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THE COST OF

RED TAPE

An Assessment of Administrative
Barriers and Regulatory Costs
for SMEs in South Africa

International Labour Organization, 2016



EASE business,
create jobs

Enabling Environment for Sustainable Enterprises

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Jens Dyring Christensen
Farid Hegazy
Johan van Zyl



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Foreword

Red Tape is a common theme in discussions on private sector development both globally and in South Africa. Government have initiated national and provincial programmes to reduce constraints in the business environment which are being supported by various donors and international development agencies.

This study is based on an enterprise survey of formal sector firms in the Free State province in South Africa. This is an attempt to assess the regulatory costs of laws and regulations of doing business in South Africa. The report is a novel piece of research that highlights the estimated costs of doing business for SMMEs.

The findings of the survey present a guide for the South African government and its constituents. Whereas the businesses surveyed have aspirations towards growing their businesses and creating jobs they also highlighted “Red Tape” as a real discouragement towards expanding their business. When this discouragement is compounded into annual compliance cost and extrapolated to the entire enterprise population in the Free State Province the cost becomes enormous. This in turn enables an estimate of the regulatory burden for firms in South Africa.

The importance for the Government to continue addressing these concerns to achieve broad based wealth creation in South Africa cannot be underestimated. This is particularly important as SMMEs are seen as a key vehicle to address the unemployment challenge the country faces. We believe that this report makes an important contribution to the national debate on how to best create an enabling environment for sustainable enterprises development and decent work in South Africa. We thank the authors from the International Labour Organization and the University of the Free State as well as research associates, field workers and technical experts who provided input to a first draft of this report.

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¹Based on February 2015 exchange rate

Executive Summary

Policymakers and academics agree that existing and future entrepreneurs play a critical role in development and general well-being of society. Entrepreneurs create economic growth and jobs and contribute to competitiveness in a globalized economy, but they also contribute to social development and reduction of poverty.

The business environment in South Africa is characterized as one of relative extremes with dual economies – formal and informal – functioning side by side. Whereas it is relatively quick to register a business on-line with the national business registration authority, the Companies and Intellectual Property Commission (CIPC) it remains difficult for many small businesses to comply with subsequent laws and regulations.

The South African labour market does not create enough formal employment opportunities as evidenced by a national unemployment rate that hovers around 25-26 per cent. This means that many people with low entrepreneurial acumen, business management skills and human resources are being pushed into entrepreneurship and self-employment. Complying with laws and regulations, tax returns and VAT certificates may be one of the crucial factors for the high level of firm informality in South Africa.

Laws and regulations are needed to govern business activity and firms must and should comply with national laws. This study set out to ask South African firms for their view on good and troublesome regulations and specifically on compliance cost in order to better understand whether compliance costs in South Africa is enabling or limiting entrepreneurship and business development. Laws and regulations are not per se the main issue, but rather how these laws and regulations are implemented, particularly by local authorities. Whereas the study focuses on established and formal firms the assessment of administrative barriers and compliance costs for these firms is a strong indicator for the barriers of entry for informal firms as well.

The report is based on an enterprise survey of 414 Small and Medium-sized Enterprises (SME) in Mangaung and Matjhabeng municipalities in the Free State province. SMEs in both municipalities express that compliance cost has increased over the past three years. The total annual compliance cost in the year 2012/2013 of the surveyed SMEs amount to ZAR 80.5 million (ZAR65 million in Mangaung and ZAR 15.5 million in Matjhabeng).

When these annual compliance cost for the sample in the two municipalities are extrapolated to the total enterprise population in the Free State (app. 30'000 enterprises) total compliance cost amounts to ZAR 3.8 billion approximately equivalent US\$335'384'000¹. The compliance costs according to size and cost drivers for the whole of Mangaung Municipality amounts to ZAR 3.314 billion equivalent to US\$291'035'000 and for Matjhabeng Municipality ZAR 505 million equivalent to US\$44'349'000 spent on compliance costs. The total cost is equivalent to 2.7 per cent of the annual GDP of the Free State province. It is important to mention though, that this aggregate figure is borne by a relatively small number of businesses. Just to compare the estimated regulatory costs as a percentage of GDP in Finland is 1%, in Iceland is 1.3%, in Belgium is 1.8%, in New Zealand and Norway is 2.8% respectively and in Portugal and Spain is at over 5%.

These are enormous compliance costs, but probably a more important finding is how businesses reported engaging in informal practices (31.5% of surveyed companies) and consciously not growing to remain certain income and employee thresholds (25.6% of surveyed firms) as coping strategies. This last finding clearly conflicts with the South Africa government's effort to encourage growth and employment through SMEs and hence underlines the importance of continuing its efforts and commitment to reducing Red Tape.



Part I - Background, definitions & purpose of the Study

1.1 Introduction

The overall environment for South African entrepreneurs is one of relative extremes. Whereas it is relatively quick to register a business on-line with the national business registration authority, the Companies and Intellectual Property Commission (CIPC) it remains difficult for many small businesses to comply with subsequent laws and regulations.

Policymakers and academics agree that existing and future entrepreneurs play a critical role in development and general well-being of society. Entrepreneurs create economic growth and jobs and contribute to competitiveness in a globalized economy, but they also contribute to social development and reduction of poverty. Entrepreneurs spur innovation and speed up structural changes in the economy through competition and creative destruction. To serve as catalysts for economic growth and job creation entrepreneurs need a business enabling environment.

The 2013 Global Entrepreneurship Monitor (GEM) report shows that in comparison with other emerging economies South Africa's entrepreneurship rates remain low. The total early-stage entrepreneurial activity (TEA) rate – the percentage of the adult population involved in either start-ups or running firms for less than 3½ years – decreased from 9.1 per cent in 2011 to 7.3 per cent in 2012. This puts South Africa below the average of 14.3 per cent for efficiency-driven economies regarding adults involved in starting their own business (GEM, 2014).

The low TEA in South Africa should be attributed to a range of factors among which the legal and regulatory framework may just be one factor. A primary education system that ranks 140 in the world and fails to produce young people with proper academic skills as well as life skills; an education system that does not prepare young people for self-employment and entrepreneurship in a labour market where formal employment opportunities are scarce and the fact that entrepreneurship is not encouraged from an early age are probably more important factors.

The fact of the matter is that the South African government is very pro-active in establishing incentive schemes for small business owners as part of the country's effort towards economic restructuring and poverty alleviation. The Government's political and legislative commitment, through policies and strategies, to ensure that SMME development is viable is quite admirable. In June 2014 a national Department for Small Business Development was established to intensify SME development.

However, the impact of the many SMME support programs and incentive schemes on business development and job creation remains limited. A suggestion is to research and analyse the process of SMME applications at the different institutions to identify where the problems are.

1.2 The important role of regulation

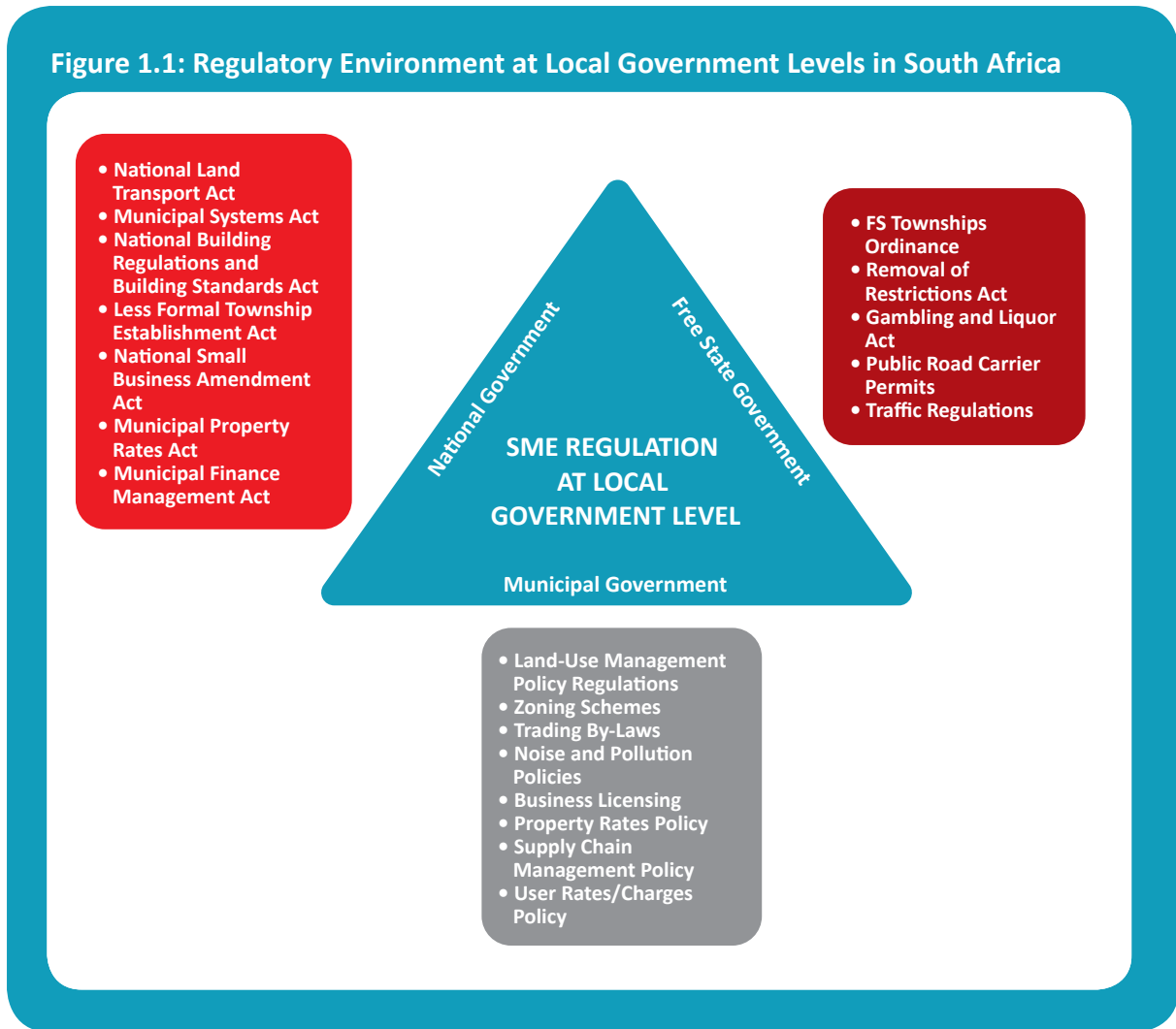
Regulation of activities of the SME sector is an important function of government in any country. Whereas the private sector creates the bulk of employment and is the key contributor to economic growth the conditions under which business activities takes place must be governed by sound policies, laws and regulations to ensure that all men and women in South Africa can obtain decent and productive work, in conditions of freedom, equity, security and human dignity.

While each of the three spheres of government (national, provincial and local) have an overall responsibility towards improving the regulatory environment for small enterprises, municipalities in particular have a lead role to play in ensuring that the specific local business environments in their jurisdiction maximise on opportunities for shared economic growth and development. Reducing the regulatory constraints on SMEs must thus be one of the key focus areas of the South African Government (Kanbur & Venables, 2005).

Business regulation is about good governance ensuring that legal and regulatory frameworks effectively and efficiently meet the objectives of business development, economic growth and job creation. The figure below gives an indication of the regulatory levels in South Africa

Regulation in South Africa is central to the process of government. In the interest of good governance laws and regulations must

Figure 1.1: Regulatory Environment at Local Government Levels in South Africa



be assessed not only in terms of their broad objectives but also as instruments to achieve those objectives. It is perhaps less well-recognised – and certainly less established in practice – that it is equally important to monitor and assess the impacts (positive or negative) of those regulations, including the costs of compliance and administration, and the efficiency and effectiveness of the ways in which they are implemented (PWC, 2013).

Regulations are needed to enable growth and job creation in the private sector, but the question is: “When is regulation too much? When is regulation constraining rather than enabling? In other words, “When is regulation becoming Red Tape”? Through Red Tape analysis it is possible to identify areas where regulatory compliance costs are most troublesome for firms and to review these in order to identify opportunities for streamlining these processes, make them more efficient and less costly both in terms of real costs and opportunity costs for firms.

1.3 What is Red Tape and Compliance Costs?

Two terms are important to understand in this study. The first is **Red Tape**, the second is **Compliance Costs**. Red Tape is a term that shows up in and between all kinds of organisations, such as the three different spheres of government, in the private sector and in civil society. Although much Red Tape is created elsewhere in the economic and social system, the focus in this study is on Red Tape that occurs at the local governance sphere, or that shows up in specific economic sectors and value chains.

Firstly, **Red Tape** is often defined as

“the collection or sequence of forms and procedures required to gain bureaucratic approval for something, especially when oppressively complex and time-consuming”



or as

“an idiom that refers to excessive regulation or rigid conformity to formal rules that is considered redundant or bureaucratic and hinders or prevents action or decision-making.”²

Furthermore, some rules, regulations and administrative procedures may have been relevant at some point in time, but have become redundant or ineffective in achieving their intended objectives. These rules and regulations become Red Tape because they produce sub-optimal and undesired economic

and social outcomes. It should be pointed out that rules and regulations are necessary useful and not all regulation is Red Tape.

Secondly, **Compliance Costs** is when regulations gives rise to various kinds of direct and indirect costs for the firm when it has to comply with administrative procedures, certificates, specific licences, completing tax and VAT return forms etc. Some are real costs in terms of compulsory fees and rates and others are opportunity costs because of time consuming procedures, which a business owner need to spend time on. The different types of compliance costs can have significant implications for the businesses but also for their consumers to whom the costs may be passed on.

Compliance costs are typically of two types:

- Once-off cost, which is a cost that occurs once in the lifetime of the business/entrepreneur, such as those associated with the initial business registration.
- Recurring costs, which occur when a business registered for value added tax has to keep detailed records of input tax and output tax to facilitate the completion of VAT returns. This may force a small business to employ someone skilled in this field or to contract an account, which would be regarded as a compliance cost.

Compliance costs can further be broken down into those costs that affect all firms, such as those associated with annual registration, tax compliance³, labour regulations and costs that are sector or activity specific, such as compliance costs associated with pharmaceuticals or exporting. These costs will change from year to year, as regulatory requirements and administrative procedures evolve. (Berry, Von Blottnitz, Cassim, Kesper, Rajaratnam & Van Seventer, 2012)

Examples of compliance costs incurred by a business are:

- ✓ Finding out what a regulation requires a business to do,
- Time spent to undertake the necessary steps to comply to the specific regulation, and
- To provide the necessary steps and resources that these necessary steps have been done.

Thus, Compliance costs include the following:

- The value of time spent by business managers and staff on understanding the rules and applying them
- When a business does not have the necessary internal resources or skills to comply it has to pay experts such as professional consultants, lawyers and accountants to assist the business in assessing compliance requirements and completing the necessary processes
- Costs caused by delays. For example, if VAT is not paid over at a given date in specific month a penalty may be charged.

²For these commonly agreed definitions see www.thefreedictionary.com/red+tape and www.wikipedia.org/Red_tape

³In terms of tax compliance, the tax itself is not a compliance cost, but rather the procedures associated with the paying of corporate tax, personal income tax for the business owner and employees etc.

- Administrative costs incurred by the public sector in developing, imposing, and enforcing regulation⁴
- Efficiency and opportunity costs when alternatives are foregone in order to do something else, or the loss of benefits you could have received by pursuing an alternative action. For example, the cost of keeping a heavy transport vehicle standing idle because of a delay at a customs point.
- Efficiency costs impact on the economic system as a whole when businesses:
 - Choose to limit growth, innovation, or diversification in order to avoid specific types of regulation. For example, a business may stay small to remain below the VAT threshold.
 - Choose to use capital-intensive production methods or employ mostly casual staff in order to minimise the impact of employment/labour regulations, even when unemployment is high.
 - Are able to develop monopolies owing to high regulatory barriers to entry.
 - Choose not to invest in or trade with a particular country because of regulatory disincentives.

Opportunity costs and the efficiency costs of regulation may be difficult to measure, given that they represent the cost of business actions not taken or prevented by the entrepreneur having to engage in other activities that take time away from core business activities. They are however likely to be relatively high if rules and regulations are unnecessarily complex, bureaucratic or time-consuming. Therefore, it is important to appreciate efficiency costs as a factor of overall compliance costs.

For example, a decision to halve the number of times per year that companies have to report

on the composition of their labour force will reduce compliance costs because it reduces administrative procedures for both government and business. However, it may also create an opening for businesses to hire staff on short-term contracts, to avoid a regulatory threshold or to keep a portion of the workforce 'invisible' for regulatory purposes. This could have efficiency costs.

Different types of regulatory costs are explained in the table below.

Table 1.1: Types of regulatory costs

Types of regulatory costs	Examples of activities involved	Who is responsible for payment?
Compliance costs	<ul style="list-style-type: none"> • Staff time required to complete and submit forms to prove compliance. • Fees paid to experts / skilled people and service providers to assist in understanding and completing relevant requirements. 	<ul style="list-style-type: none"> • Businesses but the costs are often passed on to customers. • This can be an Economy-wide knock-on effect.

