

10 Confusions About Legal Forms That Will Get In Your Way

This brief clears up 10 common confusions about legal forms for social enterprises in South Africa. These make it difficult for social enterprises and non-profit organizations to unlock the potential in their legal forms.

1. When there is a **lack of clarity about exactly what a social enterprise is**. Its an adjective that describes how an organization is structured and runs. It is not a legal form.
2. When social enterprises **don't utilize the full versatility of their existing legal forms** before they decide to register a hybrid organization (a mix of for-profit and non-profit legal forms).
3. When **poor and fuzzy strategy clouds discussion on legal forms**, or when legal forms registered prematurely before the market, business model and social entrepreneurs personality are properly explored.
4. When people **confuse legal forms** (e.g. non-profit company) **with the accreditations** provided by the South African Revenue Services (SARS) and Department of Social Development.
5. When people don't know that **SARS revised the PBO laws in 2006 and created more opportunities for non-profit organizations to generate income** and develop sustainability strategies. This confusion may lead to strategic decisions based on outdated assumptions.
6. When people don't know that **Corporate Social Investment (CSI) departments can pay invoices from social enterprises** for any goods or services they deliver, and still gain their B-BBEE points for socio-economic development.
7. When entrepreneurs are distracted by **the belief that social enterprises need their own legal form** to thrive in South Africa. However, it is possible for social enterprises to construct their own "legal form" that mimics that of the well-known Community Interest Company from the United Kingdom.
8. When **businesses attempt to try and "own" a non-profit organization** in a hybrid relationship. This tends to create various ethical problems such as a conflict of interest and usually gets messy.
9. When people don't realize that **both for-profit and non-profit legal forms can receive donations, loans and allow revenue participation**.
10. When people **obsess about hybrid models and Special Purpose Vehicles (SPVs)** and run the risk of creating additional bureaucracy and unanticipated problems for themselves.

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