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## THE COMPLIANCE CHALLENGES OF SMALL, MEDIUM AND MICRO ENTERPRISES IN SOUTH AFRICA

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### Abstract

The Small, Medium and Micro Enterprises (SMMEs) play a crucial role in the development of South African economy through job creation and improving the standard of living. Despite their importance, majority of these SMMEs are facing compliance challenges. The study seeks to identify compliance challenges of SMMEs in terms of the company act and the impact on their ability to conduct business while remaining competitive and legal in South Africa. This study was conducted in Gauteng province of South Africa. The study applied a qualitative, interpretive approach. The thematic analysis through inductive process was used to analyze the interview responses collected from the participants. The main findings reveal that the uneven business environment has rendered the prosperity and growth of small business impossible. That impossibility is attributed to the lack of capacity and skill to comply with the burden of the company act, given the uneven ground of competition on which large enterprises are more experienced and resourceful. The value of this study is the proposed solution to the current compliance challenges which most SMMEs face and impede their growth. The study recommends that the government offer tax rebates and incentives for SMMEs.

**Keywords:** Compliance Challenges, Poverty, SMMEs, Unemployment, Barriers, South Africa

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### 1. Introduction

The Small, Medium and Micro Enterprises (SMMEs) play a crucial role in the development of South African economy through job creation and improving the standard of living (Madzimure, 2020). The challenges encountered by SMMEs are numerous (Michael, 2015). These challenges are affecting these small businesses in their daily operations, and one such significant challenge is around compliance with government's legislative framework. Compliance refers to the act of conforming, acquiescing, or yielding to rules or laws as enacted by government (BMJ, 2013). Compliance is an expensive process, and this affects the viability and sustainability of such small enterprises (BJM, 2013). Compliance takes time and time means money and lost opportunities for those SMMEs who take time to comply. This also may mean losing the battle in the marketplace where it hurts the bottom line.

The lack of skills and poor education among the owners of these start-ups enterprises exacerbate and compound the problem as outsourcing of such skills as accounting, legal skills

and other services, which are highly technical such as taxation and governance. The same sentiments are echoed by Mbedzi (2011), who argued that comparative to other developing countries, the contribution to job creation and economic growth by South Africa's SMMEs is still low and it is the result of poor or inadequate training in entrepreneurship. Education and training are essential if at all, the challenges, which these SMMEs must be addressed, especially focus on the training of entrepreneurship.

Governments all over the world are battling with unemployment especially in emerging markets. SMMEs are regarded as the viable solution to unemployment (Brand South Africa, 2019). According to Chimucheka (2014), great deal of social ills that are facing South Africa and other African nations is as the result of high levels of unemployment. The unemployment challenge is worsening instead of getting better. In 2014 according to Stats SA (2014) and GEM (2014), unemployment figures stood at 25%, in 2017 the figure is 27.7% (Stats SA, 2017), and in 2019 the figure is 29.1% (Stats SA, 2019). The 2008 global economic recession worsened the situation. According to BMJ (2013) and Rogerson (2008), the economic crisis has had a far-reaching impact on countries around the world. They further postulate that there was turmoil in the banking sector in United Kingdom that led to downturns in stock markets bankruptcies, housing repossessions, as well as rises in unemployment.

There are compliance challenges SMMEs confront and deter in the whole country, not only in Benoni. The government today is faced with the challenge of unemployment and one of the ways to curb this epidemic is to encourage the SA citizens to start SMMEs so that they will not only create employment for themselves, but they will also employ others.

Although the government has tried to ease the registration of start-up companies, which now can be done online, this should be commended as the step in the right direction; however, on the issue of compliance with a variety of legislative frameworks, there are still many challenges these SMMEs confront. The study seeks to identify compliance challenges of small businesses in terms of the company act and the impact on their ability to conduct business while remaining competitive and legal in the Benoni area. The nexus of the research is what are the challenges SMMEs face in the Benoni about the compliance as prescribed by the company act.

There is comparatively little research in the South Africa about the SMMEs and the compliance challenges they have been facing in the recent years. The study also contributes to the body of knowledge that will help decision makers both in the management of the SMMEs as well as policy makers in the South African government. Many businesses rely on their good standing from the compliance perspective to tender or do business successfully. Yet, many companies are facing capacity problem and cannot comply with all the regulations as prescribed by the company act. That has slowed down their ability to compete on a very aggressive market characterized by the presents of many big players, with a lot of resources and experience. Lastly, the research will help the SMMEs owners to have full appreciation and understanding of the challenges, the impact, possible mitigating strategies and treatment plans for their SMMEs while filling the knowledge gap.