⁴A study of the British VAT system found that administrative costs comprised 22 per cent of operating costs

Table 1.1: Types of regulatory costs (*continued*)

Types of regulatory costs	Examples of activities involved	Who is responsible for payment?
Efficiency and opportunity costs	<ul style="list-style-type: none"> • Administrative and procedural delays, which affect business activities • Cost of buying, installing and maintaining equipment required to be compliant with certain regulations • Regulations negatively affect choices about production techniques, number of people to be employed, and/or which markets to compete in. • Businesses stay small or informal to avoid regulatory oversight or remain below regulatory thresholds. 	<ul style="list-style-type: none"> • Businesses, their employees, suppliers and customers, local as well as foreign investors. • Government loses revenue and taxpayers may face higher rates as result of lost revenue. • This can be an Economy-wide knock-on effect.
Non-compliance Costs	<ul style="list-style-type: none"> • Fines, cost of confiscated or destroyed stock, and or cost of bribes as a result of attempts to evade regulatory compliance 	<p>Entrepreneurs / businesses who don't comply</p> <ul style="list-style-type: none"> • Employees of businesses that don't meet minimum standards e.g. health and safety, labour protection • Government loses revenue and taxpayers may face higher rates as result of lost revenue • This can be an Economy-wide knock-on effect
Administrative Costs	<ul style="list-style-type: none"> • Government staff time to receive and assess required forms, undertake inspections, follow up with firms etc. 	<ul style="list-style-type: none"> • Government, taxpayers. • This can be an Economy-wide knock-on effect.

1.4 Purpose & Methodology of the Study

Based on the above considerations and definitions the objective of the study is to answer the following questions:

- i. Is Red Tape prevalent in the Mangaung and Matjhabeng municipalities in the Free State province and what are thus the regulatory impacts on formal sector businesses?
- ii. What do businesses see as the most troublesome regulations?
- iii. What are the regulatory compliance costs, financial as well as opportunity costs, for firms of different sizes and in different sectors?
- iv. Based on the assessed compliance cost of the survey sample, what are the total compliance costs for the entire business population in the Free State?

- v. What are the key administrative & procedural problem areas?
- vi. Which regulations are considered good by enterprises?
- vii. What do businesses propose to improve regulations?

By attempting to answer these questions, the study seeks to provide solid evidence on priority areas for regulatory reform that may contribute to cut the cost of red tape in South Africa and attempts to be solution oriented by conveying the proposals propagated by businesses themselves.

The study is an enterprise survey of 414 SME's⁵ in the two municipalities. A questionnaire (See Annex A) was developed to identify Red Tape issues and quantify Compliance Costs. In-depth face-to-face interviews were done with business owners and/or senior managers in the business by trained interviewers to ensure a high response rate and that all questions and issues were clearly understood by the respondents. Multiple contacts were often required to enlist co-operation, prepare respondents for the information required and confirm appointments. As overall costs are calculated based on a complex pattern of direct and indirect costs, respondents were asked to provide detailed information on real costs and opportunity costs. Comprehensive data in terms of business sector, enterprise size, annual turnovers and number of employees was collected from each firm.

Sampling framework

A representative sample was calculated to reflect a 90% confidence level, resulting in a mathematical sample of 414 firms.

In Mangaung Municipality, 322 interviews were completed whereas 92 were completed in Matjhabeng Municipality. The sampling framework was based on the enterprise population in the two municipalities. Respondents were randomly drawn from a list of all businesses in the two municipalities registered with the Companies and Intellectual Property Commission (CIPC), which also provided contact details of all registered firms.

Field workers then set out to locate the businesses to interview the owners/managers on location. However, more than 50 per cent of the businesses identified in the sample were no longer in existence, had recently folded or could not be found on the address provided by CIPC. Similarly, many of the businesses on the reserve sampling list could not be found resulting in serious delay of the field work. A 2nd random sampling was done and additional firms were identified, but not enough to arrive at the initial sample of 400 SMEs.

Eventually, it was decided to identify firms in the Yellow and White Pages of the municipal telephone books from which the enterprise population was typed up and yet another sample drawn. In the end, the final sample is composed of firms identified both through the CIPC registration and through the municipal phone books.

⁵The South African definition of a Small and Medium-sized Enterprise (SME) follows an employment level and total turnover definition. The size classification, i.e. whether a firm is micro, small or medium is dependent on the industry. See Annex B.



Part II - Profile of SMEs, growth intentions and troublesome regulations

The following section provides detail regarding the results from the research study. The first section deals with the background of the SMEs interviewed, the second section looks at growth intentions of owners/managers and the third section looks at SMEs views and assessment of regulations and the impact on their business, i.e. potential Red Tape and Compliance Costs.

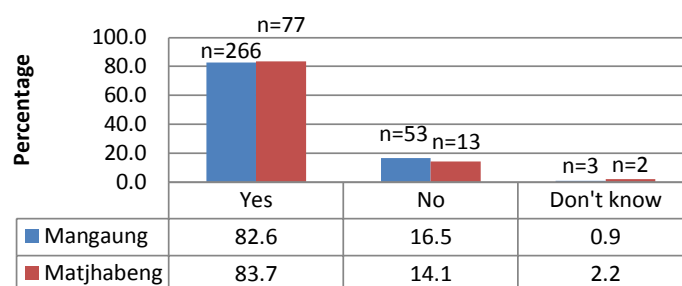
2.1 Profile of surveyed SMEs

A magnitude of companies was surveyed from various sectors, various sizes and legal forms. Annex I includes details about the surveyed SMEs in terms of their registration, legal form and age.

2.2 Growth intentions and factors hampering growth

This section elaborates on the aspiration of business owners or managers to grow their businesses and it also focuses on the direction in which businesses want to grow in the medium term. Thereafter discouraging factors hampering

Figure 2.2.1: Business growth Intentions



the growth and employment opportunities of the businesses are discussed in further detail.

The businesses were required to indicate whether they would like to expand or grow in the next one to three years (medium term). The businesses' intentions to growth are indicated in figure 2.5.

The vast majority of businesses had aspirations towards growing their businesses (82.6% of the businesses in Mangaung and 83.7% of the businesses in Matjhabeng). This intention reflects positively for future business growth and job creation potential. Respondents indicated one or more reasons for how and why they would grow their businesses.

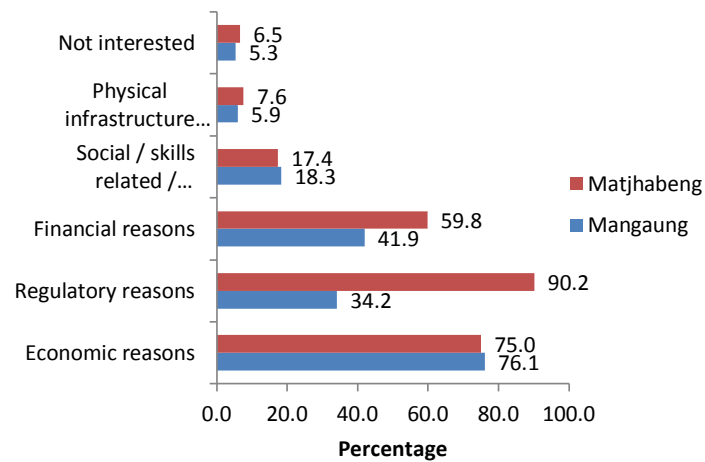
The main reasons why businesses would like to grow relate to:

- Larger turnover: Economic considerations are the foremost reason why businesses would consider business expansion, 45% of respondents in Mangaung and 50% of respondents in Matjhabeng said that they would consider business growth in order to obtain a larger turnover and profit.
- Employment creation: More businesses in Matjhabeng (41.3%) than in Mangaung (28.3%) listed employment creation as a reason for business growth aspirations.
- Opening another branch: More than a quarter of respondents (26.1% in Mangaung and 27.2% in Matjhabeng) aspire to open another branch of their business if they expand.
- Diversify business operations: 13.4% of businesses in Mangaung and 19.6% of businesses in Matjhabeng mentioned diversification of business products as a possibility to grow business operations.
- Any other expansion: A further 26.1% of businesses in Mangaung and 14.1% of respondents in Matjhabeng did not specify reasons on how they want to expand except that any expansion would benefit the business.

Although the general intention to growth seems positive, many concerns are raised by the businesses on factors hampering their business growth. Businesses could list up to three reasons on aspects that discourage them from expanding their business operations. The main concerns are depicted in figure 2.6.

Some comparisons and significant differences are visible between the two municipal areas and different factors hampering business growth. The main factors discouraging businesses from growing relate to economic, regulatory and financial reasons.

Figure 2.2.2: Factors hampering business growth



Other reasons include social reasons, physical infrastructure constraints and businesses not interested in growing.

- **Economic reasons:** Approximately three quarters of businesses in both Mangaung (76.1%) and Matjhabeng (75.0%) indicated that economic factors were the greatest concern hindering business growth. In particular the current economic climate and downturn, competition between similar businesses, low turnover, and limited working opportunities were noted as economic reasons. Three respondents in Matjhabeng also mentioned that the economic climate at the mines cautions them to expand their businesses.
- **Regulatory reasons:** The greatest difference between the municipalities with regard to business constraints relate to regulatory reasons. The vast majority of respondents in Matjhabeng (90.2%) mentioned regulatory constraints compared to 34.2% of respondents in Mangaung. Specific concerns related to regulatory reasons include prescriptive labour regulations, government and municipal inefficiencies, legislations related to various registration requirements of the business, municipal regulations challenges and problems with mining regulations in Matjhabeng.
- **Financial reasons:** More respondents in Matjhabeng (59.8%) than in Mangaung (34.2%) cited financial constraints influencing possible business growth negatively. Lack of capital and financial limitations were a real concern for businesses. In particular high overheads and expenses and difficulty accessing funding sources were mentioned as a concern keeping business growth at bay.
- **Social / skills related / employees:** Crime and theft by employees were a concern at both municipalities. In addition poorly skilled workers were mentioned as a reason negatively influencing business growth.
- **Physical infrastructure (limited space / small premises):** A few businesses (5.9% in Mangaung and 7.6% of businesses in Matjhabeng) indicated that even if they would like to grow their businesses, the physical infrastructure in terms of space and small premises are not of such a nature to allow growth.
- **Not interested:** Only a small number of businesses in both municipal areas were not interested in growing their businesses at all.



Interrelated to factors discouraging business growth, are factors keeping businesses from employing more workers. Economic and financial reasons; worker related issues and regulatory reasons were mentioned as the three foremost reasons why businesses do not employ more workers and will be discussed in more detail below.

Some respondents also mentioned they have enough workers and do not need to employ more workers and or that they do not have the physical infrastructure in place to hire more workers.

- **Economic and financial reasons:** High wage requirements, slow business opportunities and the economic downturn influenced more than a third of respondents' decisions in both Mangaung (39.3%) and Matjhabeng (21.6%), not to employ more workers.
- **Worker related:** 21.6% of business respondents in Mangaung and 19.4% of respondents in Matjhabeng mentioned worker related problems as a key factor deterring to hire more employees. In particular, unionization, crime and theft, unskilled workers and workers' negative attitude were mentioned as a concern with employment considerations.
- **Regulatory reasons:** Once again noticeably more respondents in Matjhabeng (32.7%) than in Mangaung (13.4%) raised restrictive labour laws as a discouraging factor for employing more workers.

Troublesome municipal, provincial and national regulations impacting businesses are elaborated on in the following section.

2.3 SME views on laws and regulations

Table 2.2 shows the municipal regulations that SMEs find most troublesome.

Municipal Regulations

Table 2.2 gives an indication of the troublesome municipal regulations for SMEs in registering and doing business.

The three municipal regulations respondents mentioned as their greatest concern relate to service delivery aspects, specific municipal acts and municipal incompetence and unfairness.

- **Service delivery aspects:** More than half of the complaints related to municipal regulations in Mangaung (55.7%) were service delivery related, compared to 26.5% in Matjhabeng. Service delivery aspects highlighted by the respondents were the water and lights billing, high rates and taxes on properties, service delivery in general and electricity load shedding.
- **Specific acts and regulations:** Municipal bylaws were mentioned by respondents of both municipal areas (17.4% in Mangaung and 26.5% in Matjhabeng) as troublesome. Zoning and rezoning were a greater problem in Matjhabeng (18.4%) than in Mangaung (3.0%). While more Mangaung respondents (6.0%) than respondents in Matjhabeng (2.0%) complained about restrictions with putting up signage. Other troublesome specific acts related to the municipal systems act, health regulations and municipal clearance certificates.
- **Incompetence:** Incompetence of municipal officials and unfair tender practices were noted much more in Mangaung (5.4%) than in Matjhabeng (2.0%).
- **No problems:** 1.2% of Mangaung and 16.3% of Matjhabeng respondents specifically noted that they experienced no problems with municipal regulations.

Table 2.2: Troublesome municipal regulations

Most troublesome municipal regulations		Mangaung			Matjhabeng		
		N	%		N	%	
Service delivery aspects	Billing of water and lights (irregular/ high)	60	35.9	55.7	5	10.2	26.5
	High municipal service rates and taxes	19	11.4		5	10.2	
	Service delivery	12	7.2		3	6.1	
	Electricity load shedding	2	1.2		0	0.0	
Specific acts and regulation	Municipal by-laws/ regulations	29	17.4	34.1	13	26.5	34.1
	Zoning/ rezoning problems	5	3.0		9	18.4	
	Restriction on putting up signage	10	6.0		1	2.0	
	Municipal Systems Act	8	4.8		0	0.0	
	Health regulations	3	1.8		3	6.1	
	Municipal clearance certificates	2	1.2		1	2.0	
Incompetence	Incompetence of municipal officials	9	5.4	9.0	1	2.0	2.0
	Unfair tender procedures	6	3.6		0	0.0	
No problems	Experience no problems	2	1.2	1.2	8	16.3	16.3
Total		167	100		49	100	



Provincial Regulations

Table 2.3 indicates the most troublesome provincial regulations noted by the respondents.

Fewer respondents noted troublesome provincial regulations compared to municipal regulations complaints.

Table 2.3: Troublesome provincial regulations

Most troublesome provincial regulations		Mangaung			Matjhabeng		
		N	%		N	%	
Service delivery aspects Specific acts and regulation	Provincial legislation/ regulations	19	27.9	73.5	4	33.3	75.0
	Labour laws and regulations	9	13.2		0	0.0	
	Free State SMME requirements	8	11.8		0	0.0	
	Issuing of liquor license/ problems with Liquor Act	3	4.4		4	33.3	
	Free State Town Ordinance	5	7.4		0	0.0	
	Health regulations	3	4.4		1	8.3	
	Provincial taxes	3	4.4		0	0.0	
Incompetence	Incompetence of staff/ corruption	8	11.8	25.0	2	16.7	16.7
	Unfair tender procedures	5	7.4		0	0.0	
	Poor payment for tenders	4	5.9		0	0.0	
No problems	Service delivery	1	1.47	1.5	1	8.3	8.3
Total		68	100		12	100	

National Regulations

Table 2.4 reflects on national regulations negatively influencing businesses.

Table 2.2: Troublesome municipal regulations

Most troublesome municipal regulations		Mangaung			Matjhabeng		
		N	%		N	%	
Service delivery aspects	Labour laws and regulations	17	16.5	39.8	13	28.9	48.9
	Black Economic Empowerment	10	9.71		6	13.3	
	Consumer Protection Act	5	4.85		3	6.67	
	Employment Equity Act	5	4.85		0	0	
	Unemployment Insurance Fund (UIF)	4	3.88		0	0	
Specific acts and regulation	Tax / Value Added Tax (VAT)	11	10.68	30.1	5	11.1	17.8
	National Credit Regulation	7	6.8		3	6.67	
	SMME regulations	5	4.85		0	0	
	Companies registration legislation	4	3.88		0	0	
	Competition Act	4	3.88		0	0	
Incompetence	Industry specific licenses and approvals	11	10.7	21.4	5	11.1	22.2
	Occupational Health and Safety Act	4	3.88		4	8.89	
	Medicine / pharmaceutical related regulations	5	4.85		1	2.22	
	South African Bureau of Standards (SABS)	2	1.94		0	0	
No problems	Incompetence of officials/ corruption	8	7.77	8.74	3	6.67	11.1
	Unfair tender procedures/ delayed payments	1	0.97		2	4.44	
Total		103	100		45	100	



The most troublesome national regulations mentioned by the respondents are categorised as employee related regulations, business related regulations, industry specific relations and complaints with regards to incompetence related to applying regulations.

- Employee and clientele related regulations: Employee related national regulations highlighted by the respondents in both municipal areas were labour law regulations, Black Economic Empowerment and the Consumer Protection Act. Respondents in Mangaung also mentioned the Employment Equity Act and the Unemployment Insurance Fund (UIF).
- Business related regulations: National regulations related to business operations that negatively influenced businesses in both municipal areas were tax and Value Added Tax and the National Credit Regulations. A number of respondents in Mangaung municipality also noted SMME regulations, Companies registration legislation and the Competition Act as troublesome regulations.
- Industry specific regulations: Eleven businesses in Mangaung and five businesses in Matjhabeng had industry specific licence concerns related to their specific industries. Industry specific regulations cited by more than one respondent in Mangaung were the Occupational Health and Safety Act, Medicine / pharmaceutical related regulations and the South African Bureau of Standards (SABS).
- Incompetence: Once again respondents complained about incompetence of officials, corruption, unfair tender procedures and delayed payments at national level impacting on their businesses.

Initial Business Registration

Registering a business can be time consuming and can in some cases be a costly exercise. SME owners/managers were asked to think back to their initial company registration as well as all other registrations, certifications, licences or permits that they were required to obtain once only. This can include compulsory registration with an organisation like a professional association or trade association.

