

June 12, 2017

Legal Compliance for Business Owners



Do you know what the legal requirements are when setting up a business?

There seems to be so many legal requirements when setting up a business that it can be overwhelming; sometimes it's hard to know where to start, and whether or not you're doing everything you're legally obliged to do.

For this purpose we have compiled a reference guide for business owners. In *part one of business legal compliance* we have already discussed Business Entity regulation as well as Labour and Employment Equity laws.

In this second part we discuss the POPI Act, Consumer Protection and Intellectual Property as well as Tax laws.

THE PROTECTION OF PERSONAL INFORMATION ACT

Access to information and the protection of certain types of information in South Africa are mainly regulated by the *Promotion of Access to Information Act (PAIA)* and the *Protection of Personal Information Act (POPI)*.

Every business and organisation, irrespective of their nature, have in their possession certain information that must be protected in their own interest, which includes but is not limited to:

- business trade secrets
- personal information of other entities or individuals, such as employees, clients, customers, etc.

Failure to comply with this legislation (information compliance) could have far-reaching criminal and civil implications for the organisation's head and directors. Businesses are compelled by law to compile, submit and streamline certain documents on a regular basis. *Policies developed in terms of the PAIA and POPI are very important legal documents* and require specialised attention to withstand future legal scrutiny and fully protect the business or organisation.

PROTECTION OF INTELLECTUAL PROPERTY LAWS

Intellectual property law deals with the rules for securing and enforcing legal rights to inventions, designs and artistic works.

The *Intellectual Property Laws Amendment Act, No. 38 of 1997* offers protection to the business owner for the production of work done by an employee while employed by the business (employer). The legal protection of intellectual property safeguards the capturing of exclusive rights and protection against abuse by corporations or individuals.

In South Africa, the intellectual property division of the *Companies and Intellectual Property Registration Office (CIPRO)* is in charge of the registration of trademarks, patents, designs and copyright. This division of CIPRO retains records of all:

- trademarks
- patents
- designs
- and copyright lodged in South Africa, including specific details of the owners/proprietors.

CONSUMER PROTECTION LAWS

Consumer law applies to your business, whether you act as the supplier or consumer of a product or services. The purpose of the *Consumer Protection Act* is:

- to protect the interests of all consumers
- ensure accessible, transparent and efficient restitution for consumers who are subjected to abuse or exploitation in the marketplace
- and also give effect to internationally recognised consumer rights.

The Act inaugurates standards relating to consumer protection in terms of pricing, complaint processes, refunds and return of products.

TAX LAWS

Whether you're running a partnership, a private company or a sole proprietorship, you have to be registered with the South African Revenue Services (SARS).

If you've registered a company with CIPC, you'll automatically be registered as a tax payer with SARS. Sole proprietors or partners need to register as provisional tax payers. Take note of the following:

- The *Income Tax Act, No. 58 of 1962* is applicable to most businesses and regulates all and any form of income (both business and personal). Different tax rates apply to different sizes of businesses.
- Complying with tax legislation such as the *Value-Added Act, No. 89 of 1991* is a reality for any business. If your turnover is - or is likely to be - R1 million a year or more, you need to register as a VAT (Value-Added Tax) vendor.
- Ensure that your business complies with tax legislation to avoid breaking the law unknowingly. For more information on the different business tax laws applicable to your business, visit *SARS* directly.

Business owners have a responsibility to ensure that their business complies with the necessary legal requirements, as non-compliance could lead to penalties and have far-reaching consequences.

Our legal team at *SERR Synergy* assist business owners to make sense of South Africa's stringent laws. We provide local and international businesses, across a broad spectrum of industries, with the necessary tools and skills to meet South Africa's business legislative requirements.

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