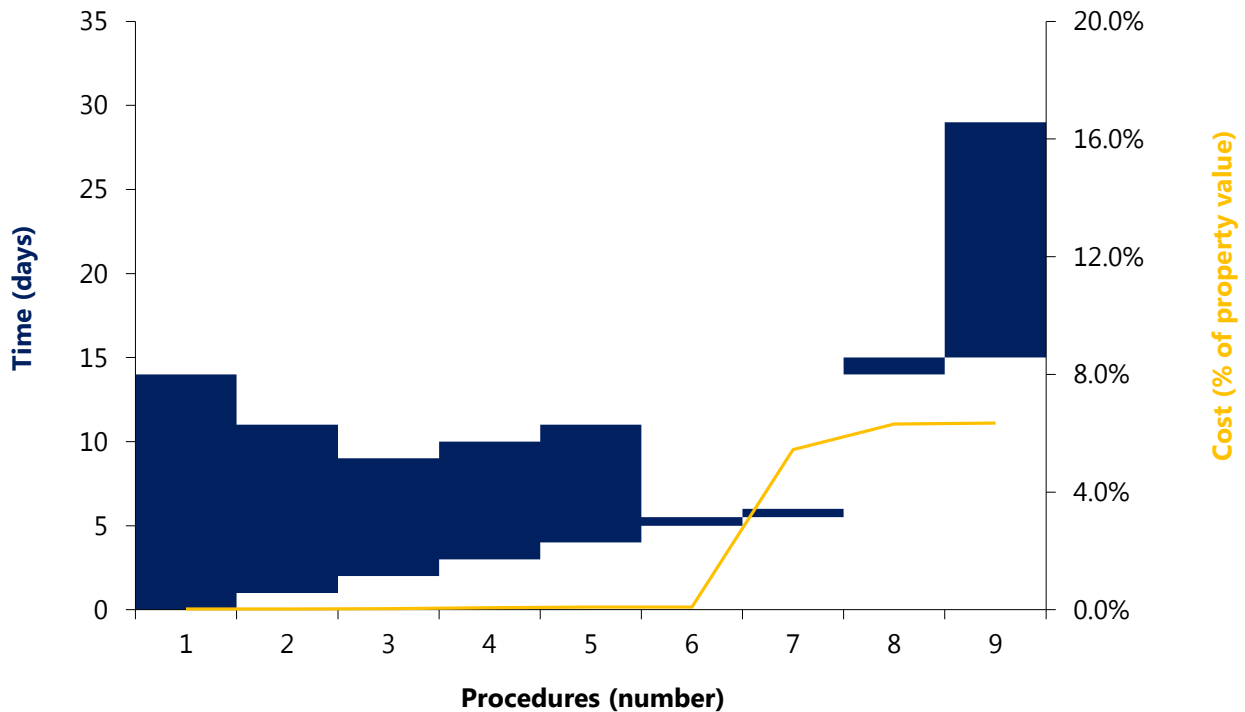


### Where does iLembe stand today?

What does it take to complete a property transfer in iLembe? According to data collected by Subnational *Doing Business*, registering property in iLembe requires 9 procedures, takes 29 days and costs 6.35% of the

property value. It takes 9 procedures, 29 days and 6.35% of the property value in KwaDukuza (figure 5.1) and 9 procedures, 30 days and 6.34% of the property value in Mandeni (figure 5.2).

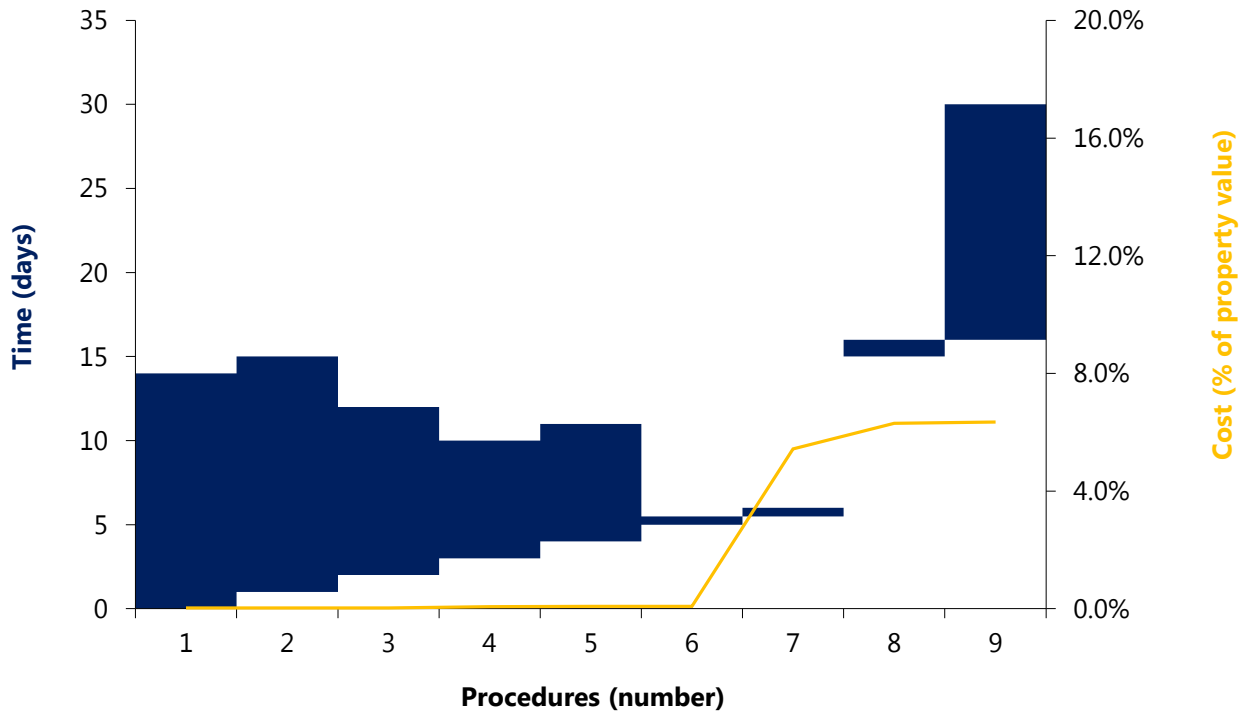
**FIGURE 5.1** What it takes to register property in KwaDukuza



*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the registering property indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

*Source:* *Doing Business* database.