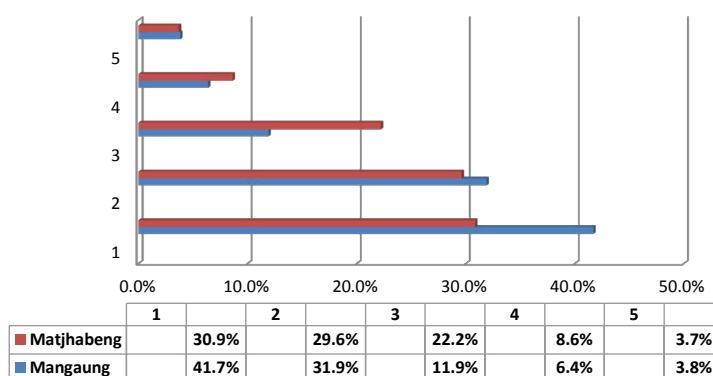
It was important to know whether the respondents, as business owners, were well informed about the rules and regulations they needed to comply with when they intended to start their businesses. There is no significant difference between the two municipal areas as approximately 75% of the respondents answered yes to the question (Mangaung 74, 8% and Matjhabeng 75, 3%). Knowing how to access the information was a different story. In Matjhabeng, the

number of respondents that answered yes to this question is 54.5% which is significantly higher than in Mangaung, where this figure is only 28.2%.

On-going Annual Registration and Compliance Costs

Although businesses need to register to start doing business, there is also an on-going registration annually for some industries and businesses.

Figure 2.3.1: Number of Annual on-going registrations

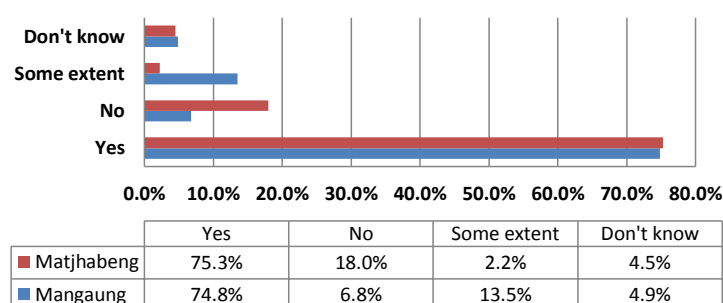


On the question: “How many registrations, licences or permits do you need to apply for on an annual basis for your business”, there were many different answers. The reason being a business in the car industry, for example, selling cars, needs to register every car it is selling on an annual basis. Therefore, a single business reported 4500 registrations in one year in Mangaung.

Nearly one third of businesses in Matjhabeng made one registration on an annual basis, while this figure is equal to 41.7 per cent in Mangaung and nearly one third is required to make two annual registrations. In both municipal areas approximately ten per cent of businesses on an annual basis need to apply for between four and five registrations.

When taking into account the administrative processes involved in obtaining these annual registrations and licenses permits, certain time consuming aspects were problematic for the business owners. Figure 2.9 provides some more detail on these time consuming procedures. Some of the main aspects differ between the two municipal areas.

Figure 2.3.2: Ease of access to on-going registration information, 2013



The annual registrations include businesses in the following industries:

- Catering, accommodation and other trade (35%)
- Retail (selling liquor) (17.5%)
- Finance and business services – registration as auditors, etc. (20.5%)
- Transport, storage and communication (27%)

Although the order of importance differs amongst the two municipal areas, the mentioned aspects like filling in forms, waiting in long queues, the seemingly incompetency/lack of client orientation of frontline civil servants to assist them and the waiting time for clarity are all troublesome aspects mentioned by SMEs in both municipal areas.

According to the business owners and managers in Mangaung the most troublesome in order of importance are:

- Filling in of forms
- Waiting in queues
- Perception of incompetent officials/low productivity
- Waiting for papers/permits/registrations

For firms in the Matjhabeng municipality the most troublesome in order of importance are:

- Perception of incompetent officials/ low productivity
- Filling in of forms
- Waiting for papers/permits/registrations



Another question asked in this regard was concerned with particular problems in this process that caused unnecessary delays – if applicable. Figure 2.10 provides specific detail with regards to the particular problems mentioned by business owners and managers.

Again more or less the same aspects were considered problematic by the respondents from the different municipal areas, although the order of importance differed. Here the seemingly incompetence of frontline people – or lack of client orientation - is the number one worrying aspect, followed by a subsequent waiting process. The last aspect is of critical importance to most business respondents as continued business operations in many cases are dependent on the re-registration approval.

This process can put some businesses out of business (temporarily or permanently), as valid registration mostly is considered a prerequisite for obtaining or tendering for a new contract.

Responses to Tax Requirements

According to over 90 per cent of Mangaung SMEs and nearly 80 per cent of SMEs in Matjhabeng (figure 2.11), they can easily acquire information regarding tax and tax related issues. The South African Revenue Service (SARS) is rated high.

Figure 2.3.2: Most time consuming aspects

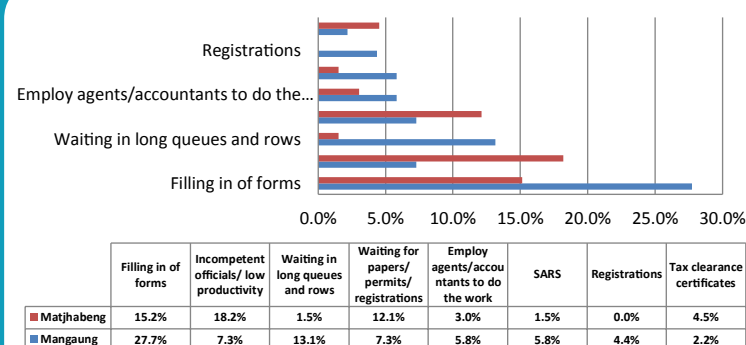


Figure 2.3.3: Particular problems noted by SMEs

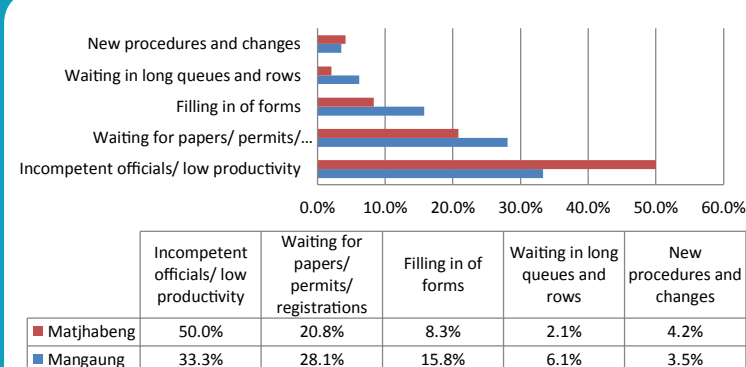
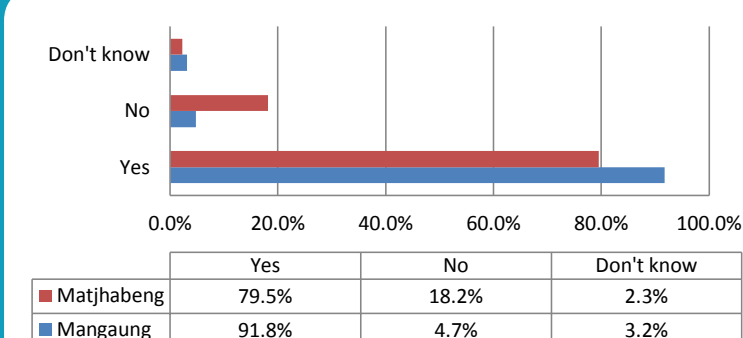


Figure 2.3.4: Ease of getting information on tax requirements



More than a third of SMEs in the two municipal areas indicated that the e-filing system is effective and that it works well. This is a good practice where SARS is making it easier for the smaller businesses (Sole Proprietorship, Partnership and the Closed Corporation) to comply with tax regulations. The same system also works for the book keepers as well as audit firms to submit their client's taxation.

Businesses that are registered as companies or closed corporations can also make use of the system but they are doing it via their auditors or bookkeepers accordingly.

Another aspect that was more important for Matjhabeng (24.7%) than for Mangaung (4.4%) was that SARS should train smaller business owners how to comply with tax regulations to eradicate penalties and future actions against them.

This is a very important aspect because a large number of particularly smaller business owners are not knowledgeable on this aspect. Table 2.5 summarizes the suggestions for further improvements as perceived by businesses.

Broad-Based Black Economic Empowerment (3BEE)

It was important to establish whether the businesses were 3BEE accredited. As can be seen from figure 2.12, just more than half (52%) of SMEs in the Matjhabeng area are accredited while the Mangaung figure is just above one quarter (26.6%). When considering figure 2.13 regarding the ease of acquiring information regarding 3BEE accreditation, more than two thirds (71.2%) of the Mangaung respondents have no problem with it while only 40.5 per cent of Matjhabeng SMEs indicated that information was easily accessible.

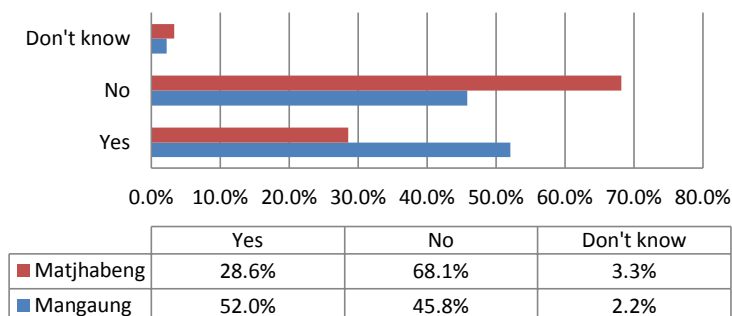
Table 2.3.5: Business respondents' suggestions towards improving tax requirements

Suggestions for Improvement	Mangaung	Matjhabeng
The system is effective/ E-filing works well	34.8%	34.2%
Assist/ train SMMEs in tax admin to eradicate non-compliance penalties	4.4%	24.7%
Better communications from SARS e.g. regarding changes, extensions, penalties	7.0%	5.5%
Reduce taxes	7.6%	4.1%
Make everything available online	5.7%	5.5%
Shorten the queues at the tax office	7.0%	0.0%
Simplify the tax system so that I can do it myself and cut costs for accountants	2.5%	4.1%
Incompetent officials/ train staff to be better informed and productive	3.8%	1.4%
Provide tax incentives to accommodate small business	2.5%	2.7%
Provide a satellite office so that we don't need to travel to larger centres	2.5%	0.0%
Scrap the regulation that makes it compulsory for CCs and other SMMEs to employ accountants	1.3%	1.4%
Make E-filing accessible for everyone e.g. businesses in rural areas	0.6%	2.7%



Feedback from the field work was that business owners in Mangaung were quite negative about 3BEE legislation in general. Many reasons may exist for this view, but when taking into account the respondents' feedback on the one aspect they would change about the 3BEE process to make it easier for businesses, as indicated in table 2.6, there is a significant difference in the responses from Mangaung and Matjhabeng.

Figure 2.3.6: Percentage of businesses that are 3BEE accredited, 2013



Mangaung SMEs reported the following:

- A little over 18 per cent stated that they are not interested in 3BEE because it is of no positive use for the SME
- Just over 12 per cent said that it is too expensive to be part of the 3BEE process because of the compliance with the point system.
- It was recommended to make it accessible to all businesses and race groups, to experience the real benefits of it

Matjhabeng SMEs reported the following:

- The point system is complicated and should be simplified to facilitate compliance according to 22 per cent.
- It was recommended to implement once off registrations, meaning that the annual registrations for it must be scrapped. While this may not be a practical suggestion, alternatively the registration process could be extended to every 5 years.
- It was further recommended to educate and inform people about 3BEE. This is an important aspect to let SMEs know how they can benefit from it rather than being forced to be part of it when turnover levels are above certain brackets.

Figure 2.3.7: Ease of access to 3BEE information

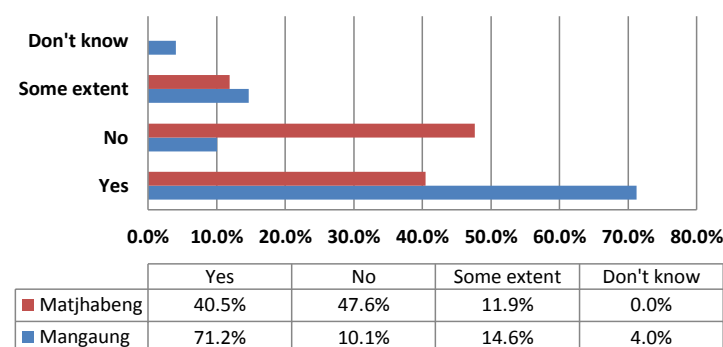


Table 2.6: Business respondents' suggestions on improving the BEE process, 2013

Suggestions for 3BEE Improvement	Mangaung	Matjhabeng
Not interested in 3BEE - it is of no use	18.8%	4.3%
Scrap 3BEE completely	6.1%	4.3%
Make it accessible to all business/ races/ groups	16.4%	4.3%
It is too expensive.	12.1%	4.3%
It is complicated to understand e.g. "point system"	4.2%	21.7%
Make the 3BEE process more transparent/ too much corruption	6.7%	4.3%
Educate and inform people about 3BEE	6.1%	8.7%
Implement once off registrations	3.0%	13.0%
Do not discriminate/ make tenders available to everyone	3.0%	0.0%
Revise 3BEE process - it is not working currently	2.4%	0.0%
Requirements should consider business size/ turnover/ employment	1.2%	8.7%
3BEE accreditation companies should be investigated/ regulated	1.2%	0.0%

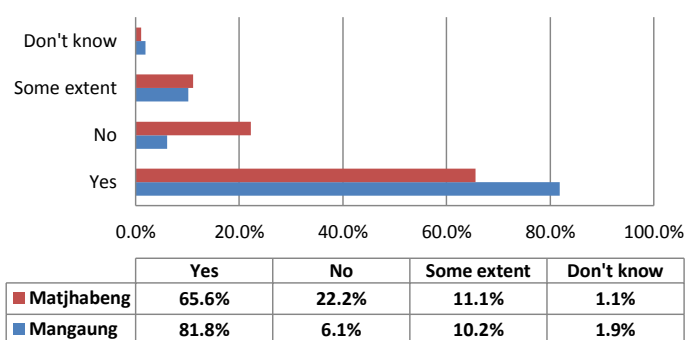
Employment Related Regulations and Legislation

Labour legislation is quite developed in South Africa and has implications for businesses of all sizes. Given the strong history of tripartism and establishment of industrial relations processes labour legislation is constantly developing. Ensuring that information regarding new laws and regulations is made available to SMEs therefore becomes crucial from an efficiency point of view.

provides an indication of the aspects that impact compliance with regards to the different labour legislations. For Mangaung, the most troublesome regulation is the minimum wage that businesses are required to pay for labour. Overtime payment, especially for businesses that need to do business or deliver a service on public holidays and Sundays is also problematic. Employee registrations in Matjhabeng is the most troublesome aspect mentioned, followed by dismissal, firing or retrenchments.

SMEs in Mangaung feel they have better access to information (81.8%) than in Matjhabeng (65.6%). This aspect can be problematic to the business owner if any labour aspect is not complied with according to the prescribed legislation. Because of the importance of labour regulations, it was important to ask respondents about the most troublesome or time-consuming labour regulation for a business. Table 2.7

Figure 2.3.8: Ease of accessibility to information on labour legislation





According to table 2.7, it is evident that many aspects are considered problematic or time-consuming and although these are considered important aspects, only a small portion of businesses responded.

When SMEs were asked to subsequently highlight how they would improve labour legislation and its application, the following was suggested (Table 2.8).

Table 2.7: Troublesome and time consuming labour regulations, 2013

Troublesome and time consuming labour Regulation	Mangaung	Matjhabeng
Determination of minimum wages /overtime	16.1%	2.4%
Dismissals/ firing/ retrenchment	10.6%	14.6%
No problems with labour regulations	10.6%	13.4%
Unemployment Insurance Fund (UIF)	12.4%	4.9%
Employee registrations	4.6%	15.9%
Workman's Compensation	4.6%	3.7%
Labour disputes	3.2%	4.9%
Timesheets/ Payroll/ working out overtime	3.2%	4.9%
CCMA	0.9%	8.5%
Employee Equity	2.8%	2.4%
Teaching and training (time consuming/ expensive)	3.7%	0.0%
Incompetent staff at Labour Department	3.7%	0.0%
Unions	2.3%	2.4%
Employee tax	2.3%	2.4%
Disciplinary hearings	2.3%	2.4%
Lack of information regarding labour issues and changes	1.8%	3.7%
Bad attitude of employees	2.8%	0.0%
Drawing up contracts	0.5%	4.9%
Too much paperwork (forms, log books)	1.8%	0.0%

Table 2.8: Which labour legislation would you change?

Suggestions for Improvement	Mangaung	Matjhabeng
Fairness - employers should also be heard and have rights	22.7%	6.7%
Labour offices/officials should be more professional and productive	11.7%	28.3%
Online registrations and submissions	19.5%	3.3%
Less laws/ simplify regulations/ shorten all procedures	7.8%	6.7%
Less and shorter warnings and appeal processes	3.2%	18.3%
Educate all employees about limitations of their rights	3.9%	6.7%
Minimum wages should be reconsidered	3.9%	5.0%
Should be easier to employ temporary staff/ flexi workers/ foreigners	1.9%	3.3%
Small business have special needs/ do not generalise	2.6%	1.7%
Too many changes - keep regulations consistent	0.6%	5.0%
Data base of all registered businesses	1.9%	0.0%

In summary, the four⁶ highest rated suggestions for improvement are:

- 1) Labour offices or officials should be more professional and productive (40%)
- 2) Fairness - employers should also be heard and have rights (29.4%)
- 3) Online registrations and submissions (22.8%)
- 4) Less and shorter warnings and appeal processes (21.5%)

Government Procurement

Figure 2.15 shows that the majority of the surveyed SMEs do not tender for government procurement. Government tendering can be a way of helping SME's to grow if they can acquire a tender in a fair and honest way.

In Matjhabeng less than 20 per cent of businesses are participating in tendering processes. This percentage is slightly higher in Mangaung where it amounts to 27.7 per cent.