## 2. Literature review

Compliance refers to the act of following set guidelines as well as rules and regulations (Dean and Tustin, 2003). Van Eeden *et al.* (2003) and Mollent (2002) defines compliance as a state in which someone or something is in accordance with guidelines, specifications, or legislation. Rules, regulations and laws are established in order to be followed and obeyed and be complied with. The laws create harmony in society, and they benefit society at large. The frequency of the changes especially with some SARS tax regime deters the SMMEs to fail to be abreast of new developments.

According to the South African National Small Business Act 102 (1996), 'small business' means a unconnected and dissimilar commercial entity (including co-operative businesses and non-government businesses) run by one proprietor or above which, embracing its subdivisions or affiliates (if somewhat) is mainly done in any division or subdivision of the economy and which can be categorized as a smallest business, a very smallest business entity or a medium business entity. The SMMEs can further be grouped

into different categories. Dean and Tustin (2003) puts SMMEs into five categories, chiefly, micro, very small, survivalist, small and medium enterprises. The grouping of these SMMEs entirely relies on the sector in which the business finds itself operating. When categorizing, each sector has its own determinants, which act as the minimum requirements for example the number of workers employed, the annual turnover as well as the total assets value the company has.

Studies have been carried out in the world including South Africa that looked at the area of the impact of SMMEs especially work issues and the provision of work opportunities and the input towards the economy. According to Pellissier and Nenzhelele (2013), the significance of SMMEs in generating jobs and financial wealth is internationally recognized.

The SMMEs are a good catalyst for employment formation in the world's economies. According to Olawale and Garwe (2010) and Pellissier and Nenzhelele (2013) SMMEs retain 95% of the world's salaried population and are the chief basis of work in emerging economies. Furthermore, subsequently, authorities across nations give attention to the expansion of the SMMEs segment of the economy to stimulate economic development. In South Africa, the SMMEs contribute a significant number of job opportunities to the workforce that helps alleviate unemployment and improves the lives of the citizens. This means more opportunities and just under 40% of employment (Olawale and Garwe, 2010). This means that the SMMEs play a critical role in as far as job creation is concerned.

South Africa post-apartheid prioritized the development as well as the establishment of small, medium, and micro enterprises (SMMEs) in a bid to create much needed jobs and reverse the effects of decades of sanctions and the isolation from world. The government took upon itself to put pieces of legislation to begin to reconstruct and develop through the Reconstruction and Development Program (RDP); New Growth Path (NGP); Growth Employment and Redistributed (GEAR); the National Development Plan (NDP) and the Accelerated Shared Growth Initiative of South Africa (ASGSA). All these efforts are meant to help the SMMEs so that the issue of poverty alleviation, job creation as well as inequality can be addressed.

Department of Trade and Industries (DTI, 2008) published a comprehensive report on the small, medium, and micro enterprises (SMMEs) sector of South Africa. It is true that SMMEs operate in a dynamic environment and when such circumstances change and the SMMEs are also affected. The issue of the global financial crisis of 2008 and 2009 is a case in point. The country is under enormous strain as figures of unemployment continue to rise. However, literature reveals that the South African government has plans and strategies in place to try and help the SMMEs. The government policy on SMMEs dates back as far as 1995 when a white paper on these SMMEs was developed.

The policy framework gave rise to some plan of action that government needed to focus on. According to the Department of Trade and Industries (DTI, 2008) government should increase support to the SMMEs both financial and non-financial in a position to help create demand for products as well as the services that are being produced by the SMMEs. Because of lack of market research for these SMMEs, they end up producing products which do not stimulate any demand in the marketplace. One of the key issues, which the policy addressed and is a positive move, is the acknowledgement by government that they seriously need to reduce regulatory constraints. It is also evident in the body of literature that even though they are challenges in the SMMEs the situation is not doom and gloom but there is greater need for both the government and all stake holders to work together to unlock the economic potential of South Africa.