**FIGURE 5.2 What it takes to register property in Mandeni**



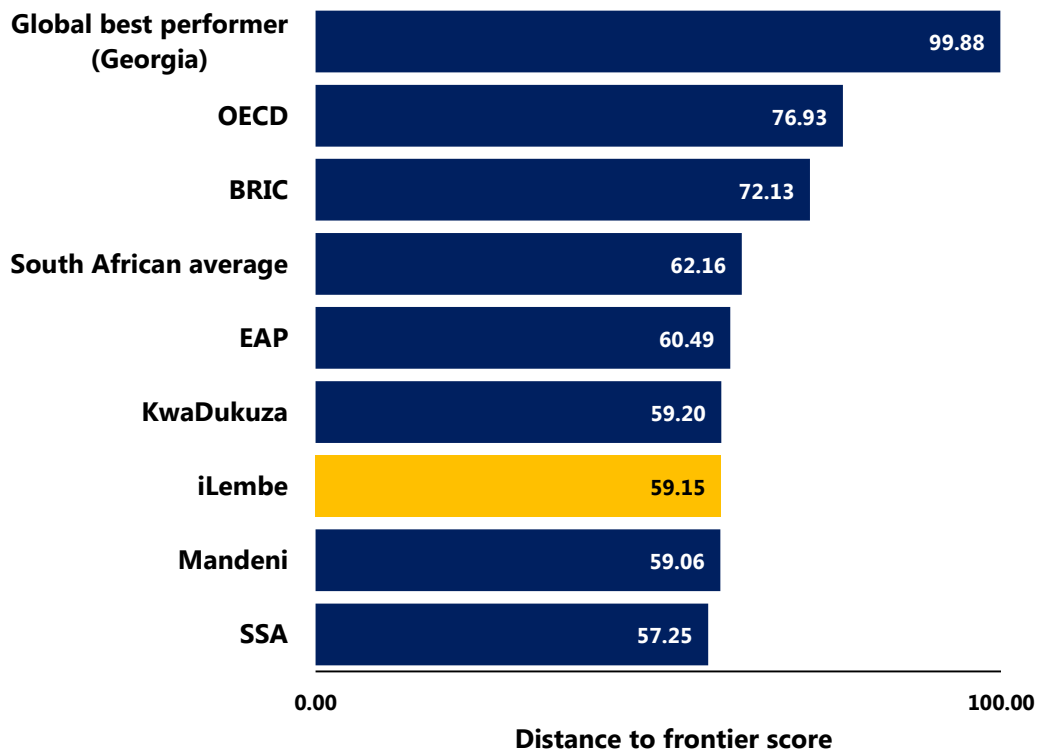
*Note:* Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the registering property indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

*Source:* *Doing Business* database.

iLembe’s average distance to frontier score for registering property allows for comparisons with other economies (figure 5.3). The performance of comparator economies is useful in assessing how easy it is for an

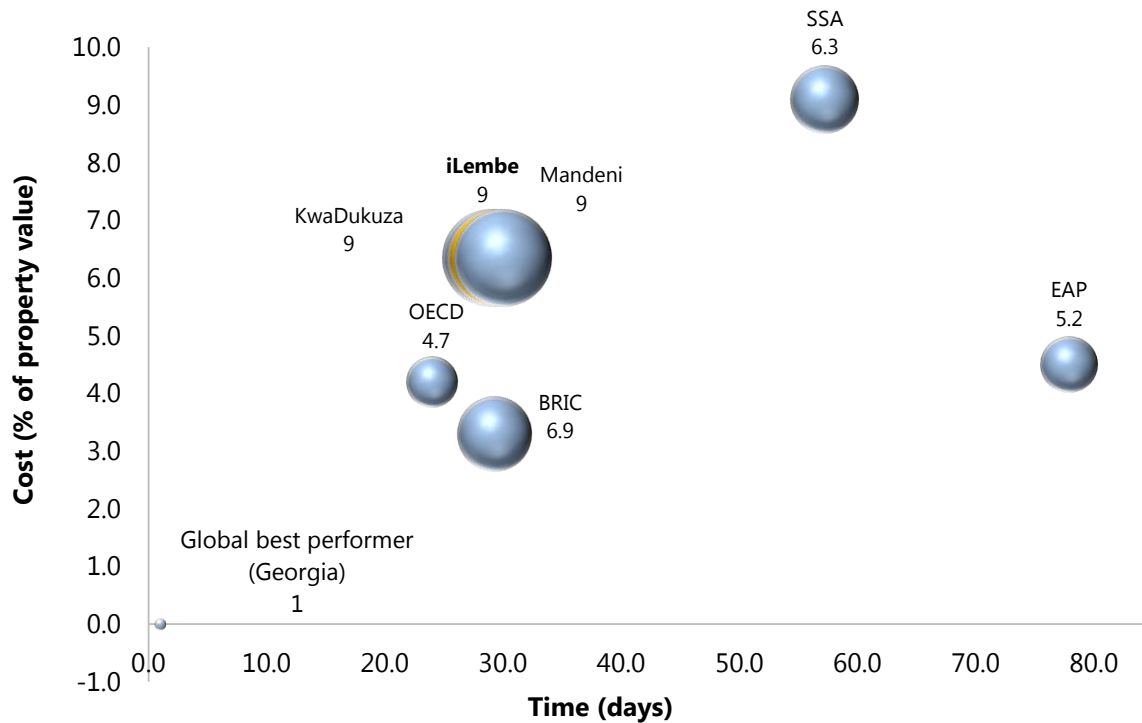
entrepreneur in iLembe to transfer property. Indicator values provide further insight, and, when compared internationally, may reveal constraints and strengths in specific areas of business regulation (figure 5.4).

**FIGURE 5.3 How iLembe and other economies compare on the ease of registering property**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average.  
 Source: Doing Business database.

**FIGURE 5.4 Time, cost and procedures for registering property compared globally**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. The size of the bubble denotes the number of procedures—the larger the bubble, the higher the number of procedures.

Source: Doing Business database.

Economies worldwide have been making it easier for entrepreneurs to register and transfer property—such as by computerizing land registries, introducing time limits for procedures and setting low fixed fees. Many have cut the time required substantially—enabling buyers to use or mortgage their property earlier.

Suggested reform recommendations to improve the ease of registering property in iLembe can be found in table 5.1 below.

**TABLE 5.1 Policy reform recommendations for registering property**

**Adopt the electronic issuance of rates clearance certificates or even consider replacing them altogether with online payment confirmation**

Obtaining a rates' clearance certificate can be a lengthy process and has been repeatedly reported as one of the major bottlenecks when transferring property in South Africa. However, it does not have to be this way. In Cape Town, for example, the municipality has the capability to issue a record of outstanding dues and can deliver certificates within 2 weeks through its electronic system—even when handling a large number of requests. Prior to implementing the electronic system, obtaining rates clearance certificates could reportedly take months.

Six years ago, the city authorities started to develop an SAP-based electronic platform to issue rates clearance certificates. The Automated Rates Clearance system was rolled out in 2014. The program enables conveyancers in Cape Town to request rates clearance certificates online from their offices. A SAP case is created in the electronic system. Conveyancers receive notification of outstanding balances and make advance payments to cover any charges that occur while the transfer is ongoing.

The municipal authorities in eThekweni took a similar approach and started developing an electronic system in 2002. The eThekweni Interim Rates Clearance Application Management (IRCAM) system became fully operational in 2007. The system facilitates the management of the volume of requests received by the municipality and still manages to deliver certificates within 2 weeks.

According to conveyancers across South Africa, it is impossible to track the status of the certificate in other locations, and there is a perceived lack of responsiveness on the part of the municipality in case of an inquiry or problem with the delivery of the certificate. An online electronic application system would allow conveyancers to view real-time information on the status of their request, thus increasing the municipalities' transparency and accountability.

Replacing rates clearance certificates with online confirmation of payments has proven effective in other economies as well. In 2012, Rwanda eliminated the requirement to obtain a separate tax clearance certificate, formerly the longest part of its property registration process. Combined with other reforms, this reduced the time to register property by 13 days. Similarly, in 2013 Greek authorities eliminated the need to obtain a tax clearance certificate from the municipality before signing the sales agreement.

**Set effective service delivery time limits for the deeds registries and/or introduce fast-track approvals**

The Deeds Registries Act 47 of 1937 and its amendments set no time limit for the provision of registry services. South Africa entrepreneurs complain that applications may get delayed for unknown reasons. Time limits can give entrepreneurs guidance regarding the expected waiting time and also set a maximum time for public agencies to complete their tasks. Time standards can encourage greater transparency and are most useful when enforced. An example of an effective time limit comes from Spain, where the Registry's fees are discounted by 30% if the registration takes longer than 15 days and no objective justification for the delay is given.