Figure 2.16 shows that 57.9 per cent of businesses in Matjhabeng indicate that the tender related information is not easy to get hold off.

Businesses in Mangaung do not seem to be as negative as their Matjhabeng counterparts, with just over 50 per cent responding positively to the ease of acquiring information.

A relatively large percentage of business owners or managers in Mangaung are not sure if it is easy to get information. The surveyed SMEs had several suggestions on how to improve the entire process.

Figure 2.3.9: Businesses tendering for Government procurement

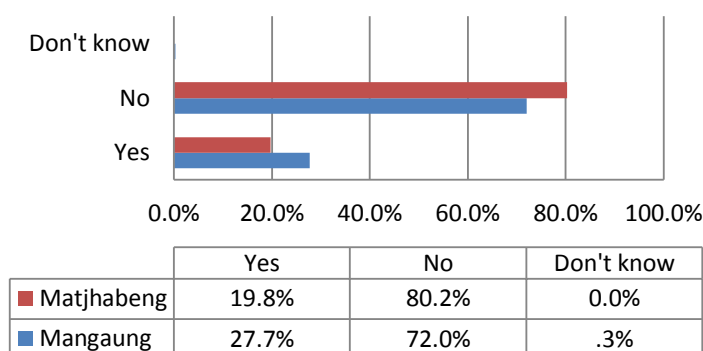


Figure 2.3.10: Ease of acquiring tender related information

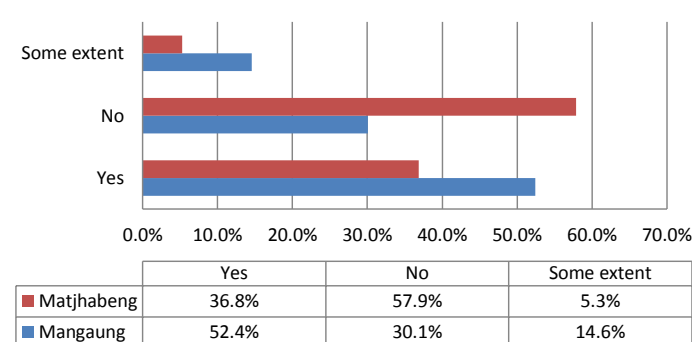


Table 2.9 provides more detail regarding these suggestions. The one aspect that Mangaung respondents felt strong about is fairness. No SMEs suggested fairness in Matjhabeng.

⁶Other suggestions score 10.6 per cent or lower



Table 2.9: SME suggestions for improvement of the tendering process

Suggestions for Improvement	Mangaung	Matjhabeng
Fairness	18.2%	0.0%
Less paperwork/ documentation/ forms	13.0%	15.4%
More transparency	11.7%	15.4%
Address corruption/ nepotism/ fraud	11.7%	7.7%
Registration on government data base	9.1%	7.7%
Electronic submissions of tenders	2.6%	30.8%
Shorten the turn-around-time	6.5%	0.0%
Make tenders available to everyone	5.2%	0.0%
Improve payment procedures by government	3.9%	7.7%

Import and Export Activities

The surveyed SMEs were also asked whether they were involved in export activities. As can be seen from figure 2.17 8.4 per cent of businesses in Mangaung and 2.2 per cent in Matjhabeng are exporting products to other countries.

The only two businesses that are exporting products from Matjhabeng are using an agent to help them with the export process. The reason for this being the fact that there are too many regulations to comply with that it is only larger businesses, according to them, that can spend time or employ somebody knowledgeable to manage the process.

In Mangaung, 8.4% of the surveyed SMEs are exporting products. Two thirds of firms export directly while the other third is making use of export agents. According to their turnover, 18 SMEs are in the medium or large enterprise category.

When it comes to being involved in import activities, Figure 2.18 indicates that no import activities are done by the surveyed SMEs in Matjhabeng.

The reason for this is that it is easier to buy from businesses that are actively involved in importing, when considering all the effort, Red

Figure 2.3.11: Export activities

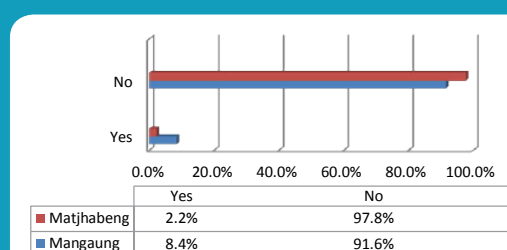
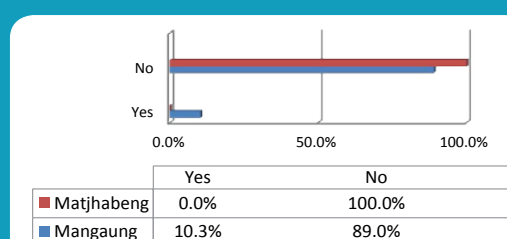


Figure 2.3.12: Import activities



Tape and the compliance cost involved. Thirty three (10.3%) businesses in Mangaung are actively involved in importing products. Twenty of them (60.9%) are doing it by themselves while the other 13 businesses are using agents to import products for them.

General Aspects regarding Regulations

After all the specific questions regarding regulations, the impact and other aspects related to it have been considered, it is also necessary to ask some general questions to address the general aspects of regulations. The following section will provide an insight to the perceptions of business owners and managers regarding regulations and compliance costs.

Businesses' perceptions are always an important indication of their expectations. In Matjhabeng just over 60% while in Mangaung area 78.6% think that the number of regulations has increased over the last three years. Not many business owners or managers think that the number of regulations has decreased. Approximately a third of business respondents in the Matjhabeng area and a little over 20% of Mangaung business owners and managers think it will remain the same.

In both municipal areas, over 70% think that compliance cost is likely to increase during the next three years, which is consistent with the current economic environment of South Africa.

According to 70% of the business owners or managers in Matjhabeng and nearly 80% of business owners or managers in Mangaung, it is a fact that compliance costs have actually increased over the past three years.

Figure 2.3.13: Number of regulations that increased during the last three years

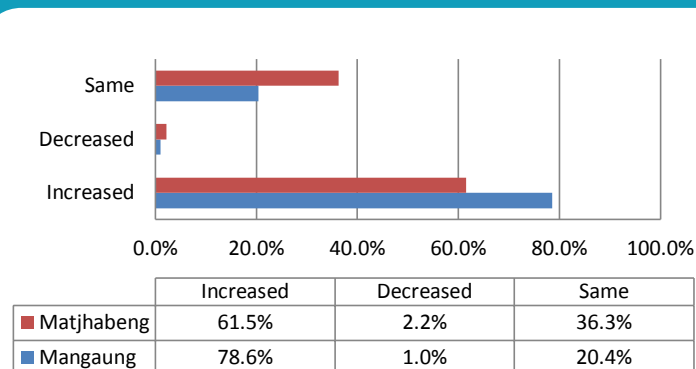


Figure 2.3.14: Additional increases in compliance cost during the next three years

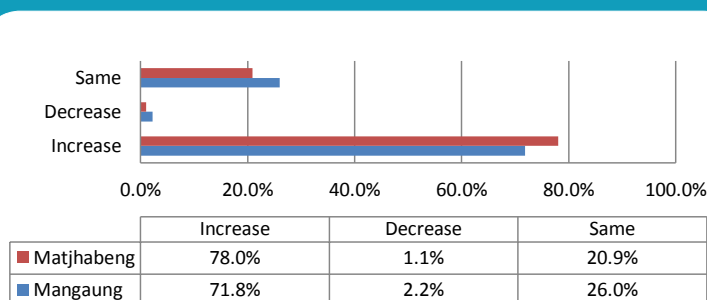
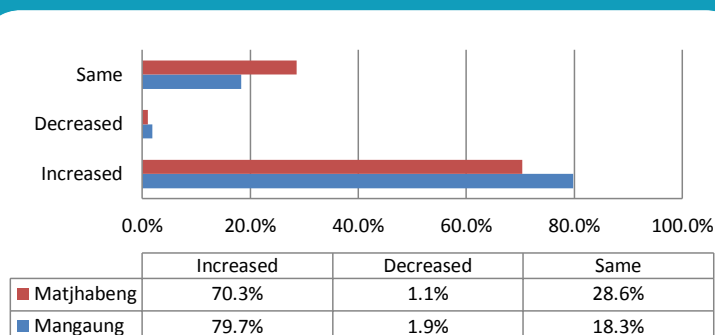


Figure 2.3.15: Increase in Compliance Cost during the last three years





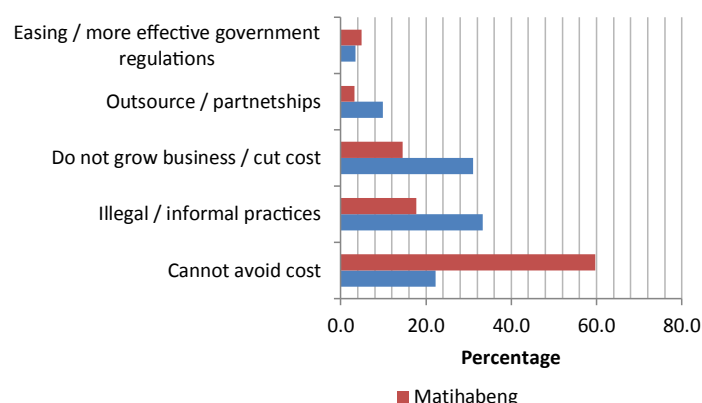
The respondents had to indicate what can be done in an attempt to avoid costs and regulations, which regulations are considered necessary and beneficial, which regulations they would like to see enforced more effectively and what government has done so far to make business operation easier.

2.4 Avoiding Costs and Regulations

An important aspect of the study is to capture if and how SMEs find strategies to minimize red tape and compliance costs. The respondents' perception of avoiding costs and regulations are illustrated in figure 2.22 and then further elaborated in table 2.10.

The specific strategies that SMEs pursue to minimize compliance costs are explained in more detail in table 2.10.

Figure 2.4.1: General strategies for minimizing compliance costs



As shown in table 2.10, a large number of respondents, in particular in Matjhabeng (59.7%), were of the opinion that nothing can legally be done to avoid regulatory costs. Respondents named the following coping strategies, viz. engaging in illegal or informal practices or not to grow the businesses at all in order to stay below the threshold for certain compliance requirements.

Table 2.10: SME strategies to minimize compliance costs

Strategies to avoid compliance costs		Mangaung	Matjhabeng
Do nothing (31.9%)	Cannot avoid costs legally/ nothing to be done	22.0%	59.7%
Stay informal (31.5%)	Do not register business	20.8%	9.7%
	Work from own back yard and street corners	4.6%	0.0%
	Illegal practices	6.9%	8.1%
Limit own employees (25.6%)	Do everything in-house/ employ specialist staff	8.1%	1.6%
	Stay small/ do not grow business	8.1%	0.0%
	Cut down on employees	3.5%	6.5%
	Outsource/ use consultants	6.4%	3.2%
	Mechanise/ computerise	4.0%	1.6%
Others	Cutting overheads/ keep costs low	4.0%	0.0%
	Work with other companies/ partnerships	2.3%	0.0%

Methods of engaging in illegal and informal practices included not to register the businesses and to work from the owner's own backyard or street corners. Business growth is restricted through doing most tasks in-house, cutting down on employees, cutting costs of overheads and use of more mechanised and computerised systems to do employees' work. A number of respondents indicated that they outsource certain functions or work in partnership with other companies to cut on cost and avoid complicated regulations systems.

Lastly, a few respondents expressed the wish that government should be more accommodating and efficient with easing the regulations. These opinions are not positive for future growth of the business sector.

2.5 Useful and Welcome Regulations

Whereas SMEs had complaints about costs and time consuming aspects of regulations, they were also asked to highlight useful and welcome regulation. The response to general regulations is highlighted in Table 2.11.

It is evident from table 2.11 that in many cases the regulations are supported and regarded as necessary. It is however, the application and implementation that are criticised. Despite previous criticism of the regulations, respondents in both municipal areas regarded health and safety regulations and labour laws as useful.

However, noticeably more respondents in Mangaung (26.7%) thought positively of the SARS regulations, than in Matjhabeng (3.4%), with the e-filing initiative receiving particularly welcoming responses. More respondents in Matjhabeng (7.8%) than in Mangaung (0.9%) thought that business licensing and registrations were helpful. Other regulations that were welcomed, but mentioned to a lesser extent were the National Credit Act, 3BEE regulations, UIF, the Consumer Protection Act, Liquor regulations and zoning requirements. A small number of respondents in Mangaung indicated that they were not affected or interested in regulation aspects.

Table 2.9: SME suggestions for improvement of the tendering process

Suggestions for Improvement	Mangaung	Matjhabeng
Fairness	18.2%	0.0%
Less paperwork/ documentation/ forms	13.0%	15.4%
More transparency	11.7%	15.4%
Address corruption/ nepotism/ fraud	11.7%	7.7%
Registration on government data base	9.1%	7.7%
Electronic submissions of tenders	2.6%	30.8%
Shorten the turn-around-time	6.5%	0.0%
Make tenders available to everyone	5.2%	0.0%
Improve payment procedures by government	3.9%	7.7%

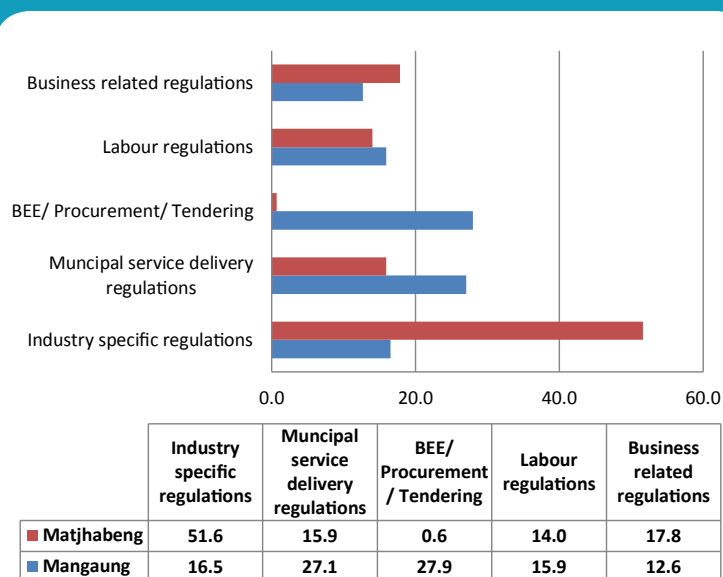


Interrelated to the above question namely which regulations respondents regard as welcoming, respondents' opinions were sought regarding regulations they would like to see better enforced (see Figure 2.23).

Significant differences can be observed between the two municipal areas with regards to which type of regulations they would like to see more strictly enforced.

Similarly, SMEs were asked to rate what they felt were positive initiatives towards businesses made by government as indicated in Table 2.12.

Figure 2.4.2: Necessary regulations not properly enforced



The following notes apply to the figure above:

- As shown in figure 2.23 above, more than half of the Matjhabeng respondents (51.6% compared to 16.5% of Mangaung respondents) mentioned that they would like to see industry specific regulations better enforced. Industry specific regulations highlighted by the respondents were health and safety regulations, zoning and land management regulations, liquor regulations and the National Credit Act.
- Municipal service delivery regulations were noted by both municipal areas' respondents but much more by the Mangaung (27.1%) respondents than the Matjhabeng respondents (15.9%). Municipal service delivery aspects mentioned by the respondents related to law enforcement, crime prevention, corruption control management, consistent enforcement of by-laws, better service delivery of roads, water, electricity and rates and taxes, enforcement of traffic rules.
- Not all respondents viewed labour regulations negatively. 15.9% of respondents in Mangaung and 14.0% of those in Matjhabeng viewed labour regulations as a positive aspect, if properly enforced.
- Business licensing and registrations, as well as tax regulations were the two business related regulations that both Mangaung (17.8%) and Matjhabeng (12.6%) respondents thought should be better enforced. Both municipal areas expressed that they would welcome regulations that protect and support businesses better.

Table 2.12: Positive contributions made by government

Suggestions for Improvement	Mangaung		Matjhabeng	
	N	%	N	%
SARS / E-filing related	25	21.0	26	45.6
A framework of rules and regulations in which to operate business	23	19.3	12	21.1
Online registrations	14	11.8	0	0.0
3BEE	11	9.2	1	1.8
Skills training	10	8.4	2	3.5
Establishment of development/ funding/ support agencies	5	4.2	7	12.3
Tax exceptions/ relief	8	6.7	1	1.8
Municipality service related (e.g. provision of land, relax by-laws)	4	3.4	4	7.0
Information more easily accessible	4	3.4	1	1.8
Government only made things more difficult / not doing enough	15	12.6	3	5.3
Total	119	100.0	57	100.0

As shown in the above table, the respondents in the two municipal areas highlighted different positive aspects of government contributions. Both municipalities, but in particular Matjhabeng respondents (45.6%), felt that the SARS and e-filing system were working well.

The respondents were also appreciative of the framework of rules and regulations that the government put in place for businesses to operate within. Mangaung respondents were more positive about online registrations, the skills training component and tax relief exemptions than the Matjhabeng respondents. Matjhabeng respondents were thankful for the establishment of development, funding and support agencies.

Some respondents were negative and indicated that government only made things increasingly difficult and were not doing enough. Although the respondents mentioned these positive aspects, it should be noted that only 37 per cent of the 322 respondents in Mangaung and 62 per cent of the respondents in Matjhabeng responded to this question and had an opinion regarding the positive contribution by government and/or aspects not attended to by government.



