

South Africa Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of South Africa's national cooperative legal framework, based on the work of national legal experts and ICA member input.

In South Africa, cooperatives are regulated by the Cooperatives Act 14 of 2005. The 2005 Act makes explicit reference to the cooperative principles, which are defined with reference to the ICA.

Main regulations: This table displays a selection of cooperative regulations identified by experts and ICA members. For the full analysis including all relevant regulations, see the full report.

Regulation	Brief Description
The Cooperatives Act 14 of 2005	The purposes of the Act include the promotion of cooperatives that comply with the cooperative principles, and a section of the Act headed 'compliance with cooperative principles' attempts to give an objectively ascertainable meaning to the different principles.
Cooperative Banks Act of 2007	Provides for the registration of deposit-taking financial service cooperative which meet a specified threshold as cooperative banks. This Act, which is administered by National Treasury, also provides for the establishment of a Co-operative Banks Development Agency.
Code of Good Practice	Adopted by the Government of South Africa

Cooperative Friendliness: From the view of ICA contributing member organizations, tax legislation does not adequately acknowledge the particular legal nature of cooperatives and this is a legal obstacle to their development.

The South African experience also suggests that emergent cooperatives generally do not have the capacity to exploit legislative provisions that are intended to benefit them, probably because they are locked in a struggle to survive economically.

Key recommendations for improvement: To develop some consensus as to how cooperatives are best categorised. It would also be necessary to begin ruthlessly weeding out from the registry 'cooperatives' that only exist on paper. Other decisions that do not require legislative changes concern reviewing the kind of incentives government provides, and the location of cooperatives in a ministry which is primarily concerned with for-profit enterprises.

Conclusions: The proliferation of cooperatives in South Africa since 2005 does not represent a vibrant or coherent cooperative movement, and has more to do with the political and economic context than the legislation. But to the extent that the legislation has been a factor, it has more to do with its application in practice than any provisions of the legislation itself.