Introducing expedited or fast-track procedures that speed up processing times for an extra fee would also ensure faster delivery for users in a hurry and willing to pay an extra charge. The additional revenue from charging for expedited procedures could be used to hire additional staff and provide more resources to the registry. Georgia, Lithuania and the Slovak Republic offer these types of expedited procedures. Portugal has introduced both effective time limits and fast-track procedures for property registration.<sup>21</sup> South African cities could follow suit after assessing the financial and human resource available at local registries, thus ensuring that enough well-trained staff is available to meet the demand.

### **Develop an integrated registry system for electronic registration**

Although the South African system of land administration is comprehensive and ensures title security for registered lands, it can be slow. Moving from paper-based to electronic registration could assure a streamlined process at the registries while also easing communication with other stakeholders, such as the Surveyor-General's Offices and municipalities, allowing all parties to check on the status of a given transfer or obtain information on the relevant title deed. All agencies involved—registries, municipalities, Chief Surveyor-General and SARS—could move to one platform where the information about a property could be accessed. In 2006, South Africa launched the e-cadaster project meant to achieve the single-platform goal, but it still remains a work in progress. After conducting a thorough assessment across registries to identify the main reasons why the e-cadaster is still not fully accessible to all stakeholders involved in property transfers, South African authorities could look to economies like Denmark and Austria for remedial measures.

In 2009, the Danish land registry initiated its computerization process, and records were progressively digitized. Once digitization was complete, the land registry introduced electronic application for property transfers. By 2011, property transfer applications were only accepted online, allowing the information technology system to screen applications in an efficient way. As a result, over a period of 5 years, the time to transfer a property was reduced from 42 days to 4 days.<sup>22</sup>

In Austria registering a property is done through an electronic system called WebERV. The WebERV system is an online-based form of communication between the courts, notaries and lawyers for submission of claims, briefs and applications, as well as delivery of court transcripts, orders and decisions. It is now mandatory for attorneys and notaries to submit their applications concerning the transfer and registration of property using this system. In Austria it takes 3 procedures and 20.5 days to register a property.

In the interim, locations must also establish contingency plans in case of electronic platforms failure. Conveyancers experience delays at registries largely due to the intermittently operational electronic workflow tracking system. Files are scanned through the workflow system when they move through the registry. When the electronic system goes down, the workflow stops. To curb delays, registries could use a non-electronic logbook to track file movement when workflow cannot be tracked electronically, and then update the system when it is back online.

Registries also report that due to faulty equipment for checking the national database and microfilming, they sometimes cannot connect to the central registry's database whose servers are located in Pretoria. This means that registrars cannot process applications because the information to verify the accuracy of data presented in the transfer deeds is unavailable. Investing in more reliable and better functioning equipment would avoid technical delays in the deed verification and transfer process.

<sup>21</sup> World Bank. 2012. *Doing Business 2013: Smarter Regulations for Small and Medium Size Enterprises*. Washington, DC: World Bank Group.

<sup>22</sup> *Doing Business* database.

## What are the details?

The indicators reported here for iLembe are based on a set of specific procedures—the steps that a buyer and seller must complete to transfer the property to the buyer's name—identified by *Doing Business* through information collected from local property lawyers, notaries and property registries. Tables 5.2 and 5.3 provide a detailed summary of those procedures, along with the associated time and cost. These procedures apply to a transaction matching the standard assumptions used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover).

### STANDARD PROPERTY TRANSFER

**Property value:** ZAR 3,129,500

**Location:** iLembe (KwaDukuza & Mandeni)

**TABLE 5.2 Summary of time, cost and procedures for registering property in KwaDukuza**

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Obtain a water and sanitation clearance certificate from the iLembe District Revenue Department</b></p> <p>The transferring conveyancer obtains water and sanitation clearance certificate from the iLembe District Revenue Department.</p> <p><i>Agency: iLembe District Revenue Department</i></p>	14 days	ZAR 668
2	<p><b>* Prepare and collect all the required documentation</b></p> <p>A conveyancer prepares the deed of sale and drafts the transfer deed. The conveyancer obtains power of attorney, appointing him to appear before the Registrar. The services of a conveyancer are mandatory for the registration of the land in South Africa. A conveyancer is an attorney who is permitted in terms of the Attorneys Act to perform specialized duties with regard to the conveyance of immovable property. The Deeds Registries Act empowers only conveyancers to prepare deeds of transfer and in doing so, assumes responsibility for certain facts set out in the deed and documents. Conveyancing fees are set by the Law Society for different property values.</p> <p>The conveyancer, before lodging the documentation with the deeds registry to transfer the property to the new company, must also conduct a company search at the Companies and Intellectual Property Commission Office to ascertain the directors of both companies.</p> <p>All conveyancers are linked by internet to this authority and can perform the check online. Usually conveyancers will also</p>	10 days	No cost

No.	Procedure	Time to complete	Cost to complete
	<p>ask clients to provide the requisite documents. In so doing, the conveyancer will:</p> <p>a. Peruse the memorandum and articles of association of the companies to confirm the powers to acquire and alienate immovable property. The founding documents of the seller will be the Memorandum and Articles of Association. If the buyer company was formed before 1 May 2011, its Memorandum and Articles of Association will be perused. If the buyer company was formed after 1 May 2011, its Memorandum of Incorporation will be perused.</p> <p>b. Peruse the necessary resolutions. Section 115 of the Companies Act 71 2008 states that a company may not dispose of all or the greater part of its assets except through a special resolution.</p> <p>c. Ensure compliance with the Financial Intelligence Center Act by obtaining proof from the companies of the physical/business address and Tax/VAT registration number with the South African Revenue Services. The conveyancer will also request this information from the clients before proceeding, and the check is done automatically at the time of paying transfer duty -if a company does not have or quotes an incorrect Tax/VAT number, it will not be possible to pay transfer duty and the process will halt.</p> <p><i>Agency: Companies and Intellectual Property Commission</i></p>		
3	<p><b>* Obtain a rates clearance certificate from the KwaDukuza Municipality Rates Department</b></p> <p>The transferring conveyancer obtains a rates clearance certificate from the local municipality.</p> <p><i>Agency: KwaDukuza Municipality Rates Department</i></p>	7 days	ZAR 386
4	<p><b>* Obtain an electrical compliance certificate from a certified electrician</b></p> <p>This certificate is not required by the land registry. The Health and Environment Act of 1993 makes it mandatory for anyone who wants to sell anything that includes electrical wiring to have an Electrical Certificate of Compliance. It is common practice for the seller to obtain this clearance certificate. However, there will always be a clause in the sale agreement that refers to the Act, who should obtain the clearance certificate and who bears the cost.</p> <p><i>Agency: Certified electrician</i></p>	7 days	ZAR 1,250