In a survey carried out by Chamberlain and Smith (2006), it was noted that certain challenges tend to be geographically specific. Now compounding all these challenges is the fact that South Africa has entered into a technical recession because, for the last two consecutive quarters, the economy has not registered any growth and this will have a negative impact on the economy and the outlook does not look promising. In the first quarter of the year, South Africa reported 48000 job losses (Stats SA, 2017). The government needs to do a lot to help the SMMEs especially financially technically as well as in the area of training and helping in finding sustainable markets for the goods and services that these SMMEs produce.

### **3. Methodology**

In this study, the qualitative, interpretive approach was used (Bilgin *et al.* 2012; Creswell, 2013; Dixon-Woods *et al.* 2005) and seems appropriate given the factors raised above, that is, several realities are dynamic with each interpretation within the space of SMMEs. Furthermore, essential elements of analysis in this research would be words narrative etc. as opposed to numbers and statistical analysis.

A questionnaire (interview schedule) was used as an instrument tool to gather the pertinent (data) information to be able to understand compliance challenges faced by SMMEs, the impact of legislative frameworks to the operations of SMMEs, determine lack of certain skills, identify mitigating strategies for the SMMEs, provide recommendations to SMMEs as well as government.

According to Stats SA (2017), the population of SMMEs in the greater Benoni area of Gauteng region is forty-four (44) and out of these only ten (10) was randomly selected and used as a sample for this study. The population target of this investigation includes all SMMEs in the greater Benoni area. The Gauteng province was chosen because it is the economic hub of the country. The interview data was analyzed using thematic analysis (TA) through an inductive process because we wanted to identify underlying ideas, patterns and assumptions that were expressed by the selected participants (Saunders *et al.* 2007).

### **4. Findings**

According to Abrie and Doussy (2006), complexity of a tax system can be an obstacle for small enterprises that wish to comply with tax regulation. The authors explained that in South Africa, SMMEs may be liable to pay 11 different taxes (income tax, capital gains tax, provisional tax, secondary tax on companies, value added tax, employees' tax, employment related levies, customs and exercise duties, transfer duty, donations tax, and stamp duty).

This seems to agree with the primary data gathered where several respondents mentioned the issue of non-compliance in fact the majority were found wanting in as far as compliance is concerned. This becomes a worrying trend. The reasons why legal acts are enacted by lawmakers are to promote compliance so that all stakeholders can benefit from a well-regulated environment. But now, if the targeted enterprises do not comply, and one of the reasons is complexity, vital things cannot be left like this. Abrie and Doussy (2006) further postulate that several support mechanisms and incentives are available to SMMEs to help them comply with the tax obligation and to encourage new business and the expansion of the current ones. The issue of cost of compliance was also highlighted by the respondents as most if not all outsource all such services, as they do not have resident skills within their establishment. Some of the respondents had to say this:

Respondent 2 has only one challenge pertaining to the Skills Development Act. Respondent 3 has no challenges except in Labor Relations Act and Skills Development Act. Specifically, the Respondent stated that "undisciplined workers fuel conflict and workers are over protected by their Rights". Respondent 1 has challenges with all the acts except the companies Act which indicate that though the company is a registered entity, it faces other compliance issues. Respondent 5 has challenges with all the Acts except the last one that pertains to the registration of the SMME, "Changes in legislation is too frequent and too costly for us as small entities to comply". Respondent 4 has challenges with the Vat Act, Skills Development Act (SDA) the Broad Based Black Economic Empowerment (BBBEE) only while in other areas do not have challenges. Respondent 6 has challenges but one area that indicates that the SMME is a registered entity. Respondent 7 has challenges except in one area in the segment other Acts the respondent indicated the challenge the SMME has with the South African Bureau of Standards (SABS) in terms of licensing requirements. Respondent 9 is facing challenges on 4 Acts except on Unemployment Insurance Fund (UIF). "Most services we outsource, for example, Accounting, even to register our company we used the services of an Accountant". Respondent 10 has challenges only in two Acts namely the Skills Development Act (SDA) and the BBBEE.

According to Respondent 1, without the VAT number, it is difficult to trade and especially with the State and the income tax Act was impacting the organization on its cash flow. Since the SMME is not registered for Skills Development, they cannot claim any skills training assistance that has a negative impact in terms of them being competitive in the market. Respondent 2 said VAT is expensive to administer together with income tax where administration constraints were used to describe the impact. The SDA causes them not to be competitive whilst the BBBEE fail them to get government tenders, as it becomes one of the government's criterion for its outsourcing.