Part III - Overall compliance costs for SMEs

This section seeks to quantify the overall compliance costs for SMEs in the two municipal areas. As noted previously, there are two types of compliance costs: once-off costs, such as the costs associated with initial business registration, and recurring costs, which arise on a regular basis. It is important to bear in mind the further distinction between compliance costs that affect all businesses (for example, annual registration, tax compliance and labour regulations), and costs that affect only some businesses, for example businesses in a particular sector, or businesses engaged in a specific activity such as exporting or the hospitality industry.

The total amount of compliance cost paid by all surveyed SMES amount to a total figure of R80.5 million (about 7 million USD) annually, of which Mangaung made up R65 million (about 5.7 million USD) (figure 3.2) and Matjhabeng R15.5 million (about 1.3 million USD) (figure 3.3).

When considering the composition of total costs, income tax requirements make up the largest part in the amount of R20.48 million equivalent to approximately 25 per cent, followed by Value Added Tax in the second place with R18.53 million equivalent to 23 per cent. Tax (Income and VAT) make up nearly 50 per cent of the total compliance costs.⁷

The initial business registration also makes up nearly R11 million with employee costs and on-

Figure 3.1: Total compliance cost of surveyed SMEs

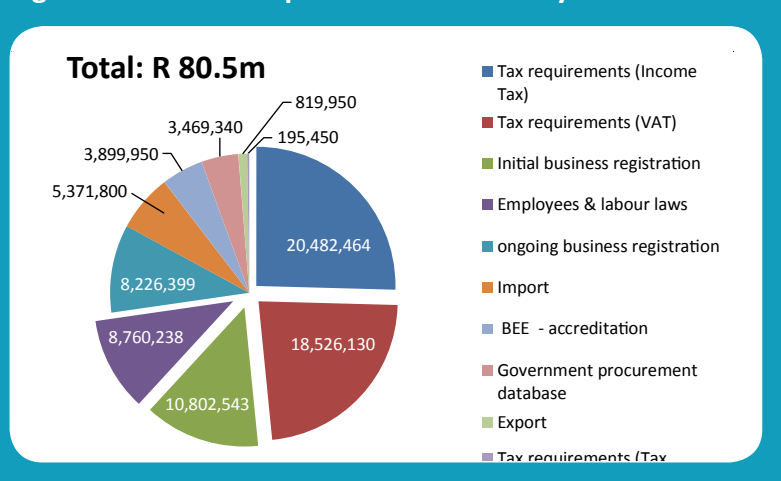
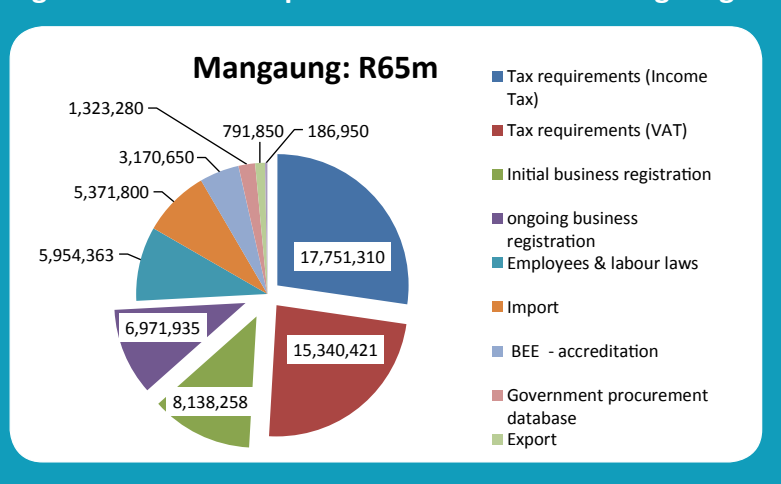


Figure 3.2: Total compliance cost of SMEs in Mangaung



going business registration costs amounting to R8.76 and R8.23 million respectively. The ongoing costs (that is excluding initial registration costs) are by far the biggest component (87%) of the total costs, which means that the annual costs to comply (for the number of respondents), are nearly R70 million.

When comparing the two municipal areas with each other, there is a significant difference because labour costs are second in terms of Rand-value and not VAT, which is the case in Mangaung. Total tax compliance for Mangaung is 50.9 per cent while it amounts to little over 38 per cent in Matjhabeng.

⁷Once again, it must be pointed out that it is not the tax itself, which is seen as a compliance cost, but the administrative procedures in relation to paying tax.

The main reason for the lower income tax compliance costs might be the greater number of smaller businesses in Matjhabeng, mainly sole proprietorships of which the greater majority are not using external auditors or bookkeepers to comply with tax regulations.

3.1. Impact of Compliance Cost

To explore the total impact of compliance cost in the two municipal areas the findings for the sample was extrapolated to the total business population. Since the sample was randomly selected, the first assumption is that everything that is true for the sample is true for the population as a whole.

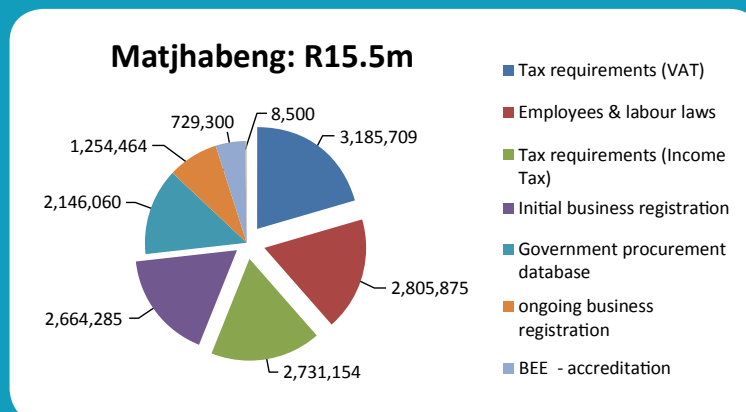
All compliance cost drivers for each size group, Mangaung and Matjhabeng respectively, were extrapolated by using the number of firms estimated in the population.

Given that some respondents did not disclose the information about the composition of the business population by size; it can be assumed that the same composition as the sample shows the resulting population by municipal areas and by sizes. It must be acknowledged that some enterprises in Mangaung did not indicate their size (by number of employees). These have therefore been distributed amongst the other class sizes.

The summary findings regarding compliance costs according to size and compliance cost drivers for the whole of Mangaung, resulted in R3,313 billion (about 291 million USD) spent on compliance costs. The summary findings of compliance costs according to size and compliance cost drivers for the whole of Matjhabeng, resulted in R505m (about 44 million USD) spent on compliance costs.

The grand total of the two municipal areas both by size class and compliance cost drivers, added up to R3,819 billion (335 million USD) annually.

Figure 3.3: Total compliance cost of SMEs in Matjhabeng



The following assumptions were made:

- Some compliance cost drivers (such as on-going registration compliance costs, Tax requirements (VAT), Tax Requirements (Income Tax) and employee and labour costs) are assumed to impact all firms. The resulting compliance costs were obtained by multiplying the median compliance cost of the sample by the total number of enterprises expected in the population.
- Other compliance cost drivers (such as initial registration (estimated to impact 10% of firms annually), tax incentives, participation in Government procurement, Export and Import) are not assumed to equally impact all firms. These compliance costs were obtained by identifying the percentage of relevance in the sample and assuming the same percentage for the population as a whole. In other words, if initial registration costs impacted 10 per cent of the companies in the sample, it was assumed that initial registration costs would equally impact 10 per cent of the whole population, etc. These percentages were then multiplied by the number of businesses expected in the population and the result thereof multiplied by the median compliance cost of the sample.

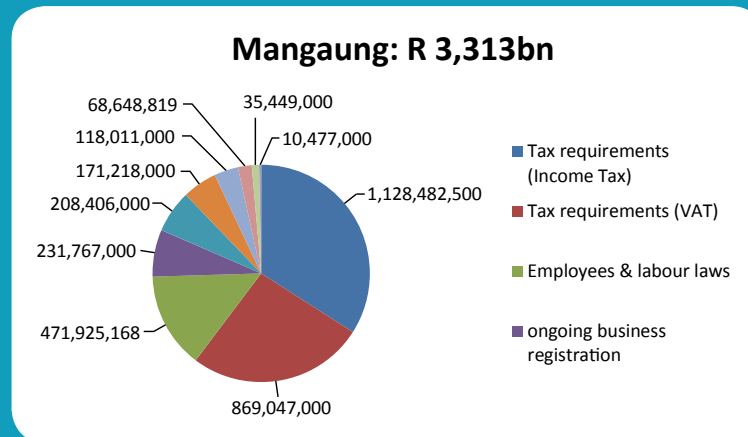


When exploring the compliance cost for Mangaung, Tax requirements (Income tax and VAT) are the largest amount (1,997 bn.) which makes up just over 60% of the total amount. When comparing business sizes such as micro, very small, small, and medium, there is no significant difference between them in terms of the order of what made up the compliance costs. In all four business category sizes, income tax, VAT and employee and labour costs rank first, second and third. The significant difference comes in when comparing the larger businesses, then income tax still makes up the largest amount, with initial business registration in second place.

The composition of compliance costs vary by size of enterprises. Annex B shows the compliance costs by enterprise size and compliance cost drivers for both municipalities.

Other than taxes and employee and labour law costs that are high, initial and ongoing registrations have also been found to play a

Figure 3.4: Total compliance cost of Mangaung



role. Compliance costs that are not applicable in Matjhabeng are import and export costs, while in Mangaung this cost applies.

Other types of regulatory costs include capital depreciation, transfer, and psychological costs. Analysis in this field is still at an early stage, and **this study does not explore these types of regulatory costs**. If these costs were to be included in the calculations of regulatory costs, the initial estimations would be very conservative. Nonetheless it is important to note that these additional costs exist.

A brief description of these additional regulatory costs is provided below:

- **Capital depreciation costs:** Regulation may result in incremental capital investment, for example for effluent purification equipment. In theory, the depreciation cost of these investments should be included in compliance costs. In practice, though, it is difficult to distinguish between investment made solely for regulatory compliance and other investment.
- **Transfer cost:** Wealth transfers from consumers to producers may occur as a result of regulations. A regulation restricting imports or imposing a minimum price would result in such a transfer, for example.
- **Psychological costs:** Regulations create anxiety and frustration as well as reassurance. Research suggests that fear of unintentionally transgressing regulations can be a significant source of stress for entrepreneurs and company employees. Efforts to achieve compliance, particularly where these are time-consuming and take resources away from other productive activities are a further cause of stress. While psychological costs are difficult to measure, studies in developed countries show that many small business owners are willing to pay insurance premiums to avoid these psychological costs.

Part IV - Summary, conclusions and recommendations

4.1 Summary of key findings

The summary of key findings are as follows:

- The vast majority of businesses in both municipalities had aspirations towards growing their businesses (82.6% of businesses in Mangaung and 83.7% of businesses in Matjhabeng). This is good news as business growth is important for future job creation.
- This largely positive business sentiment is balanced by many concerns raised by businesses on factors hampering their business growth. Apart from the usual economic and financial reasons, businesses highlighted regulatory reasons that discourage them from expanding their business operations.
- To keep up this positive business sentiment, government needs to continue addressing the concerns raised by businesses and specifically reduce unnecessary Red Tape to make it easier and less costly for businesses to comply with regulations and realize their business aspirations.
- This is particularly important as businesses in general have the perception that regulations and compliance costs have been increasing over the past three years.
- Businesses identified troublesome regulation on municipal, provincial as well as the national level. In terms of municipal regulations, businesses had the greatest concerns related to service delivery aspects, specific municipal acts and municipal incompetence and unfairness.
- In terms of troublesome provincial regulations, businesses identified specific acts and regulations, Incompetence and Service delivery
- The most troublesome National regulations were employee related regulations, business related regulations, industry specific relations and complaints with regard to incompetence.
- Information available to business owners varies from available and good to not available and poor. For example, tax related information is available and business owners or managers understand it quite well. In other regulatory areas, for example procurement, information is difficult to understand and not easily accessible.
- Initial and on-going registrations are a costly and time consuming exercise for all businesses because filling out forms is complicated, waiting time in long queues and rows is long, official are perceived as incompetent and thus unproductive, all resulting in long delays waiting for papers, permits and registrations. Businesses identified challenges related to specific regulatory areas and made specific suggestions for improvements.
- Although it is relatively easy to get information on tax, VAT and other tax related issues as mentioned above, businesses suggested that SARS should train smaller business owners on how to comply with tax regulations to reduce the necessity of penalties and future actions against them.
- There are differences between the two municipalities when it comes to getting information on Broad-Based Black Economic Empowerment (B-BBEE). More than two thirds (71.2%) of the Mangaung respondents have no problem with it while only 40.5% of the Matjhabeng respondents indicated that information was easily accessible. Business owners in Mangaung were very negative about the entire BEE legislation. Business recommended making it easier for businesses to understand the BEE codes, clarify and simplify the “point system” and make sure codes are not frequently changed.
- Businesses further recommended making BEE accessible to all businesses and race groups, scraping annual registrations and raising the awareness of people about BEE stressing how they can benefit from it rather than being forced to be part of it when turnover levels are above certain brackets.



- In Matjhabeng getting information on labour legislations seems more difficult than in Mangaung, with minimum wage, overtime payments especially for businesses obliged to operate on weekends and public holidays as well as employee registration and dismissal, firing and retrenchments being the most challenging. Businesses recommend improving the competences and productivity of Labour Office officials, allowing for online registration of employees and assuring that particularly in the context of labour disputes there is no bias in favour of the employee with the employer not being heard.
- Not many businesses are taking part in the government procurement process. On average only around a quarter of businesses participate in tender processes. To make it more inclusive, businesses would like to have information concerning tenders and the tendering process more accessible, see the process itself becoming fairer, simpler with less paperwork and more transparent. In the context of tendering two forms of corruption are particularly prevalent in South Africa, namely: “Tenderpreneurism” (individuals who enrich themselves through corrupting the awarding of government tender contracts) and BEE fronting (an abuse of the rules governing Black Economic Empowerment).
- Regulations pertaining to import and export activities are not so much of a concern for the two municipal areas examined in the study because of their location in the Free State province, in the middle of South Africa. For other municipalities this might be much more of a concern, the focus then being on regulations covering export and import of goods, and the interactions with customs and bureaus of standards at points of exit and entry. If this study were to be replicated in other more import and export prone municipalities, it is likely that compliance costs would be significantly higher for this category.
- Despite considering several regulations challenging, respondents are still supportive of the concept of regulations. In many cases regulations such as health and safety regulations, labour laws, SARS regulations, particularly the e-filing, business licensing and registrations and the National Credit Act are supported and regarded as necessary, but it is the application and implementation that are criticised. Some specific regulations considered more problematic were BEE regulations, UIF, the Consumer Protection Act, Liquor regulations and zoning requirements.
- Businesses are aware and acknowledge the efforts of government and particularly highlighted the SARS e-filing system, online registrations in the departments where it was already implemented, and the establishment of development, funding and support agencies as particularly highlighted by Matjhabeng businesses.
- Apart from identifying troublesome regulations and presenting constructive suggestions for improvements as stipulated by businesses themselves, the study for the first time also quantifies compliance costs.
 - Compliance cost for the 414 interviewed companies, amount to R80.5 million, of which Mangaung made up R65 million and Matjhabeng R15.5 million.
 - Taxes (Income and VAT) make up nearly 50% of the total compliance costs, with income tax making up (R20.48 million or 25%) and Value added tax R18.53 million or 23%.
 - To explore the total impact of compliance cost in the two municipal areas, compliance costs were extrapolated from the sample to represent the total business population. The resulting total compliance cost for the two municipalities amount to Rand 3.819 billion (Mangaung: Rand 3.313 billion and Matjhabeng: Rand 505 million).
 - When considering the total compliance costs of the different business sizes (micro, very small, small, medium and large) within the two municipal areas, in most cases income tax and VAT accounted for the biggest part of the compliance costs, with initial registration and labour laws also accounting for a bigger part especially for medium and large businesses.

- Finally, probably the most important finding of the study is how businesses react to or what coping strategies businesses follow to minimize Red Tape related compliance costs. Apart from the large number of respondents who were of the opinion that nothing can legally be done to avoid regulatory costs, respondents reported engaging in illegal or informal practices and consciously not growing to remain below certain income and employee thresholds as coping strategies. This last finding clearly conflicts with government's effort to encourage growth and employment and hence underlines the importance of continuing its efforts and commitment to reducing Red Tape.

4.2. Conclusions & Recommendations

The support that the South African government provides to small, medium and micro enterprises is widely acknowledged as an important means towards broad based wealth creation. South Africa has strong political and legislative commitment and policies, legislation and programmes are among the strongest on the continent. Whereas policies, laws and regulations are in place to encourage open markets, innovation and a more competitive economy there is still some way to go as this study shows with high costs and risks of doing business.

While each of the three spheres of government have an overall responsibility to improving the regulatory environment for small enterprises, municipalities in particular have a lead role to play in ensuring that the specific local business environments in their jurisdiction maximise opportunities for economic growth and development. Reducing the regulatory constraints for SMMEs should be one of the key focus areas of municipal government.

The dti has embarked on a programme for reducing municipal Red Tape. The department has partnered with COGTA to provide a framework on how municipalities can improve service delivery that supports small businesses.

Municipal Red Tape Reduction Guidelines

- i. We firmly believe that these guidelines have arrived at a crucial point in time and we therefore strongly recommend that municipalities collaborate with dti and cogta on the "From Red Tape to Smart Tape" reduction initiative. Municipalities must become more process-aware and understand the adverse effects that turn-around time and local regulations may have on performance of the local SMME sector.
- ii. Capacity development for regulatory reform is crucial and our second recommendation is that National and Provincial government provide capacity development to district municipalities including training on business process management and reviewing national and provincial legislative impact on business in tandem and that the dti and cogta monitor the effectiveness of municipalities in contributing towards an improved enabling business
- iii. It is recommended that when any SME want to register with the CIPC registration, this registration process must include all the other registrations applicable for that specific business. Currently only some registrations are included with the first registration, and as time progresses the business owner is required to adhere to more registrations in order to ensure that all other aspects are covered for his specific business. Every registration process is time consuming and costly to comply with, so if it is done at the first registration the SME save time, money and energy.