No.	Procedure	Time to complete	Cost to complete
5	<p><b>* Obtain an entomologist certificate from a certified entomologist</b></p> <p>Contractual practice in KwaDukuza requires the obtainment of an entomologist's certificate proving that there are no infestations on the property.</p> <p><i>Agency: Certified entomologist</i></p>	7 days	ZAR 600
6	<p><b>* Obtain an ownership certificate</b></p> <p>The conveyancer performs a title search through a licensed third-party software (e.g. GhostConvey, WinDeed, Korbitec, WinDeed, Searchworks, etc.) to ensure that the property exists and the Seller is the rightful owner. The search can also be conducted using the Deeds Registry's own platform, DeedsWeb (<a href="http://www.deeds.gov.za/ITSODEedsWebB/deedsweb/welcome.jsp">http://www.deeds.gov.za/ITSODEedsWebB/deedsweb/welcome.jsp</a>). DeedsWeb's coverage is countrywide and a user can access information on any property throughout the country.</p> <p>A small number of conveyancers still conduct the search in person, but the majority have a subscription to one of the third-party software used for searches. The small fee associated with this procedure is included in the conveyancer's fees.</p> <p><i>Agency: Conveyancer's office</i></p>	0.5 day	No cost
7	<p><b>* Obtain a transfer duty receipt from the South African Revenue Service</b></p> <p>The transferring conveyancer obtains a transfer duty receipt/exemption certificate from the South African Revenue Services. As of 23 February 2011, the distinction drawn in calculating transfer duties in respect of legal entities and natural persons has been abolished. Both legal entities and natural persons now pay transfer duty based on a sliding scale. The scale is as follows: ZAR 0 to ZAR 600,000 - exempt; ZAR 600,001 to ZAR 1,000,000 - 3% on the value above ZAR 600,000, but not exceeding ZAR 1,000,000; ZAR 1,000,001 to ZAR 1,500,000 – ZAR 12,000 plus 5% on the value above ZAR 1,000,000, but not exceeding ZAR 1,500,000; ZAR 1,500,001 and above – ZAR 37,000 plus 8% on the value above ZAR 1,500,000.</p> <p><i>Agency: South African Revenue Service</i></p>	0.5 day	ZAR 167,360 (ZAR 37,000 plus 8% on the value above ZAR 1,500 for a property valued at ZAR 1,500,000 or more)

No.	Procedure	Time to complete	Cost to complete
8	<p><b>Parties sign all the documentation at the conveyancer's office</b></p> <p>The conveyancer will have all documentation signed by seller and purchaser and obtain guarantees for purchase price. The documents to be signed by the parties are as follows:</p> <p>a. Seller</p> <ul style="list-style-type: none"> <li>• Power of attorney to pass</li> <li>• Transfer duty declarations</li> <li>• Affidavits (Solvency; FICA)</li> </ul> <p>b. Purchaser</p> <ul style="list-style-type: none"> <li>• Transfer duty declarations</li> <li>• Affidavits (Solvency; FICA)</li> </ul> <p><i>Agency: Conveyancer's office</i></p>	1 day	ZAR 27,310 (for properties valued between ZAR 3,100,000.01 and ZAR 3,200,000.00)
9	<p><b>Register the deed with the Pietermaritzburg Deeds Registry</b></p> <p>The conveyancer lodges the deed at the Deeds Registry. The Registrar compares the draft deed with data in the register. There are examinations at three different levels to (1) ensure compliance with the conditions of transfer, (2) check the legality of the transfer, and (3) verify that the proper standards of examination were applied. The standards are monitored and the deed is prepared for registration and execution. The registration fee is paid and depends on the value of the property and is obtained from the Transfer Cost table in <a href="http://www.ghostdigest.co.za/code/C_20.html">http://www.ghostdigest.co.za/code/C_20.html</a> (D/O Levy column). The Registrar executes the deed, the conveyancer signs the transfer deed at the Deeds Registry in front of the registrar or a deputy. The Deeds Registry subsequently updates the register and archives a copy.</p> <p><i>Agency: Deeds Registry of Pietermaritzburg</i></p>	14 days	ZAR 1,100

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

TABLE 5.3 Summary of time, cost and procedures for registering property in Mandeni

No.	Procedure	Time to complete	Cost to complete
1	<p><b>Obtain a water and sanitation clearance certificate from the iLembe District Revenue Department</b></p> <p>The transferring conveyancer obtains water and sanitation clearance certificate from the iLembe District Revenue Department.</p> <p><i>Agency: iLembe District Revenue Department</i></p>	14 days	ZAR 668
2	<p><b>* Obtain electricity and land rates clearance certificate from the Mandeni Municipality Budget and Treasury Department</b></p> <p>The transferring conveyancer obtains a rates clearance certificate from the local municipality.</p> <p><i>Agency: Mandeni Municipality Budget and Treasury Department</i></p>	14 days	ZAR 159
3	<p><b>* Prepare and collect all the required documentation</b></p> <p>A conveyancer prepares the deed of sale and drafts the transfer deed. The conveyancer obtains power of attorney, appointing him to appear before the Registrar. The services of a conveyancer are mandatory for the registration of the land in South Africa. A conveyancer is an attorney who is permitted in terms of the Attorneys Act to perform specialized duties with regard to the conveyance of immovable property. The Deeds Registries Act empowers only conveyancers to prepare deeds of transfer and in doing so, assumes responsibility for certain facts set out in the deed and documents. Conveyancing fees are set by the Law Society for different property values.</p> <p>The conveyancer, before lodging the documentation with the deeds registry to transfer the property to the new company, must also conduct a company search at the Companies and Intellectual Property Commission Office to ascertain the directors of both companies.</p> <p>All conveyancers are linked by internet to this authority and can perform the check online. Usually conveyancers will also ask clients to provide the requisite documents. In so doing, the conveyancer will:</p> <p>a. Peruse the memorandum and articles of association of the companies to confirm the powers to acquire and alienate immovable property. The founding documents of the seller will be the Memorandum and Articles of Association. If the buyer</p>	10 days	No cost

No.	Procedure	Time to complete	Cost to complete
	<p>company was formed before 1 May 2011, its Memorandum and Articles of Association will be perused. If the buyer company was formed after 1 May 2011, its Memorandum of Incorporation will be perused.</p> <p>b. Peruse the necessary resolutions. Section 115 of the Companies Act 71 2008 states that a company may not dispose of all or the greater part of its assets except through a special resolution.</p> <p>c. Ensure compliance with the Financial Intelligence Center Act by obtaining proof from the companies of the physical/business address and Tax/VAT registration number with the South African Revenue Services. The conveyancer will also request this information from the clients before proceeding, and the check is done automatically at the time of paying transfer duty -if a company does not have or quotes an incorrect Tax/VAT number, it will not be possible to pay transfer duty and the process will halt.</p> <p><i>Agency: Companies and Intellectual Property Commission</i></p>		
4	<p><b>* Obtain an electrical compliance certificate from a certified electrician</b></p> <p>This certificate is not required by the land registry. The Health and Environment Act of 1993 makes it mandatory for anyone who wants to sell anything that includes electrical wiring to have an Electrical Certificate of Compliance. It is common practice for the seller to obtain this clearance certificate. However, there will always be a clause in the sale agreement that refers to the Act, who should obtain the clearance certificate and who bears the cost.</p> <p><i>Agency: Certified electrician</i></p>	7 days	ZAR 1,250
5	<p><b>* Obtain an entomologist certificate from a certified entomologist</b></p> <p>Contractual practice in Mandeni requires the obtainment of an entomologist's certificate proving that there are no infestations on the property.</p> <p><i>Agency: Certified entomologist</i></p>	7 days	ZAR 600