Respondent 3 said the impact they feel is in three areas, the lost production because of the LRA when workers go on strike the SDA causes their SMME to lose market share as they are not having competent employees. The non-compliance with BBBEE causes them to lose major government tenders and this hampers the growth of the SMME.

Respondent 4 fears legal ramifications for non-compliance with most pieces of legislation except that the SMME is registered as an entity. The SMME will not get no tender as they do not comply with the provisions of the BBBEE Act.

Respondent 5 said the SDA causes their skills level to be low because of non-compliance, the BBBEE cause them not to be considered for government tenders and the LRA affects them that they cannot fire incompetent employees easily.

Respondent 6 said since they do not comply with the Vat Act, Income Tax Act, SDA as well as the BBBEE, the impact of their non-compliance is serious legal ramifications for both Vat & Income Tax Act. The impact in terms of SDA means loss of competitiveness in the marketplace. The non-compliance in terms of BBBEE the respondent said, "will miss on big government tenders".

Respondent 7 had this to say about VAT:" Cannot trade without vendor number also fears legal consequences as they do not comply with any tax laws their skills will not improve and without a BBBEE certificate, they cannot do business with the state and any of its organs. The impact of not having any SABS license means the SMME cannot do business, as they are not accredited.

Respondent 8 is not able to trade without Vat number, they experience cash flow problem. Their UIF registration is still in progress in the SDA the workers' skills need to be upgraded. They lose big tenders because of non-compliance in the BBBEE.

Respondent 9 said they are not getting government tenders because of lack of BBBEE status, no skills improvement because they are not SDA compliant. They are also not compliant with the Income Tax Act and this will lead to some legal problems with state agencies especially SARS.

Respondent 10 has been impacted by lack of skills decline because they are not compliant to the SDA. The company has no hope of getting big tenders as they are not BBBEE compliant.

The followings are the results to determine the skills resident in each SMME: According to respondents 1, 2, 4, 6, 7, and 10 there are no accounting skills in these SMMEs neither is there tax calculation as well as legal secretary skills. Respondent 3 has accounting, legal secretary as well as tax calculations skills and all are pegged at basic level of efficiency. Respondent 5 has accounting, legal secretary as well as tax calculation skills but pegged at introduction level of efficiency. According to Respondent 8, there are only accounting skills and tax calculation skills resident in the SMMEs, and those skills are at introduction level of efficiency. Legal secretary skills are non-existent at all. According to Respondent 9, both accounting as well as legal secretary skills are not there, however tax calculations skills are there at introduction level of efficiency. According to Respondent 1, the government as the legislature must make its laws easier to be complied with. There is need to relax the labor relations Act increase accessibility for training for SMMEs. Respondent 2 is making a plea to government to help them comply facilitate training have processes to review the LRA and involve stake holders such as SMMEs to have their input. Assistance to be given to SMMEs to help them register and be part of entities that comply. According to Respondent 3, government should make processes of compliance easy for SMMEs, assist in registration and try to amend unnecessary workers' rights on LRA. Respondent 4 says government should orientate or do

induction workshops to the SMME owners on tax and other compliance issues as well as prioritize training. Making laws that are simple to interpret is essential, as it is difficult to understand some of these laws. Respondent 5 feels the VAT act should be simplified and the frequent changes do not help. Training should be provided to SMME owners and develop markets for products and services of the small business community.

The government should help according to Respondent 6 to review the labor laws, especially the department of labor to help and support SMMEs to comply. Government should facilitate and help SMMEs to comply with all the pieces of legislation that must be complied with. According to Respondent 7, the outsourcing of services is the only option whether that is your tax consultants accounting labor the best way to do is outsourcing (consultants). All SMMEs should register their companies according to Respondent 8 but government needs to step in and help and give advice to the owners for training because independent consultants are expensive, also government funding is needed as we lack capital. Respondent 9 raised the issue of funding that government should help with capital, simplify the process of compliance make it simpler to hire and fire employees' workshop SMMEs on regular basis and up the skills level in this sector.

According to Respondent 10, the government should simplify the process of compliance acquiring. The SMME owners should amend the LRA to make it easier to hire and fire non-productive workers. Government should offer training up skill the sector, facilitate and empower owners to be able to make meaningful contribution to the economy.