- iv. A conclusion of this study is that informal economy activity is partly triggered by labour laws causing employers to drop out of the formal labour market opting to engage employees directly in cash without various employment benefits. We therefore recommend that the government find incentives to encourage job creation and employees benefits in SMMEs to prevent formal firms from going informal and to enable the graduation of informal firms into the formal economy.
- v. Whereas annual registrations are needed for businesses in certain industries we recommend that once a business is registered, the next annual registrations should be online to help with the complaints from businesses in terms of i) time and effort filling in forms, ii) waiting in long queues, iii) waiting for papers/ permits/ registrations and iv) dealing with non-client orientated officials.
- vi. Labour legislation is one of the most important legal aspects for a business owner to be aware of and comply with, but many businesses (about 30%) are still uncertain as to where the information can be found. This aspect can be problematic to the business owner if any labour aspect is not complied with according to the prescribed legislation. A recommendation is that all labour legislation must be made available to business owners in a central site and easily accessible (c.f. access to SARS information) and labour law advisors accessible to SMMEs.

Annex A: Profile of surveyed SMEs

This section reflects on the backgrounds of the businesses interviewed. It is not that important for the empirical findings but it is necessary to see how the demographics of the interviewed businesses look like. Firstly, the respondents' relation to the business and gender are discussed, thereafter the different business sectors and the businesses interviewed are elaborated on. Then follows sections providing details regarding the different business registrations and the number of years the businesses have been operating.

Respondents' Relations to the Businesses

The respondents had to indicate if they were the owners or managers of the business. The respondents' relation to the business is indicated in Figure B.1.

Figure B.1: Relation of respondent to the business, 2013

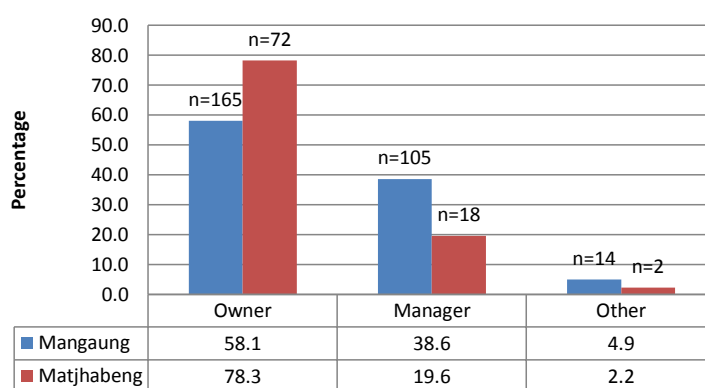
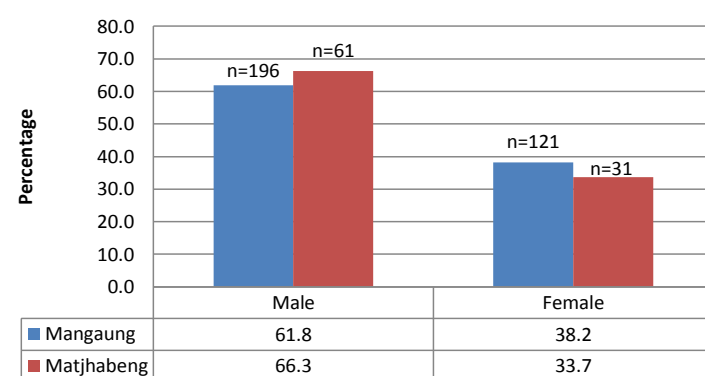


Figure B.2: Gender of respondents, 2013



As shown in the figure above, a significant difference was found between the two municipal areas regarding the relation of the respondents to the businesses interviewed. In Matjhabeng noticeably more owners (78.3%) were interviewed compared to the owner-respondents in Mangaung (58.1%). The larger number of owners interviewed in Matjhabeng could be an indication that owners are more involved in the business operations in Matjhabeng than in Mangaung, or that owners in Mangaung employ managers more frequently than their Matjhabeng counterpart. Matjhabeng-business has a higher frequency of outsourcing task-specific functions than in Mangaung. The relation of outsourcing functions or hiring managers within the business, to complete the tasks, is an important variable to consider for future research.

Sex of Respondents

The gender ratio of the owners and managers and is indicated in Figure B.2.

There was only a slight difference in the gender ratios between the two municipal areas. In both municipal areas, there were higher frequencies of male respondents. As shown in Figure B.2, 61.8% and 66.3% of respondents were male in Mangaung and Matjhabeng respectively. Although, many more men were interviewed for the survey, gender concerns do not seem to be a great concern influencing business operations. Only four respondents in Mangaung indicated some challenges experienced because of their gender. The main concern was that men perceived women to be less capable of performing business related tasks and one respondent said that beggars were troublesome.

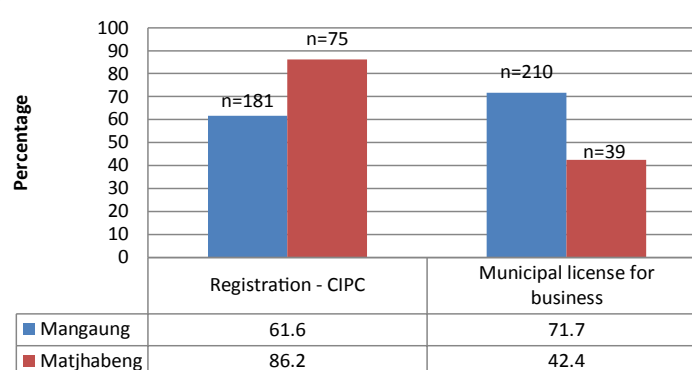

Table 2.12: Positive contributions made by government

Business sectors	Mangaung		Matjhabeng		Total	
	N	%	N	%	N	%
Retail	91	28.3	25	27.2	116	28.0
Community, social and personal services	66	20.5	21	22.8	87	21.0
Manufacturing	60	18.6	15	16.3	75	18.1
Catering, accommodation and other trade	33	10.2	10	10.9	43	10.4
Finance and business services	25	7.8	4	4.3	29	7.0
Transport, storage and communications	22	6.8	2	2.2	24	5.8
Wholesale	15	4.7	4	4.3	19	4.6
Construction	9	2.8	6	6.5	15	3.6
Agriculture	0	0.0	3	3.3	3	0.7
Mining and quarrying	1	0.3	2	2.2	3	0.7
Total	322	100.0	92	100.0	414	100.0

Business Sectors

Table B.1 indicates the different business sectors in which the survey respondents were trading.

The three business sectors in which most of the survey respondents were trading, were retail (28%), community, social and personal services (21%) and manufacturing (18.1%). Other sectors that were interviewed includes finance and business services; transport storage and communications; wholesale; construction; agriculture; mining and quarrying.

Figure 2.1: Business registration


However not a hundred per cent of the original sample was respondents for this study, for various reasons, such as:

- Not wanting to take part or not being interested (5 SME's)
- Head office is responsible for the decision making and managing finances – not willing to give any detail (7 SME's)
- Owner /Manager not available after 3 attempts (6 SME's)

The final sector representation is in line with the sample. However not all of the original sample respondents participated for when a respondent in the agriculture sector, for example, did not want to participate, another business in the agriculture sector was chosen to be interviewed.

Respondents were asked whether they were registered with the Companies and Intellectual Property Commission (CIPC) and whether they had municipal licences. The business registration details are reflected below in figure 2.1.

The CIPC was established in 2011 through the amalgamation of the Office of Companies and Intellectual Property Enforcement (OCIPE) and the Companies and Intellectual Property Registration Office (CIPRO). The CIPC is responsible for the registration of companies, co-

operatives and intellectual property rights and among other things promotion of compliance with relevant legislation and enforcement of relevant legislation.

In addition to registration with CIPC, businesses in certain industries are required to acquire a municipal business licence in terms of the Businesses Act. A municipal license is generally a requirement for businesses that need to comply with health and safety regulations such as businesses in the hospitality, entertainment and health and beauty industries. For example, health spas, snooker and billiards clubs, casinos, night clubs, and cinemas must have such a municipal licence.

The legal entities of the surveyed businesses are reflected in table 2.1.

Table 2.1: Legal entities of businesses

Legal entity	Mangaung		Matjhabeng		Total	
	N	%	N	%	N	%
Closed corporation (cc)	103	32.0	43	46.7	146	35.3
Sole proprietorship	97	30.1	17	18.5	114	27.5
Company	72	22.4	21	22.8	93	22.5
Partnership	21	6.5	6	6.5	27	6.5
Trust	16	5.0	0	0.0	16	3.9
Public	10	3.1	0	0.0	10	2.4
Co-operative	3	0.9	4	4.3	7	1.7
NGO/NPO	0	0.0	1	1.1	1	0.2
Total	322	100.0	92	100.0	414	100.0



Most of the businesses are trading as either a closed corporation, sole proprietorship or as a private company. More businesses are registered as close corporations in Matjhabeng (46.7%) than in Mangaung (32.0%). Although closed corporations provide small businesses with a cost-effective and simple business entity under which to trade, no new closed corporations are being registered since May 2011 (ILO, 2012). A possible reason for the fewer closed corporation businesses in Mangaung could be that more businesses in Mangaung has been operating for less than a year, than in Matjhabeng and this has influenced the choice of business proprietorship (see Figure 2.2).

Mangaung had more sole proprietorships, 30.1 per cent registered compared to 18.5 per cent in Matjhabeng. A sole proprietor trades under a person's own name, with no separation of assets and liabilities. Slightly more than one fifth of the businesses were registered as a company. A company as business entity can be founded and managed by just one director (known as a One-Man Company).

Figures 2.2 and 2.3 provide more detail regarding the legal entities of the surveyed SMEs.

Figure 2.2: Legal entity, Mangaung

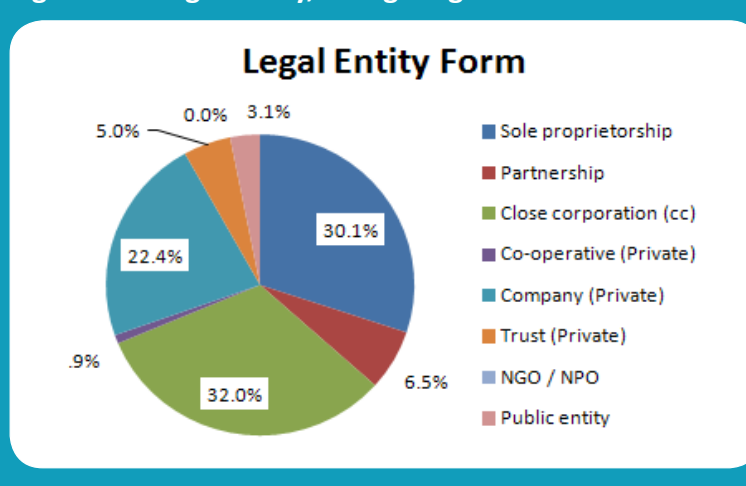


Figure 2.3: Legal entity, Matjhabeng

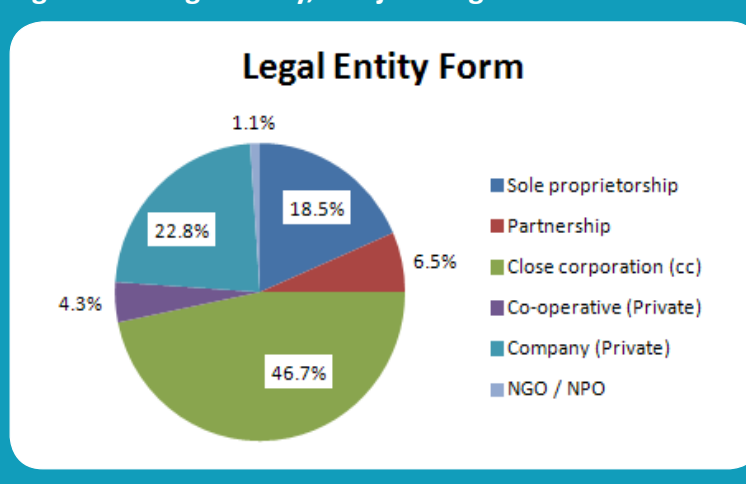
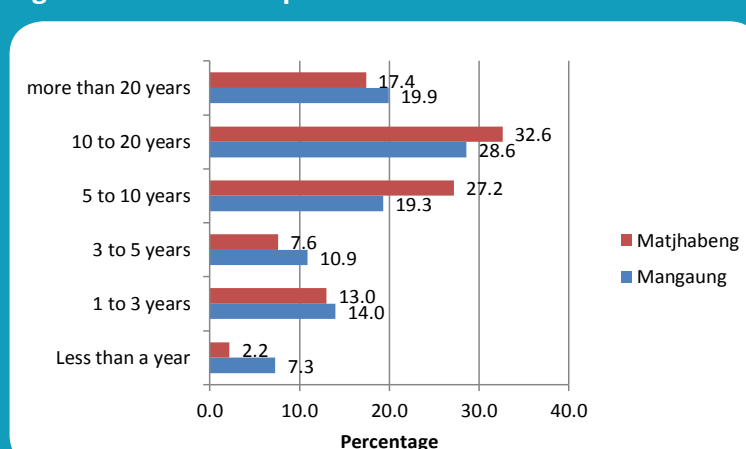


Figure 2.4: Years in operation



There is a significant difference between the two municipal areas in the sense that, although most businesses are registered as close corporations, the percentage in Matjhabeng is close to 46.7 per cent while in Mangaung it is much lower at 32 per cent.

Next on the list are sole proprietorships in Mangaung (just over 30%) followed by private companies. Here once again there is a significant difference to be found because in Matjhabeng, companies are the second most frequently registered business form, followed by sole proprietorships. The other legal forms only amount to a small part of the total sample.

The possibility of registering a business as Closed Corporations was terminated in 2011. It has always been a legal business form that was easy to register from a small and medium business point of view. Even though entrepreneurs are motivated to make use of a company as legal entity, it is more expensive and time consuming to register.

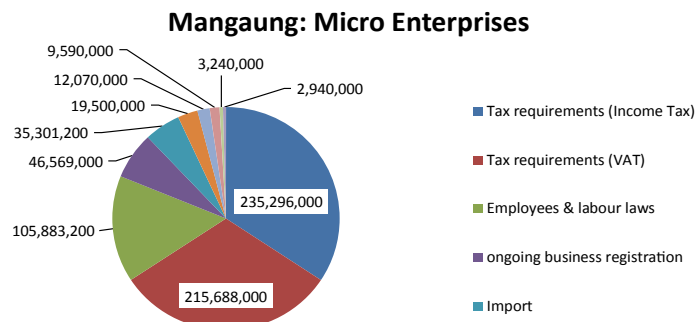
Figure 2.4 indicates the differences in years in operation in the two municipal areas.

Most of the businesses have been well established in both municipal areas. As indicated in the figure above, 77.2% of the businesses in Matjhabeng have been operating longer than five years compared with 67.8% of the businesses in Mangaung.



Annex B: Compliance costs by enterprise size and compliance cost drivers for both municipalities

Figure 3.5: Total compliance cost for Micro businesses in Mangaung



When comparing Matjhabeng with Mangaung, there are some significant differences between the components of compliance costs. Complying with VAT makes up the largest amount (R158 m) with employee and labour laws second with an amount of R103,6 m for Matjhabeng in total. Comparing the different business sizes, there are also some significant differences between them.

Figure 3.6: Total compliance cost for Very Small Businesses in Mangaung

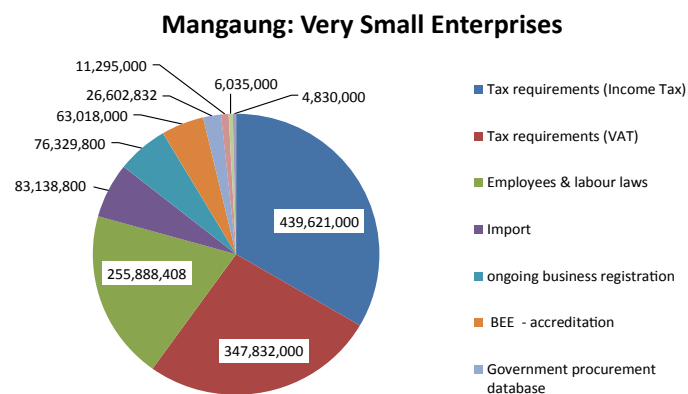


Figure 3.7: Total compliance cost for Small Businesses in Mangaung

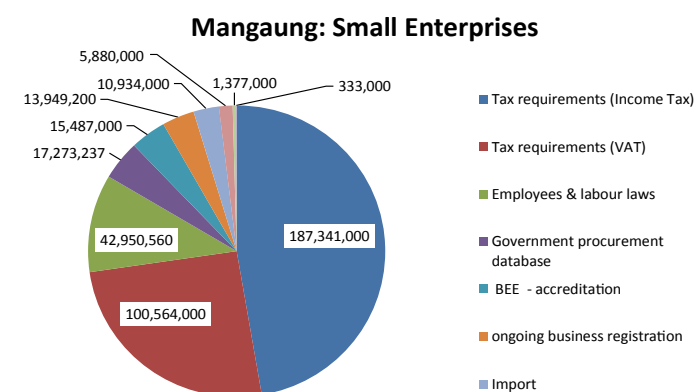
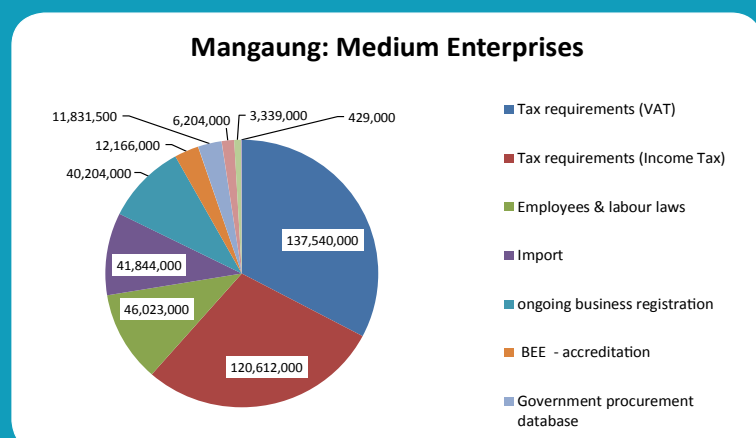


Figure 3.8: Total compliance cost for Medium Businesses in Mangaung



Amongst the micro businesses, employee and labour laws result in the biggest cost, with tax requirements (Income tax and VAT) as the second and third largest costs.