No.	Procedure	Time to complete	Cost to complete
6	<p><b>* Obtain an ownership certificate</b></p> <p>The conveyancer performs a title search through a licensed third-party software (e.g. GhostConvey, WinDeed, Korbitec, WinDeed, Searchworks, etc.) to ensure that the property exists and the Seller is the rightful owner. The search can also be conducted using the Deeds Registry's own platform, DeedsWeb (<a href="http://www.deeds.gov.za/ITSODEedsWebB/deedsweb/welcome.jsp">http://www.deeds.gov.za/ITSODEedsWebB/deedsweb/welcome.jsp</a>). DeedsWeb's coverage is countrywide and a user can access information on any property throughout the country.</p> <p>A small number of conveyancers still conduct the search in person, but the majority have a subscription to one of the third-party software used for searches. The small fee associated with this procedure is included in the conveyancer's fees.</p> <p><i>Agency: Conveyancer's office</i></p>	0.5 day	No cost
7	<p><b>* Obtain a transfer duty receipt from the South African Revenue Service</b></p> <p>The transferring conveyancer obtains a transfer duty receipt/exemption certificate from the South African Revenue Services. As of 23 February 2011, the distinction drawn in calculating transfer duties in respect of legal entities and natural persons has been abolished. Both legal entities and natural persons now pay transfer duty based on a sliding scale. The scale is as follows: ZAR 0 to ZAR 600,000 - exempt; ZAR 600,001 to ZAR 1,000,000 - 3% on the value above ZAR 600,000, but not exceeding ZAR 1,000,000; ZAR 1,000,001 to ZAR 1,500,000 – ZAR 12,000 plus 5% on the value above ZAR 1,000,000, but not exceeding ZAR 1,500,000; ZAR 1,500,001 and above – ZAR 37,000 plus 8% on the value above ZAR 1,500,000.</p> <p><i>Agency: South African Revenue Service</i></p>	0.5 day	ZAR 167,360 (ZAR 37,000 plus 8% on the value above ZAR 1,500 for a property valued at ZAR 1,500,000 or more)
8	<p><b>Parties sign all the documentation at the conveyancer's office</b></p> <p>The conveyancer will have all documentation signed by seller and purchaser and obtain guarantees for purchase price. The documents to be signed by the parties are as follows:</p> <p>a. Seller</p> <ul style="list-style-type: none"> <li>• Power of attorney to pass</li> <li>• Transfer duty declarations</li> <li>• Affidavits (Solvency; FICA)</li> </ul> <p>b. Purchaser</p>	1 day	ZAR 27,310 (for properties valued between ZAR 3,100,000.01 and ZAR 3,200,000.00)

No.	Procedure	Time to complete	Cost to complete
	<ul style="list-style-type: none"> <li>• Transfer duty declarations</li> <li>• Affidavits (Solvency; FICA)</li> </ul> <p><i>Agency: Conveyancer's office</i></p>		
9	<p><b>Register the deed with the Pietermaritzburg Deeds Registry</b></p> <p>The conveyancer lodges the deed at the Deeds Registry. The Registrar compares the draft deed with data in the register. There are examinations at three different levels to (1) ensure compliance with the conditions of transfer, (2) check the legality of the transfer, and (3) verify that the proper standards of examination were applied. The standards are monitored and the deed is prepared for registration and execution. The registration fee is paid and depends on the value of the property and is obtained from the Transfer Cost table in <a href="http://www.ghostdigest.co.za/code/C_20.html">http://www.ghostdigest.co.za/code/C_20.html</a> (D/O Levy column). The Registrar executes the deed, the conveyancer signs the transfer deed at the Deeds Registry in front of the registrar or a deputy. The Deeds Registry subsequently updates the register and archives a copy.</p> <p><i>Agency: Deeds Registry of Pietermaritzburg</i></p>	14 days	ZAR 1,100

\* Takes place simultaneously with another procedure.

Note: Online procedures account for 0.5 days in the total time calculation.

Source: Doing Business database.

## ENFORCING CONTRACTS

Effective commercial dispute resolution has many benefits. Courts are essential for entrepreneurs because they interpret the rules of the market and protect economic rights. Efficient and transparent courts encourage new business relationships because businesses know they can rely on the courts if a new customer fails to pay. Speedy trials are essential for small enterprises, which may lack the resources to stay in business while awaiting the outcome of a long court dispute.

### What do the indicators cover?

*Doing Business* measures the efficiency of the judicial system in resolving a commercial dispute before local courts. Following the step-by-step evolution of a standardized case study, it collects data relating to the time, cost and procedural complexity of resolving a commercial lawsuit. The ranking of economies on the ease of enforcing contracts is determined by sorting their distance to frontier scores for enforcing contracts. These scores are the simple average of the distance to frontier scores of each of the component indicators.

The dispute in the case study involves the breach of a sales contract between 2 domestic businesses. The case study assumes that the court hears an expert on the quality of the goods in dispute. This distinguishes the case from simple debt enforcement. To make the data comparable across economies, *Doing Business* uses several assumptions about the case:

- The seller and buyer are located in the selected city.
- The buyer orders custom-made goods, then fails to pay.
- The seller sues the buyer before a competent court.
- The value of the claim is 200% of the income per capita or the equivalent in local currency of USD 5,000, whichever is greater.

### WHAT THE ENFORCING CONTRACTS

#### INDICATORS MEASURE

#### Procedures to enforce a contract through the courts (number)

- Steps to file and serve the case
- Steps for trial and judgment
- Steps to enforce the judgment

#### Time required to complete procedures (calendar days)

- Time to file and serve the case
- Time for trial and obtaining judgment
- Time to enforce the judgment

#### Cost required to complete procedures (% of claim)

- Average attorney fees
- Court costs
- Enforcement costs

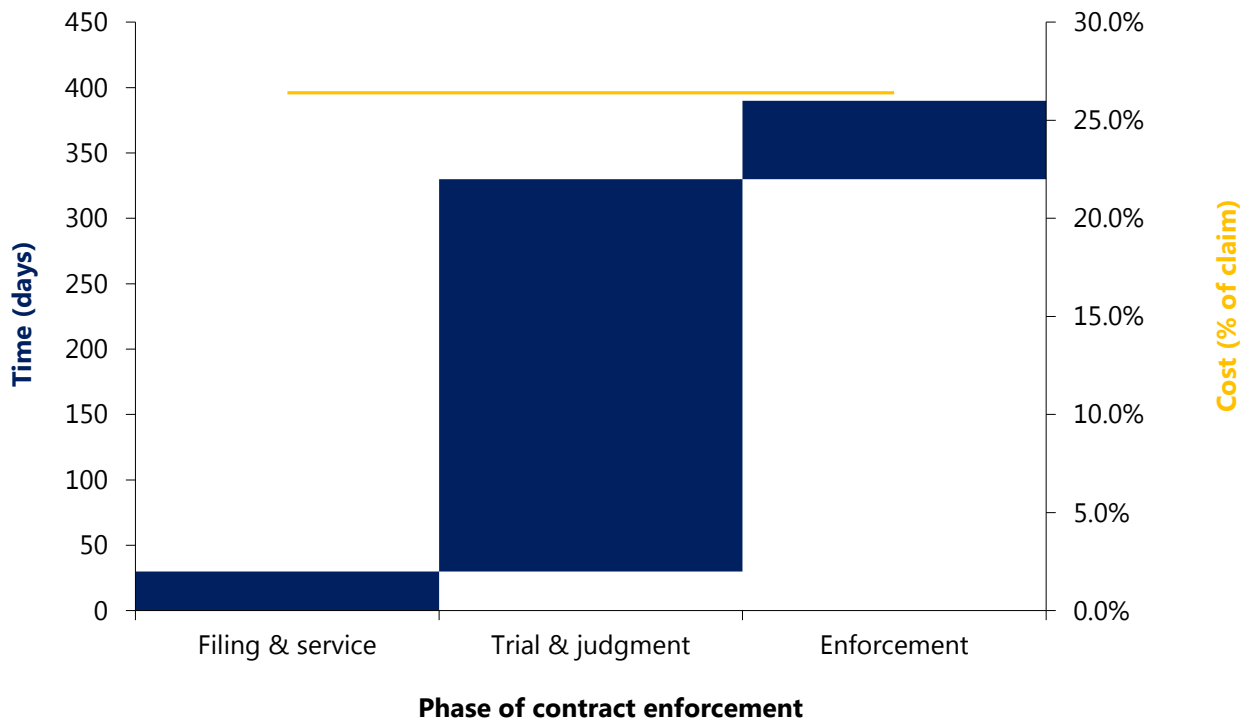
- The seller requests a pretrial attachment to secure the claim.
- The dispute on the quality of the goods requires an expert opinion.
- The judge decides in favor of the seller; there is no appeal.
- The seller enforces the judgment through a public sale of the buyer's movable assets.