## **5. Interpretation of data**

Using the principles of thematic analysis, several themes were identified. These are financial, cost and inaccessibility to opportunities, threatened sustainability, and lack of skills of the SMMEs. According to the data collected to answer the issue of compliance the SMMEs seem to be facing compliance challenges with most of the pieces of legislative frameworks around Benoni. It is difficult to trade without adhering and complying with the laws of the land. The challenges mean that there is no growth and sustainability, which the SMMEs can achieve. The SMMEs cannot benefit from the training levy on skills development program, as they are not compliant with relevant leg.

The future of these SMMEs is at stake because once compliance is not adhered to this means certain closure because one cannot sustain and operate a business enterprise outside the law. The confidence that the customers should have as well as the trust with the SMME is broken once the customers realize that the SMME does not meet even the minimum requirements in as far as compliance is concerned. The SMMEs without government funding the future looks bleak for these SMMEs because on their own they cannot raise capital on the financial market, as the majority has no collateral.

The cost of compliance makes it difficult for the SMMEs to comply, as there is a greater reliance on outsourcing most of these services from consultant, whose fees are far beyond the reach of these SMMEs. The SMMEs miss on government tenders, as they do not meet the requirements of being BBBEE compliant and non-compliant with other legal frameworks, which are prerequisites to be considered for government tenders.

The loss of production time is one other challenge when workers go on strike because of lack of compliance with LRA as well as time spent to attend to employee issues at the CCMA. The challenges can be summed up as difficult to comply because it is complex, costly, and time consuming,

The challenges identified above have a negative impact to the survival of the SMMEs. The SMMEs cannot be competitive in the marketplace and as such, if the battle is lost in the market place the future of these organizations is at stake. The impact of strikes means loss of revenue for the SMMEs as well their employees. The damage to the image of the organization is big and it will affect their customer base negatively. The skills level will not be at par with competitors who benefit from skills development levy.

From the collected and analyzed data, it can be interpreted that there is skills deficiency in most of these SMMEs, particularly accounting skills as well as legal secretary skills are

concerned. Most of the SMMEs rely on outsourcing and make use of consultants to do their accounting services as well as legal services. The level of efficiency of those few that do have the skills resident in their organizations is merely introductory level of efficiency. There are no legal skills in all the SMMEs. The lack of the above skills in the SMMEs becomes an impediment to the success of these organizations.

SMMEs can succeed in a business environment that is less regulated. Since there is no seamless transition from departments of government and funding institutions, SMMEs are frustrated in the process.

## 6. Conclusion

Like any other research, limitations were encountered. The sample size for this study was limited to a small township of Gauteng province; therefore, generalizations of the findings could be limited. The study should be expanded to other townships of the provinces and as well the entire South Africa for better generalizations of the findings. This study used a qualitative method. A mixed method approach could have been employed in this study to get deeper nuisances but because of time constraints and budget, it was not possible.

The following recommendations emanate from this study: Acts that regulate SMMEs must be reviewed to ease the business environment and include training and workshops for SMMEs to improve their financial, taxation and legal skills, which will improve the overall managing and compliance of SMMEs. Geographic specific SMMEs research must be conducted to enable SMMEs of that area to deal with certain challenges and formulate solutions that are practical and realistic. Designing insurance for SMMEs and getting underwriters including SMMEs ombudsman, as SMMEs do not have reputable body to raise issues and complaints with. Government should obtain subsidies for SMMEs with focus on townships like Benoni and rural areas. Government should offer tax rebates and incentives for SMMEs. Designated experts and consultants should assist SMMEs at reduced rates in scarce skills such as accounting, taxation, and legal skills. Suppliers must be created in the local areas to assist SMMEs with credit and quality of products so that the SMMEs can focus on their businesses. There should be research conducted on the failures and successes of SMMEs to document learning lessons. Scientific studies should be taken to establish any correlation between personality and entrepreneurship. The SMME sector should have a dedicated ombudsman to monitor and evaluate the issues in this industry. A further research needs to be conducted on the financial literacy of these SMMEs.

The study identifies the problem of SMMEs not complying with several Acts because of skills deficiencies and restrictive legal framework including lack of funding. The study used qualitative research method to explore the challenges, which can be solved through reviewing acts, empowering, and training SMMEs in South Africa. In this current situation, SMMEs are unsustainable and cannot alleviate the plight of unemployment among the youth as envisaged by the government.

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