Figure 3.9: Total compliance cost for Large Businesses in Mangaung

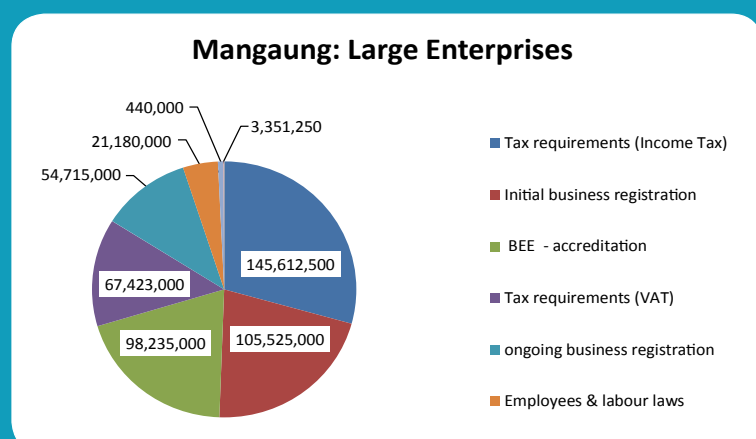


Figure 3.10: Total compliance cost for Matjhabeng

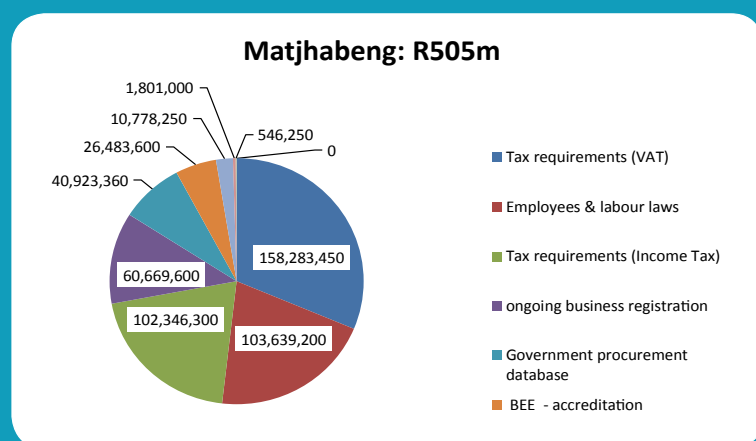
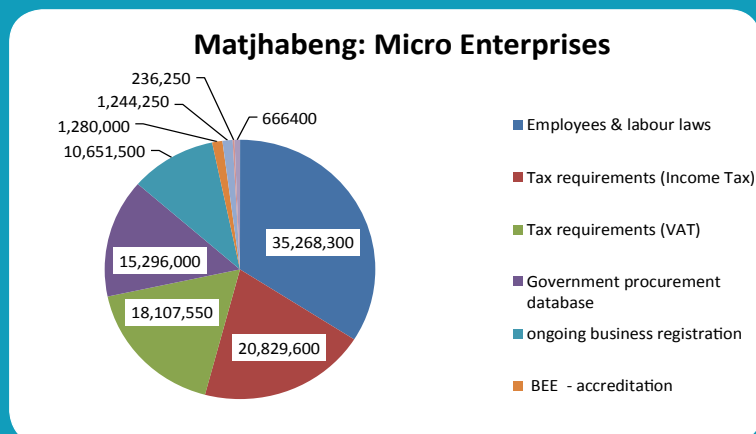




Figure 3.11: Total compliance cost for Micro Businesses in Matjhabeng



There were no large businesses in the Matjhabeng sample. With the closing of most of the mines over the past five to seven years, most of the bigger companies moved out to where there were new market opportunities. Those that stayed behind experienced a decrease in their turnover due to declining business activities.

Figure 3.12: Total compliance cost for Very Small Businesses in Matjhabeng

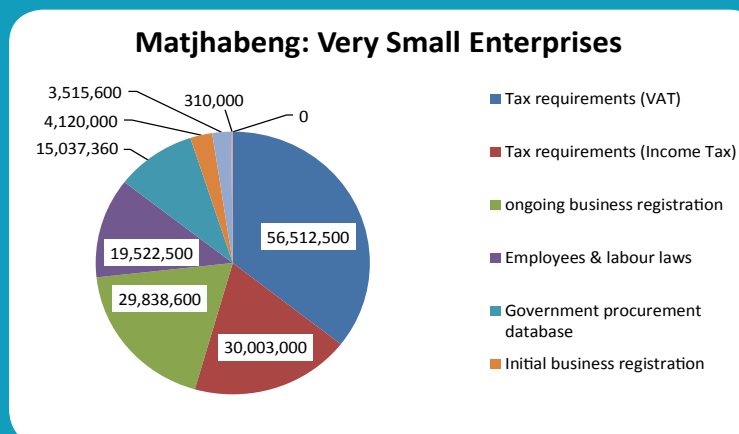


Figure 3.13: Total compliance cost for Small Businesses in Matjhabeng

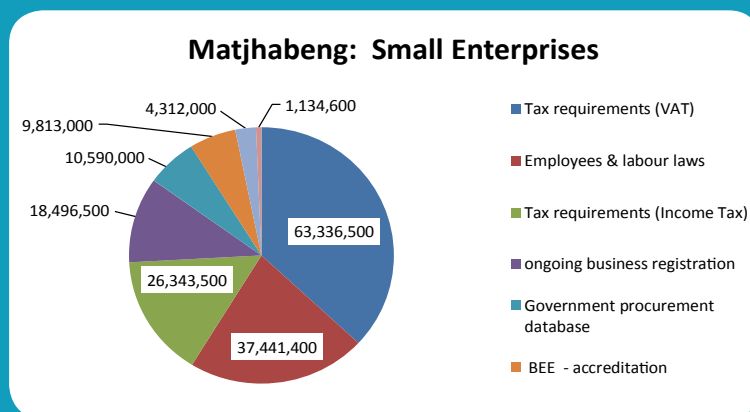
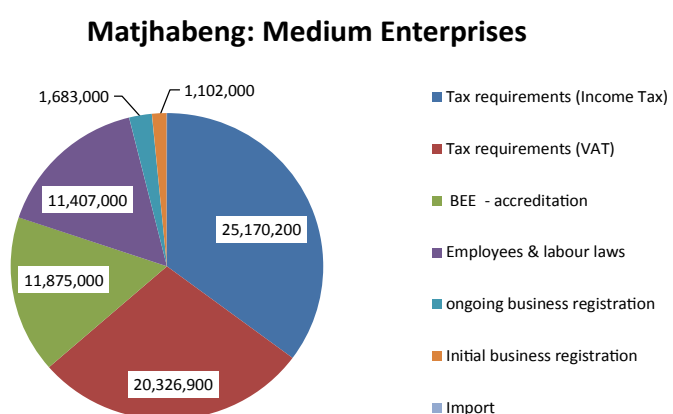


Figure 3.14: Total compliance cost for Medium Businesses in Matjhabeng





Annex C: Summary of legislations

SME Regulatory Evaluation Framework for Businesses in SA

Various legislative and regulatory policies exist which are mandatory for the application, registration and implementation process of creating a small business. These different statutory requirements regulate the operation and standardisation of the SMME environment of South Africa. In order to gain full perspective on the current SMME registration status quo in the Free State, it is imperative to elucidate the various applicable legislative and regulatory requisites for establishing and operating a small business in the Province. These requisites include, inter alia, State laws, municipal by-laws, tax regulations, labour protocols and various acts pertaining to corporation and business functions.

The contribution of Local Government in the Free State to these factors varies and may be direct or indirect. The legislative mandate

and powers of Local Government is based on National Legislation and Policies. The Constitution does, however, provide a level of regulatory independence for Local Government in South Africa. For example, Municipalities are not allowed to advance loans to SMMEs but efficient business licensing and registration could facilitate access to private loans for small business. Similarly, the Free State Provincial Government could process gambling and liquor applications more efficiently. Municipalities also have the independent right to regulate (i.e. approve or disapprove) land-use applications for development. The conclusion here is that while SMME Development Policy falls mainly in the sphere of National Government, there are many elements at Provincial and Local Level that create or hinder the business environment in which SMMEs operate.

The following table represents a summary of all the different regulations (legislation) that form part of the South African business environment (SMME's).

Table A.1: Summary of applicable legislation

The Companies Act of South Africa (2008)	<ul style="list-style-type: none"> • The Companies Act (2008) provides the regulatory framework for registering a business in South Africa. The main institution involved in the process is the Companies and Intellectual Property Commission (CIPC) which merged the previous <i>Office of Companies and Intellectual Property Enforcement (OCIPE)</i> & the <i>Companies and Intellectual Property Registration Office (CIPRO)</i>. • Different types of companies must comply with different rules. This means smaller companies have less arduous responsibilities than large public companies when it comes to corporate governance and financial reporting. • Shareholders have extensive rights to obtain information from the company, including access to the securities register and minutes of directors meetings. • The new Companies Act of 2008 retains the main accepted principles involved in the registration of company names, however, the practice of name reservation, is no longer mandatory and name registration is no longer a separate, pre-registration process. The administrative discretion of the Act of 1973 with regards to company names no longer applies. This implies that companies may now use symbols as part of their company names and that all languages are allowed, as well as the translation of names.
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Table A.1: Summary of applicable legislation (*continued*)

The Companies Act of South Africa (2008) (<i>continued</i>)	<ul style="list-style-type: none"> • All companies' constitutional documents will now consist of only one document, the Memorandum of Incorporation (Mol). Certain specific requirements on the content of a Mol must be met in order to protect the interests of all shareholders in the company. Furthermore, it provides a quantity of default rules which companies may either accept or modify to meet their specific needs. • The Companies Act 2008 provides for a shift away from par value as a means of capital maintenance to one of liquidity and solvency. Solvency test must be applied if the company purchases its own shares back from a shareholder, if a company's subsidiary purchases shares in the holding company, if the company provides financial assistance to any individual to purchase company shares or subscribe to company shares, if the company makes any distribution (including dividends), if the company provides a director with financial assistance or if the company becomes party to a statutory merger. • A new feature is that an act of a company is not void solely because the company did not have the capacity to do the act or the directors did not have the authority to perform the act on behalf of the company. No person may rely on this lack of capacity, power or authority in legal proceedings, except in certain specified circumstances. A company is specifically prohibited from reckless, negligent or fraudulent trading and persons who were knowingly party to such conduct are guilty of an offence. • New rules relate mergers and amalgamations, allowing two companies to merge into one entity, provided that the solvency and liquidity test is satisfied and certain approvals are obtained. • Companies are now classified as either profit companies (namely personal liability companies, state-owned companies, public companies and private companies) or non-profit companies (those incorporated for public benefit) • Personal liability companies: Names must end in "Inc." or incorporated. • State-owned companies: Names must end in "SOE Ltd." • Public companies: Allowed to offer shares to the public but their right of pre-emption is limited. Names must end with "Limited" or "Ltd." The incorporators must consist of at least one person – a juristic person, as provided under section 1 of the Act. Must have at least three directors. • Private companies: May now have more than 50 shareholders. Names must end with "Proprietary Limited" or "(Pty) Ltd." and must have at least one director. • Non-Profit companies: Replace companies limited by guarantee and Section 21 companies. Names must end with "NPC". Requires a minimum of three directors. NPC's are subject to a varied application of the Act, as set out in section 10. • Closed Corporations: Once the Companies Act, 2008 came into operation, it was no longer possible to register any new close corporations, nor may companies be converted into closed corporations. Existing CC's will exist indefinitely and be treated as private companies.
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Table A.1: Summary of applicable legislation (continued)

The Bills of Exchange Act (1964)	<ul style="list-style-type: none"> • This Act forms the foundation of commercial law in South Africa and is directly applicable to the way in which SMEs conduct business. • Bills of exchange (and therefore cheques) are payable to a bearer or to order, or may be non-transferrable. • A cheque is only payable to a bearer if it is expressly stated on the cheque as “payable to bearer”, “cash”, “cash or bearer” or “cash or order” • A bill is deemed to be non-transferrable if it is endorsed to be paid to a certain individual or if it contains words prohibiting any transfer. This applies to cheques as well, although the 2000 amendment to the Act allows for a specific non-transferable cheque. • By signing and delivering a bill of exchange (a cheque) the drawer of the cheque understands that the cheque will be honoured by the drawer.
The Income Tax Act (1962)	<ul style="list-style-type: none"> • This Act was written to consolidate the law relating to the taxation of incomes and donations, to provide for the recovery of taxes on persons, to provide for the deduction by employers of amounts from the remuneration of employees in respect of certain tax liabilities of employees, and to provide for the making of provisional tax payments and for the payment into the National Revenue Fund of portions of the normal tax and interest and other charges in respect of such taxes, and to provide for related matters.
The Value Added Tax Act (1991)	<ul style="list-style-type: none"> • The Value Added Tax Act, 1991, stipulates that Value Added Tax or VAT is an indirect and destination based tax, based on consumption in the economy – presently levied at 14%. Revenue is raised for the government by requiring certain traders (vendors) to register and to charge VAT on taxable supplies of goods or services. • VAT applies generally to transactions related to goods and services, it is proportional to the price charged for the goods and services and it is charged at each stage of the production and distribution process, but the burden of the tax is on the final consumer). • VAT is only charged on taxable supplies made by a vendor but does not include: salaries and wages, hobbies or any private recreational pursuits (not conducted in the form of a business), occasional private sale of personal or domestic items or exempt supplies. • The importation of services is only subject to VAT where the importer is not a vendor, or where the services are imported for private or exempt purposes. • Vendors who make taxable supplies in excess of R1 million in any consecutive 12-month period are liable for compulsory VAT registration, but a vendor may also choose to register voluntarily provided that the minimum threshold of R50 000 has been exceeded in the past 12-month period. Any vendor who carries on an enterprise and whose total value of taxable turnover exceeds, or is likely to exceed, the compulsory VAT registration threshold, must register for VAT. • Vendors are required to ensure that VAT is collected on taxable transactions, that they submit returns and payments on time, that they issue tax invoices where required and that they include VAT in all prices advertised or quoted. • The VAT collected by vendors is paid to SARS every two months, but where the value of taxable supplies in a 12 month periods exceeds R30 million, the vendor must account for VAT on a monthly basis. Certain farming enterprises are allowed to pay VAT on a bi-annual basis and small businesses with taxable supplies less than R1.5 million in any consecutive 12-month period may pay their VAT every four months.

Table A.1: Summary of applicable legislation (continued)

Small Business Tax Amnesty and Amendment of Taxation Laws Act (2006)	<ul style="list-style-type: none"> The purpose and objective of the tax amnesty is to, broaden the tax base, facilitate the normalisation of the tax affairs of small businesses, increase and improve the tax compliance culture and to facilitate participation in the tax recapitalisation programme. Certain requirements must be met in order to apply for tax amnesty such as: the individual or entity must have carried on a business, the turnover of the business during the 2006 year of assessment was not more than R10million, in the case of a company or close corporation all the shares or members' interests were held directly by individuals throughout the 2006 year of assessment and in the case of a trust all the beneficiaries of that trust throughout the 2006 year of assessment must have been natural persons.
The Broad Based Black Economic Empowerment Act (2003)	<ul style="list-style-type: none"> B-BBEE has been adopted as an initiative of the South African Government aimed at promoting economic transformation in order to enable meaningful participation of black people in the economy. The Codes of Good Practice on B-BBEE specifically set about defining the seven measurable scorecard elements - each with a relative weighting. These elements are: Ownership (Equity Ownership 20%, Management 10%, Employment Equity 15%, Skills Development 15%, Preferential Procurement 20%, Enterprise Development 15% and Socio-Economic Development 5%. The compliance requirements for B-BBEE, varies according to the size of the entity, as measured by the annual turnover. If the annual turnover is less than R5 million per annum, such an enterprise is classified as an Exempt Micro Enterprise (EME), thus a Level 4 or Level 3 Contributor to B-BBEE. The company's clients can claim at least 100% of their procurement spent with the company. Should the turnover be between R5 million and R35 million per annum, the company is classified as a Qualifying Small Enterprise (QSE). These entities are only measured on the best four sections towards their own B-BBEE scorecard. If the turnover exceeds R35 million per annum, the company must comply with the Generic scorecard, which consists of seven sections. The company specific information is tested against the various criteria in each section. BEE Certificates can be issued by any Verification Agency so long as they are approved to do so by SANAS (South African National Accreditation System). The Certificate can only be issued once a full verification has been performed and the documentation presented by a company has been verified. The Preferential Procurement Regulations relating to the Preferential Procurement Policy Framework Act stipulate the use of an organisation's B-BBEE Scorecard level in evaluating B-BBEE performance for government contracts.