### Where does iLembe stand today?

How efficient is the process of resolving a commercial dispute through the courts in iLembe? According to data collected by Subnational *Doing Business*, enforcing

a contract in iLembe requires 29 procedures, takes 390 days and costs 26.4% of the value of the claim (figure 6.1).

**FIGURE 6.1 What it takes to enforce a contract in iLembe**



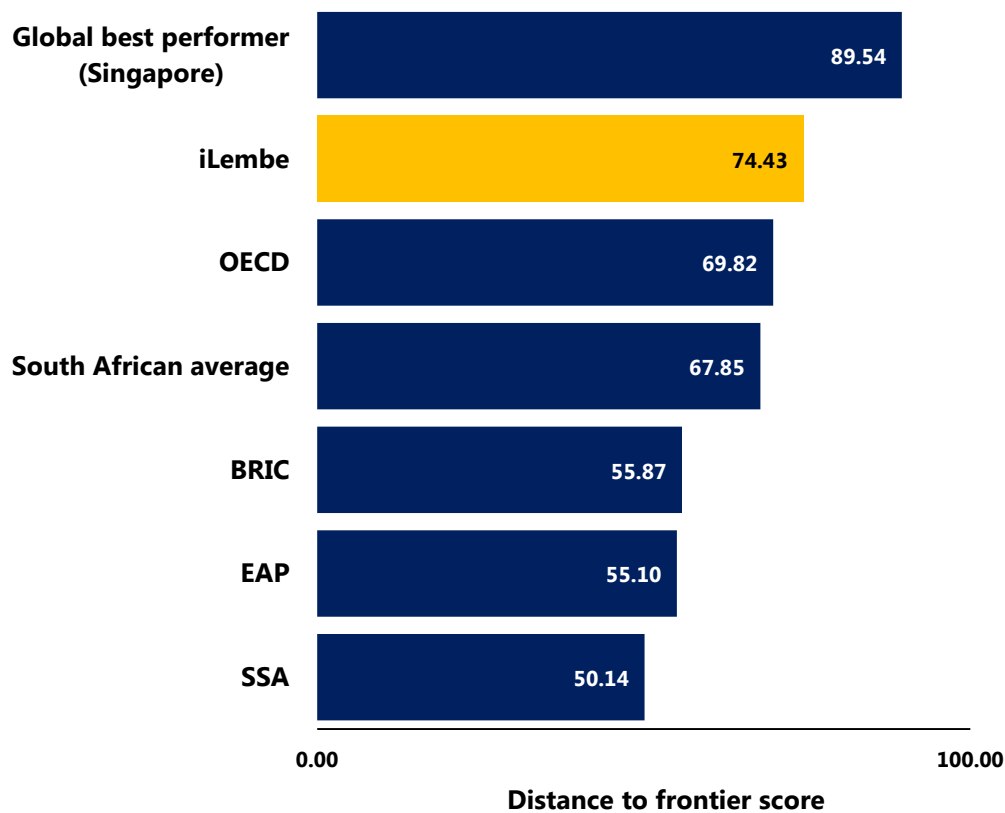
Source: *Doing Business* database.



iLembe’s average distance to frontier score for enforcing contracts allows for comparison with other economies (figure 6.2). The performance of comparator economies is useful in assessing how easy it is for an

entrepreneur in iLembe to enforce a contract. Indicator values provide further insight, and, when compared internationally, may reveal constraints and strengths in specific areas of business regulation (figure 6.3).

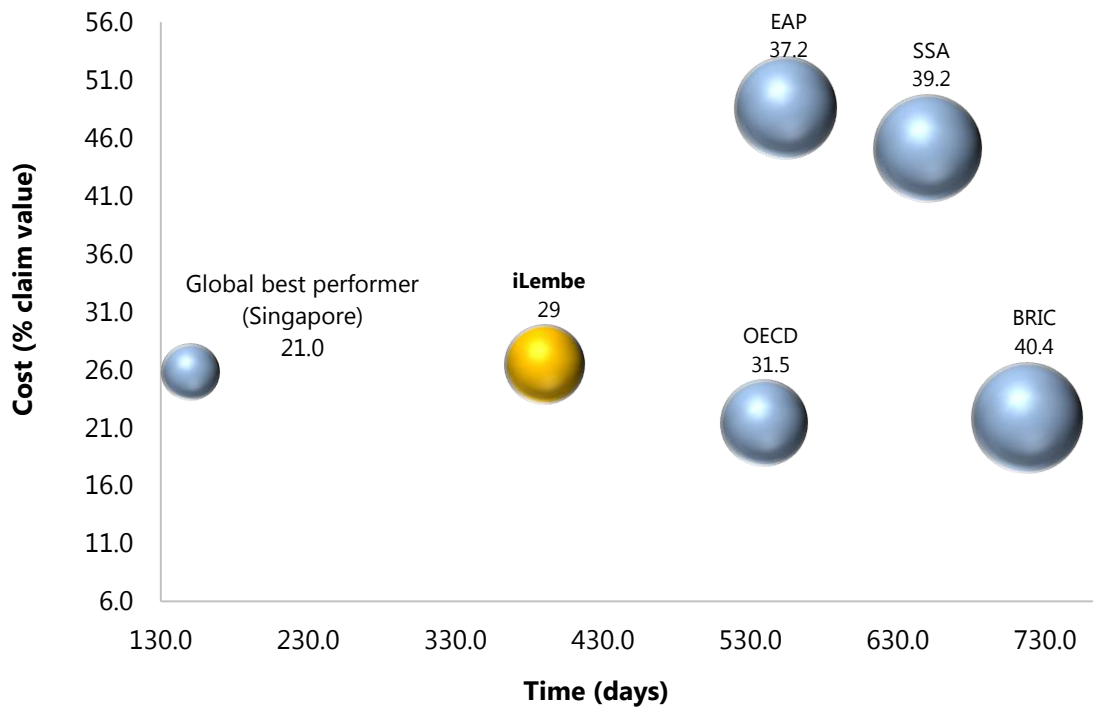
**FIGURE 6.2 How iLembe and comparator economies rank on the ease of enforcing contracts**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average.

Source: Doing Business database.