Table A.1: Summary of applicable legislation (*continued*)

Competition Act (as amended by the Competition 2nd Amendment Act)	<ul style="list-style-type: none"> The purpose of this Act is to promote and maintain competition in the Republic in order to promote the efficiency, adaptability and development of the economy; to provide consumers with competitive prices and product choices; to promote employment and advance the social and economic welfare of South Africans; to expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic; to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons. This Act applies to all economic activity within, or having an effect within, the Republic. The Competitions Act is concerned with practices that restrict competition and any practice that abuses a dominant position.
The Labour Relations Act (1995)	<ul style="list-style-type: none"> This Act regulates the organisational rights of trade unions and promotes and facilitates collective bargaining at the workplace and at sectoral level. It also deals with strikes and lockouts, workplace forums and alternative dispute resolution. It also establishes the CCMA, Labour Court and Labour Appeal Court as superior courts, with exclusive jurisdiction to decide matters arising from the Act.
Consumer Protection Act (2008)	<ul style="list-style-type: none"> The Consumer Affairs (Unfair Business Practices) Amended Act no 21, 2001 was established in order to provide for the prohibition or control of certain business practices and for matters connected therewith and sets out the minimum requirements to ensure adequate consumer protection in South Africa. The purpose of the Act is to promote a fair, accessible and sustainable marketplace for consumer products and services and for that purpose to: establish national norms and standards relating to consumer protection, to provide for improved standards of consumer information, to prohibit certain unfair marketing and business practices, to promote responsible consumer behaviour, to promote a consistent legislative and enforcement framework relating to consumer transactions and agreements, to establish the National Consumer Commission, to repeal, inter alia, the Consumer Affairs (Unfair Business Practices) Act.
The Industrial Development Amendment Act (2001)	<ul style="list-style-type: none"> The purpose of the Act is to amend the Industrial Development Act, 1940, so as to adjust and add to the objects and powers of the Industrial Development Corporation of South Africa, Limited; to extend the activities of the corporation beyond the borders of the Republic for the benefit of the Southern African region specifically and the rest of Africa generally; to empower the managing director to delegate his or her powers to other structures of the corporation; and to repeal obsolete provisions; and to provide for matters connected therewith.

Table A.1: Summary of applicable legislation (continued)

The International Trade Administration Act (2002)	<ul style="list-style-type: none"> The aim and purpose of the trade administration Act is to establish the International Trade Administration Commission, to provide for the functions of the Commission and for the regulation of its procedures, to provide for the implementation of certain aspects of the Southern African Customs Union (SACU) Agreement in the Republic, as well as to provide, within the framework of the SACU Agreement, for continued control of import and export of goods. It also aims to amend customs duties and to provide for matters connected therewith. The objective of the Act is to foster economic growth and development in order to raise incomes and promote investment and employment in the Republic and within the Common Custom Area by establishing an efficient and effective system for the administration of international trade subject to this Act and the SACU agreement.
Close Corporations Amendment Act (2001)	<ul style="list-style-type: none"> The main intention of the Close Corporations Act is to provide a means of conducting business through a less complex and more easily administered legal entity than a company formed in terms of the Companies Act. The administrative complexities associated with a company are avoided, making a close corporation simpler and less expensive to operate.
The Co-operatives Act (2005)	<ul style="list-style-type: none"> The objectives of the Act are to uphold the values of self-help, self reliance, self-responsibility, democracy, equality and social responsibility. The purpose of the Act is to: 1) promote the development of sustainable Co-operatives that comply with Co-operative principles, thereby increasing the number and variety of economic enterprises operating in the formal economy, 2) encourage persons and groups who subscribe to values of self-reliance and self-help, and who choose to work together in democratically controlled enterprises, to register Co-operatives in terms of this Act, 3) enable such Co-operative enterprises to register and acquire a legal status separate from their members, 4) promote equity and greater participation by black persons, especially those in rural areas, women, persons with disability and youth in the formation of, and management of, Co-operatives, 5) establish a legislative framework that preserves a Co-operative as a distinct legal entity, 6) facilitate the provision of support programmes that target emerging co-operatives, specifically those Co-operatives that consist of black persons, women, youth, disabled persons or persons in the rural areas and that promote equity and greater participation by its members, 7) ensure the design and implementation of the Co-operative development support programmes by all the agencies of national departments including but not limited to NEF, NPI, SEDA, IDC, SAQI, SABS, CSIR, PIC, DBSA, SALGA and SETA's, and compliance with uniform norms and standards prescribed by this Act, 8) ensure the design and implementation of the Co-operative support measures across all spheres of government, including delivery agencies, and adherence to a uniform framework of established norms and standards that reflect fairness, equity, transparency, economy, efficiency, accountability and lawfulness; and 9) facilitate the effective co-ordination and reporting mechanism across all spheres of government through the department.



Table A.1: Summary of applicable legislation (continued)

The Skills Development Amendment Act (2008)	<ul style="list-style-type: none"> • The Skills Development Act, as amended in 2003 as well as in 2006 for the proposed amendments to SETAs, aims to develop the skills of the South African workforce and to improve the quality of life of workers and their prospects of work. Its goal is to improve productivity in the workplace and the competitiveness of employers and to promote self-employment. • The purposes of the Act are: 1) to develop the skills of the South African workforce; 2) to increase the levels of investment in education and training in the labour market and to improve the return on that investment; 3) to encourage employers; 4) to encourage workers to participate in learnership and other training programmes; 5) to improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education; 6) to ensure the quality of education and training in and for the workplace; 7) to assist work-seekers to find work; and 8) to provide and regulate employment services.
The Unemployment Insurance Contributions Act (2002)	<ul style="list-style-type: none"> • The unemployment insurance fund contributions (UIF contributions) insure employees against the loss of earnings due to termination of employment, illness and maternity leave. In terms of the Unemployment Insurance Contributions Act, No 4 of 2002, both the employer and the employee have to make a contribution to the Unemployment Insurance Fund. The contributions made by each of them are calculated as 1% of the gross remuneration (before the deduction of pension fund, retirement fund and qualifying medical aid contributions) paid or payable by the employer to the employee for services rendered. • An employer who is not liable for the payment of employees' tax and/or SDL must register for UIF purposes with the Unemployment Insurance Commissioner at the Department of Labour. The maximum earnings on which UIF contributions may be calculated have been increased to R149 736 per annum, R12 478 per month or R2 879-53 per week with effect from 1 February 2008.
Occupational Health and Safety Act (1993)	<ul style="list-style-type: none"> • The aim of this Act is to provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work; to establish an advisory council for occupational health and safety; and to provide for matters connected therewith.
Compensation for Occupational Injuries and Diseases Amendment Act (1997)	<ul style="list-style-type: none"> • The purpose of the Act is to amend the Compensation for Occupational Injuries and Diseases Act, 1993, so as to define, substitute or delete certain expressions; to transfer certain functions to the Director-General and to make the Director-General accountable for the compensation fund. • The Act also aims: to allow the Director-General to delegate his or her powers; to alter the commissioner's functions; to provide for the payment of compensation to assessor's dependants, to further regulate the composition of the Compensation Board; to remove the duty on employers to provide first aid; to further regulate the assessment of employers; to provide for the payment of interest on overdue assessments; to further regulate objections and appeals against decisions of the Director-General; to provide that the Minister must consult with the Compensation Board before he or she makes regulations; to further regulate the manner in which compensation is calculated and to effect certain textual alterations and to provide for matters connected therewith.

Table A.1: Summary of applicable legislation (continued)

The Corporate Laws Amendment Act (2006)	<ul style="list-style-type: none"> • The Amendment Act's principal provisions impact on: the auditing and accounting requirements for companies; the prohibition on the provision by companies of financial assistance for the acquisition of their own shares; the requirements for a prospectus; and the requirement for shareholder approval for disposals by companies of their assets. • For accounting and auditing purposes, all companies will be classified as either "widely held" or "limited interest" companies, and any company that does not fall into the category of widely held companies will be a limited interest company. The purpose behind the new classification is the application of more stringent accounting and auditing requirements to widely held companies on the basis of the assumption that the broader public has a greater interest in the affairs of these companies. • A company will be classified as a widely held company if: its articles provide for an unrestricted transfer of its shares; it is permitted by its articles to offer its shares to the public; it decides by special resolution to be a widely held company; or it is a subsidiary of a widely held company.
The Liquor Act (2003) and Liquor Products Amendment Act (2008)	<ul style="list-style-type: none"> • The Liquor Act (No. 59 of 2003) came into effect on 13 August 2004. Before proclamation, provincial Liquor Authorities were responsible for the regulation of all the value chain categories of the Liquor Industry. The Act provides for the manufacturing and distribution of liquor to be regulated at national level while micro manufacturing and retailing continue to be regulated at provincial level. A new National Liquor Authority (NLA), is responsible for administration of the Act. The NLA will receive, evaluate and recommend to the Minister applications for national manufacturing and distribution licenses and related matters. • An important aspect of the new Act is social responsibility. Those wishing to register must set out their commitment to black economic empowerment, and their proposed contribution to combating alcohol abuse, as well as how they will restrict or promote job creation, diversity of ownership, exports, competition, new entrants to the industry and efficiency of operation. Failing to meet these commitments can result in a review of or placing new conditions on registration.
Measurement Units and Measurement Standards Act (2006)	<ul style="list-style-type: none"> • The purpose of this act is to provide for the development, promotion and maintenance of standardisation and quality in connection with commodities and the rendering of related conformity assessment services; and for that purpose to provide for the continued existence of the SABS, as the peak national institution; to provide for the establishment of the Board of the SABS; to provide for the repeal of the Standards Act, 1993; to provide for transitional provisions; and to provide for matters connected therewith. • Furthermore, the Act aims to: 1) provide for the continuation of the SABS as the peak national standardisation institution in South Africa responsible for the development, maintenance and promotion of South African National Standards; 2) ensure provision of an internationally recognised standardisation system that continue to support the needs of South African enterprises competing in a fast paced global economy; 3) promote South African National Standards as a means to facilitate international trade and enhancing South Africa's economic performance and transformation.



Table A.1: Summary of applicable legislation (continued)

Private Security Industry Regulation Act (2001)	<ul style="list-style-type: none"> The Act provides for the regulation of the private security industry, to establish a regulatory authority for that purpose and to provide for matters connected therewith. It also stipulates regulations for the following: Code of conduct for security service providers; improper conduct enquiries regulations; Persons prohibited from performing certain acts unless registered as security officers; Private security industry regulations; Security officers regulations and training of security officers regulations.
Second-Hand Goods Act (2009)	<ul style="list-style-type: none"> The Act will replace the out-dated Second-Hand Goods Act of 1955 (Act No 23 of 1955) and covers a wide range of activities from pawn shop activities to large metal recyclers. It aims to implement compliance monitoring by industry associations as well as focusing on cable theft and its deleterious effect on infrastructure. The central purpose of the Act is to regulate the business of dealers in second-hand goods and pawnbrokers, in order to combat trade in stolen goods, to promote ethical standards in the second hand goods trade and to provide for matters connected therewith.
Standards Act (2008)	<ul style="list-style-type: none"> The purpose of the Act is to provide for the development, promotion and maintenance of standardisation and quality in connection with commodities and the rendering of related conformity assessment services; and for that purpose to provide for the continued existence of the SABS, as the peak national institution; to provide for the establishment of the Board of the SABS; to provide for the repeal of the Standards Act, 1993; to provide for transitional provisions; and to provide for matters connected therewith. Furthermore, the Act aims to: 1) provide for the continuation of the SABS as the peak national standardisation institution in South Africa responsible for the development, maintenance and promotion of South African National Standards; 2) ensure provision of an internationally recognised standardisation system that continue to support the needs of South African enterprises competing in a fast-paced global economy; 3) promote South African National Standards as a means to facilitate international trade and enhancing South Africa's economic performance and transformation.
National Regulator for Compulsory Specifications (NRCS) Act (2008)	<ul style="list-style-type: none"> The Act's main purpose is to provide for the establishment of the National Regulator for Compulsory Specifications of South Africa, to provide for the appointment of the Board of the National Regulator, to provide for the administration and maintenance of compulsory specifications in the interests of public safety and health or for environmental protection and to provide for matters connected therewith. Furthermore, the Act intends to: 1) Promote the rights and obligations of government to protect the health and safety of the public and the environment; 2) Establish the national regulator for compulsory specifications of South Africa to be responsible for the administration and maintenance of compulsory specifications and the implementation of a regulatory and compliance system for compulsory specifications; and 3) Provide for market surveillance by the national regulator in order to ensure compliance with the compulsory specifications and to provide for sanctions for non-compliance to compulsory specifications.

Table A.1: Summary of applicable legislation (continued)

Trade Practices Amendment Act (2001)	<ul style="list-style-type: none"> The aim of the Act is to amend the Trade Practices Act, 1976, so as to provide for the prohibition of certain practices relating to sponsored events and to increase the penalties for the contravention of, or failure to comply with, the provisions of the said Act; and to provide for matters connected therewith.
The Consumer Affairs (Unfair Business Practices) Act (1988)	<ul style="list-style-type: none"> This Act provides for the prohibition and control of certain business practices, as well as the establishment of the consumer affairs committee and was amended by, inter alia, the National Credit Act 34 of 2005, the Consumer Affairs (Unfair Business Practices) Act 21 of 2001. The Act is an enabling Act and not prescriptive. It prohibits nothing, although its message to businesses is clear - do not to get involved with unfair business practices.
National Small Enterprises Act	<ul style="list-style-type: none"> National Small Business Amendment Act 26 of 2003 The Act was promulgated in order to amend the National Small Business Act, 1996, so as to repeal all provisions pertaining to the National Small Business Council. It also empowers the Minister to facilitate and establish an Advisory Body to represent the interests of small business and aims to make the Public Finance Management Act, 1999, applicable to the Agency. Furthermore, the Act makes further provision in respect of the functions of the Agency; to do away with the requirement of calling for nominations for directors of the Board by notice in the Gazette, to repeal the provisions pertaining to alternate directors and to substitute the Schedule to that Act, in order to reflect the current economic position; also to provide for matters connected therewith. National Small Business Amendment Act, No 29 of 2004 This Act amended the National Small Enterprises Act, 1996 to provide for the establishment of the Small Enterprise Development Agency and to repeal all provisions relating to the Ntsika Enterprise Promotion Agency. It also amended the name of the principal Act from National Small Business Act to the National Small Enterprises Act.
Business Names Act, 1960 (repealed by Consumer Protection Act 68 of 2008)	<ul style="list-style-type: none"> The National Consumer Protection Act now provides for the regulatory framework with regards to business names and their registration.
Businesses Act (1991)	<ul style="list-style-type: none"> The Business Act 71 of 1991, as amended in the Government Gazette 15374, to be known as the Businesses Amendment Act 186 of 1993, has the responsibility of regulating the licensing of certain business entities. It also aims to empower local authorities to implement by-laws regarding the conducting of business by such entities as street vendors, pedlars or hawkers.



Table A.1: Summary of applicable legislation (continued)

Non-profit Organisations (1997)	<ul style="list-style-type: none"> • The primary purpose of this Act is to encourage and support organisations in a wide range of work they do by creating an enabling environment for NPOs to flourish and by setting and maintaining adequate standards of governance, accountability and transparency. • The Act provides a voluntary registration facility for NPOs. A non-profit organisation is defined as: a trust, company or other association of persons: (1) established for a public purpose, and (2) the income and property of which are not distributable to its members or office bearers except as reasonable compensation for services rendered. • The directorate can only register an organisation that has a constitution or any other founding document. Registering a non-profit organisation is free of charge.
Regulations for the Winding-up and Judicial Management of Companies	<ul style="list-style-type: none"> • Despite the fact that the Companies Act of 1973 has been repealed by the new Companies Act of 2008, the Regulations for the Winding-up and Judicial Management of Companies (of 1973) are still in effect. Some of the salient aspects of the Act which are incorporated into the new Companies Act include a regulatory framework for the liquidation (winding up) and judicial management of companies.
Regulations for the Retention and Preservation of Company Records (1983)	<ul style="list-style-type: none"> • The Act aims to clarify and regulate how and for how long companies should retain records of their business. • Some of the salient aspects of the Act are the following: 1) A company may reproduce, or cause to be reproduced, any record to be kept by it under the Act on microfilm or electronically; 2) A reproduction of any original record of a Company on microfilm or electronically, shall be certified by a director or officer of the Company to be a true and accurate reproduction of the original of such record and such certificate shall be in the prescribed form; 3) Any reproduction shall, for all purposes, be deemed to be the original record of the Company concerned, and a copy obtained by means of such reproduction and which has been certified by a director or officer of that Company as a true copy of such reproduction, shall be admissible in evidence, and shall be effective in law as if it were the original record concerned.

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About the ILO's ENTERPRISES Department

Promoting sustainable enterprises is about strengthening the institutions and governance systems which nurture enterprises – strong and efficient markets need strong and effective institutions. It is also about ensuring that human, financial and natural resources are combined equitably and efficiently in order to achieve innovation and enhanced productivity. This calls for new forms of cooperation between government, business, labour and society at large to ensure that the quality of present and future life and employment is maximized whilst safeguarding the sustainability of the planet. The ILO's Sustainable Enterprise Development Programme is a core element of the Global Employment Agenda which, as the employment pillar of the Decent Work Agenda, provides guidance for the attainment of full and productive employment and Decent Work for all .

The following units and programmes form the ENTERPRISES Department:

- Small and Medium Enterprises Unit (SME)
- The Cooperatives Unit (EMP/COOP)
- The Multinational Enterprises Unit (EMP/MULTI)
- The Green Jobs Programme
- The Social Finance Programme

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