**FIGURE 6.3 Time, cost and procedures for enforcing a contract compared globally**



Note: BRIC is the average of Brazil, Russian Federation, India and China; EAP is the East Asia and the Pacific average; OECD is the OECD high-income economies average; SSA is the Sub-Saharan Africa average. The size of the bubble denotes the number of procedures—the larger the bubble, the higher the number of procedures. KwaDukuza and Mandeni have the same indicator values and are represented by iLembe.  
 Source: *Doing Business* database.

Economies in all regions have improved contract enforcement in recent years. A judiciary can be improved in different ways. Higher-income economies tend to look for ways to enhance efficiency by introducing new technology. Lower-income economies often work on reducing backlogs by introducing

periodic reviews to clear inactive cases from the docket and by making procedures faster.

Suggested reform recommendations to improve the ease of enforcing contracts in iLembe can be found in table 6.1 below.

**TABLE 6.1 Policy reform recommendations for enforcing contracts**

### **Set effective service delivery time limits for the deeds registries and/or introduce fast-track approvals**

South Africa presently uses the NOC tool to collect statistics from individual courts—including the number of summonses—which are reported to the Department of Justice and Constitutional Development. However, the tool is limited as it does not capture crucial information, including the number of cases resulting in settlement or the number of backlogged cases.

Monitoring and evaluation systems are powerful tools to ensure accountability and improve court performance. An effective monitoring system for civil cases would allow courts to determine how long cases have been pending and enable real-time problem solving. The system would also allow courts to identify and review unreasonably lengthy cases before undertaking remedial measures. In addition, an analysis of docket backlogs could help the judiciary in establishing guidelines to shorten litigation time. For example, in 2001 authorities in Turin, Italy launched an ambitious plan to reduce backlogs and eliminate cases not resolved after 3 years. Judges and registrars were instructed to: 1) prioritize older cases, 2) classify and physically label all cases by the originating date, and 3) follow a “first in, first out” approach. Under the plan, the judges followed 20 guidelines, which promoted: the issuance of short and concise judgments; the use of timetables or calendars during the first hearing; the issuance of decisions on the inadmissibility of unsubstantiated adjournments; shorter adjournments; and oral as opposed to written hearings. By 2010, cases older than 3 years represented less than 5% of the court’s caseload.<sup>23</sup>

Judicial case management systems are also effective in monitoring the performance of judges and court officers. By analyzing court workloads, computerized case-management systems can help predict trends and strategically allocate resources. An effective case management system may prevent judges from being overburdened with a large volume of complex cases. Malaysian courts, for example, introduced a new case management system in 2009.<sup>24</sup> The system sorts cases into 2 categories: cases that can be resolved on the basis of an affidavit and cases that must go to full trial. Judges are subsequently assigned an equal share of both types of cases. From December 2009 through May 2011, Malaysia was able to purge backlogs in 120 of 429 magistrates’ courts.<sup>25</sup>

### **Introduce electronic filing (e-filing) and automate court processes**

Automating court processes and introducing information technology has been a common reform among economies benchmarked by *Doing Business*. Once courts are computerized, electronic support functions—including electronic filing, case tracking, document management, deadline reminders and scheduling of hearings—can be introduced in phases, over time and as needed.

<sup>23</sup> World Bank Group. 2012. *Doing Business in Italy 2013*. Washington, DC: World Bank Group.

<sup>24</sup> World Bank Group. 2011. *Doing Business 2012: Doing Business in a More Transparent World*. Washington, DC: World Bank Group.

<sup>25</sup> World Bank. 2011. *Poverty Reduction and Economic Management Sector Unit, East Asia and Pacific Region. Malaysia: Court Backlog and Delay Reduction Program – A Progress Report*. Washington, DC: World Bank Group.

Currently, courts in South Africa do not make use of information technology. E-filing would reduce delays and costs, as well as the risk of document misplacement and improper allocation of case numbers. In 2010 the Republic of Korea launched its electronic case filing system, which enables electronic submissions, registration, service notification and access to court documents. The new system saves US\$221 per e-filing,<sup>26</sup> reduces paper use and decreases lawyers' time spent in court, while concurrently facilitating the archiving of documents and the payment of fees. In 2011 Brazil followed suit, introducing e-filing for initial complaints, as well as for other court documents, in the Sao Paulo Civil District Court.<sup>27</sup> E-filing has also proved successful in the United States, where filing of paper documents in Chicago used to take up to 5 days for a circuit court clerk to process in 2008 and now takes just 4 seconds with the e-filing system.

Additionally, an e-filing system provides greater document security. In October 2010 a fire partly burned down the Pretoria Magistrates' Court in Tshwane, leading to the loss of hundreds of summonses and case files.<sup>28</sup> A computerized court system, with offsite document backups, could reduce the risk of document loss. Additionally, it could safeguard documents against theft and restrict case file access to only authorized personnel.

Budgetary, technological, administrative and legal constraints are common obstacles to establishing electronic systems. Nonetheless, Rwanda and Tanzania—economies with income per capita below US\$1,000—are developing the components of an electronic court and are among top-reforming Sub-Saharan African economies because of the ease of enforcing contracts within their borders.

Before an electronic system is introduced, the internal administrative procedures should be streamlined to ensure better use of court staff and existing resources. Furthermore, the establishment of an electronic platform may be a lengthy legal process requiring enabling legislation.

### **Introduce specialized commercial courts or court sections in locations with large caseloads**

Although South Africa has a separate court for commercial crimes, it lacks a specialized commercial litigation forum. Ninety-five of the 189 economies covered by *Doing Business* have dedicated commercial courts, specialized commercial sections in existing courts, or specialized judges in general civil courts. Where a limited number of commercial cases are handled, specialized commercial sections provide a less expensive alternative to a commercial court. Specialized courts also tend to improve efficiency.<sup>29</sup> Creating specialized commercial courts can result in faster and less costly contract enforcement. One reason for the greater efficiency is that judges become experts in handling commercial disputes. Commercial courts often have less formal procedures—the use of oral arguments being permitted even in economies where the general courts require written procedures.

Of the 12 economies in Sub-Saharan Africa that have introduced commercial courts or sections since 2005—Benin, Burkina Faso, Cameroon, Democratic Republic of Congo, Côte d'Ivoire, Ghana, Mauritania, Mozambique, Nigeria, Rwanda, Seychelles and Togo—the average time to resolve a standardized case measured by *Doing Business* was reduced by two and a half months.<sup>30</sup> For example, courts in Abidjan, Côte d'Ivoire were particularly backlogged, and it took more than 2 years to resolve a commercial dispute in 2011. The following year, authorities created a standalone commercial court, reducing the time to enforce a contract by more than 8 months. Nigeria saw the

<sup>26</sup> This amount is the result of calculations provided to the *Doing Business* team by the Supreme Court of Korea.

<sup>27</sup> World Bank Group. 2013. *Understanding Regulations for Small and Medium-Size Enterprises*. Washington, DC: World Bank Group.

<sup>28</sup> Justice and Constitutional Development on Court-annexed Mediation Service. <http://www.sanews.gov.za/south-africa/fire-destroys-part-pretoria-magistrates-court>.

<sup>29</sup> Botero, Juan Carlos, Rafael La Porta, Florencio López-de-Silanes, Andrei Shleifer and Alexander Volokh. 2003. "Judicial Reform." World Bank Research Observer 18 (1): 67–88.

<sup>30</sup> *Doing Business* database.

average time drop by 9 months after it created a commercial court in 2007. Depending on the caseload and court needs, South African locations could introduce specialized commercial courts, divisions or judges to deal exclusively with commercial matters.

## What are the details?

The indicators reported here for iLembe are based on a set of specific procedural steps required to resolve a standardized commercial dispute through the courts (see the section in this chapter on what the indicators cover). Table 6.2 provides a detailed summary of those procedures, along with the requisite time and cost. These procedures, and the time and cost of completing them, are identified through study of the codes of civil procedure and other court regulations, as well as through questionnaires completed by local litigation lawyers (and, in a quarter of the economies covered by *Doing Business*, by judges as well).

### COURT NAME

<b>Claim value:</b>	<b>ZAR 125,180</b>
<b>Court name:</b>	<b>Lower Tugela Magistrates' Court</b>
<b>Location:</b>	<b>iLembe</b>

**TABLE 6.2 Summary of time, cost and procedures for enforcing a contract in iLembe and South Africa**

Indicator	iLembe	South African average
<b>Time (days)</b>	390	551
Filing and service	30	36
Trial and judgment	300	435
Enforcement of judgment	60	79
<b>Cost (% of claim)</b>	26.4%	32.2%
Attorney cost (% of claim)	15.8%	21.6%
Court cost (% of claim)	7.6%	7.6%
Enforcement Cost (% of claim)	3.0	3.0%
<b>Procedures (number)</b>	29	29
Number of procedures (without bonus points)	29	29
Total number of procedures (including bonus points)	29	29

No.	Procedures
	Filing and service:
1	Plaintiff requests payment: Plaintiff or his lawyer asks Defendant orally or in writing to comply with the contract.
2	Plaintiff hires a lawyer: Plaintiff hires a lawyer.
*	Plaintiff files a summons and complaint: Plaintiff files a summons and complaint with the court (orally or in writing).
3	Registration of court case: Registration of court case by the court administration (this can include assigning a reference number to the case).
*	Arrangements for physical delivery of summons and complaint: Plaintiff takes the necessary steps to arrange for physical service of process on Defendant (e.g. instructing a court officer or a private bailiff).
4	Attempt at physical delivery: An attempt to physically deliver summons and complaint to Defendant is made.
*	Proof of service: Plaintiff submits proof of service to court, as required by law or standard practice.
*	Application for pre-judgment attachment: Plaintiff submits an application in writing for the attachment of Defendant's property prior to judgment.
*	Decision on pre-judgment attachment: Judge decides whether to grant Plaintiff's request for pre-judgment attachment of Defendant's property and notifies Plaintiff and Defendant of the decision.
5	Custody of assets attached prior to judgment: If physical attachment is ordered, Defendant's attached assets are placed in the custody or control of an enforcement officer or private bailiff.
	Trial and judgment:
6	Defendant files an answer to Plaintiff's claim: Defendant files a written pleading which includes his answer or defense on the merits of the case (see assumption 4).
7	Plaintiff's written reply to Defendant's answer: Plaintiff responds to Defendant's answer with a written pleading, which may or may not include witness statements or expert (witness) statements.
8	Filing of written submissions: Plaintiff and Defendant file written pleadings and submissions with the court and transmit copies of the written pleadings or submissions to one another. The pleadings may or may not include witness statements or expert (witness) statements.
9	Adjournments: Court procedure is delayed because one or both parties request and obtain an adjournment to submit written pleadings. Check as 'yes' if this commonly happens.
*	Request for interlocutory order: Defendant raises preliminary issues, such as jurisdiction, statute of limitation, etc. Checked as 'yes' if commonly raised by the Defendant as a matter of practice, regardless of justification.
*	Court's issuance of interlocutory order: Court decides the preliminary issues the Defendant raised by issuing an interlocutory order. Check as 'yes' if this is commonly the case in commercial cases.
10	Plaintiff's appeal of court's interlocutory order: Plaintiff appeals the court's interlocutory order, which suspends the court proceedings. Check as 'yes' if an appeal by Plaintiff is common in this case.

No.	Procedures
*	Discovery requests: Plaintiff and Defendant make requests for the disclosure of documents, attempting to force the other party to reveal potentially detrimental documents. Check as 'yes' if discovery requests usually entail disputes.
11	Discovery disputes: Following a request for discovery of documentary evidence by one of the parties, the other party disputes the request and calls upon the judge to decide the issue. Check as 'yes' if discovery disputes are provided by law and commonly happen.
12	Request for oral hearing or trial: Plaintiff lists the case for trial on the court's calendar or applies for the date(s) for the oral hearing or trial.
13	Adjournments: Court proceedings are delayed because one or both parties request and obtain an adjournment to prepare for the oral hearing or trial as a matter of common practice.
14	Trial (prevalent in common law): The parties argue the merits of the case at (an) oral session(s) before the court. Witnesses and expert witnesses are questioned and cross-examined during trial.
15	Adjournments: Court proceedings are delayed because one or both parties request and obtain an adjournment during the oral hearing or trial, resulting in an additional or later trial or hearing date.
*	Final arguments: The parties present their final factual and legal arguments to the court either by oral presentation or by a written submission.
16	Notification of judgment in court: The parties are notified of the judgment at a court hearing.
17	Writing of judgment: The judge produces a written copy of the judgment.
18	Registration of judgment: The court office registers the judgment after receiving a written copy of the judgment.
19	Defendant is formally notified of the judgment: Plaintiff or court formally notifies the Defendant of the judgment. The appeal period starts to run from the day the Defendant is formally notified of the judgment.
20	Appeal period: By law Defendant has the opportunity to appeal the judgment during a specified period. Defendant decides not to appeal. Seller decides to start enforcing the judgment when the appeal period ends (see assumption 8).
	Enforcement of judgment:
*	Plaintiff hires a lawyer: Plaintiff hires a lawyer to enforce the judgment or continues to be represented by a lawyer during the enforcement of judgment phase.
21	Plaintiff retains an enforcement agent to enforce the judgment.: Plaintiff retains the services of a court enforcement officer such as a court bailiff or sheriff, or a private bailiff.
*	Plaintiff requests an enforcement order: Plaintiff applies to the court to obtain the enforcement order ('seal' on judgment).
22	Attachment of enforcement order to judgment: The judge attaches the enforcement order ('seal') to the judgment.
*	Delivery of enforcement order: The court's enforcement order is delivered to a court enforcement officer or a private bailiff.



No.	Procedures
23	Identification of Defendant's assets by court official or Defendant for purposes of enforcement: The judge, a court enforcement officer, a private bailiff or the Defendant himself identifies Defendant's movable assets for the purposes of enforcing the judgment through a sale of Defendant's assets.
24	Contestation of selection of assets identified for sale: A party, Plaintiff or Defendant, which was not involved in the designation of the assets for attachment, contests the selection of assets for enforcement of judgment through a sale.
25	Attachment: Defendant's movable goods are attached (physically or by registering, marking or separating assets).
26	Call for public auction: Judge calls a public auction by, for example, advertising or publication in the newspapers.
27	Sale through public auction: The Defendant's movable property is sold at public auction.
28	Reimbursement of Plaintiff's enforcement fees: Defendant reimburses Plaintiff's enforcement fees which Plaintiff had advanced previously.
29	Payment: Court orders that the proceeds of the public auction or the direct sale be delivered to Plaintiff.

\* Not counted in the total number of procedures. This step exists in the economy but is not recorded as part of the 100 potential procedural steps identified in the *Doing Business* methodology.

Source: *Doing Business* database.

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