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COMPREHENSIVE BUSINESS LEGAL COMPLIANCE SOLUTIONS



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THE BEE REALITY

Broad-Based Black Economic Empowerment (B-BBEE or BEE) is a reality and a business imperative.

With the implementation of the amended BEE Codes, BEE has entered a new phase of diversity, requirements, dimensions and facets and is not limited to ownership and management considerations as some individuals may believe.

Companies that have failed until now to react need to do so very soon or face the gloomy prospect of not being in business within a relatively short period of time.

DO YOU KNOW YOUR A-Z OF BEE LEGISLATION?

You don't have to become a BEE expert. The challenge in understanding the complexity of the

how, who, when and what of BEE is the main cause of concern and perceived risk for many owners of large corporates, family businesses, small and medium-sized businesses and professional practitioners.

We at **SERR SYNERGY** are proud of our qualified team of legal professionals and their collective expertise and skills that will ensure that your business is aligned to BEE legislation and best practice while you focus on your core business.

Being one of the most significant pieces of legislation impacting South African businesses today, we understand that companies need to take transformation far more seriously and do more to implement unique BEE strategies in their businesses.

As industry leaders our variety of ownership solutions differentiates us from the rest.



THE AMENDED CODES OF GOOD PRACTICE

The amended Codes of Good Practice are far reaching and BEE impacts, in one form or another, almost every participant in the South African economy. *More than 84% of all registered businesses in South Africa are family businesses.*

The emphasis in the amended Codes on ownership, particularly the 51% black ownership criteria, has a significant influence on the future competitiveness of family businesses in South Africa.

THE CURRENT BEE ELEMENTS

- 1. Ownership:** measures black ownership of the entity.
- 2. Management:** measures participation of black people in the Board and management control structure.
- 3. Skills Development:** measures skills development spend on black employees and unemployed

individuals, as well as learnerships, apprenticeships/ internships and SETA-accredited training programmes.

4. Enterprise and Supplier Development: measures procurement spend from empowering suppliers, together with Supplier Development and Enterprise Development contributions to beneficiary entities that are at least 51% black owned, in respect of their development, sustainability, financial and operational liberation.

5. Socio-Economic Development: measures contributions for socio-economic development.
**Please note that these comprised seven elements on the old BEE scorecard.*

In the amended Codes there is greater emphasis on majority black ownership, particularly in relation to the sub-element of Procurement



as well as Enterprise and Supplier Development. There is a retrospective shift in direction towards ownership, which now comprises 57% of the scorecard points.

IMPACT ON BUSINESS CATEGORIES

The amended Codes of Good Practice are far reaching and BEE impacts, in one form or another, almost every participant in the South African economy.

EXEMPT MICRO ENTERPRISES (EME)

- An entity with an annual turnover of R10 million or below automatically achieves a Level 4 (100%) contributor status.
- Enhanced recognition of Level 1 (135%) if 100% black owned or Level 2 (125%) if 51% or more black owned.

QUALIFYING SMALL ENTERPRISE (QSE)

- An entity with an annual turnover of between R10 and R50 million will need to score on all 5 elements.
- Enhanced recognition of Level 1 (135%) if 100% black owned or Level 2 (125%) if 51% or more black owned.

GENERIC ENTERPRISES

- An entity with an annual turnover of above R50 million will be scored on all 5 elements.

*** Please note:** The above turnover limits are only applicable to general sector codes. Your SERR SYNERGY consultant will discuss turnover cut-off points for your relevant industry sector code.



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WHY CHOOSE SERR SYNERGY AS YOUR BEE SERVICE PROVIDER?

Our leadership team has been involved with B-BEEE in South Africa since 2004.

Our comprehensive BEE services include tailor-made solutions that meet existing BEE challenges by implementing effective and value-adding strategies.

We follow a systematic approach to BEE by categorising our services into several phases:

FIRST PHASE

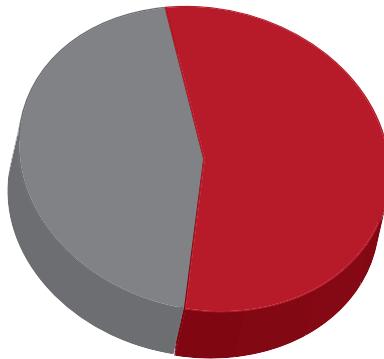
- Gathering of customer information
- Preliminary BEE assessment
- Preparation for BEE verification
- Drafting of a provisional BEE strategy to enhance BEE levels for our customer

SECOND PHASE

- Verification by an accredited verification agent when required
- Managing all aspects of the verification process
- Dealing with all queries pertaining to the verification process
- Acceptance of a final BEE strategy from our customer
- If more than one BEE certificate is required additional verification fees will be incurred
- EME categories only - will exclude all cost relating to legal representation and restructuring.

THIRD PHASE

- Implementation of the BEE Strategy and provision of mandates, with feedback and evaluation reports to our client on a regular basis



Working of a collective ownership programme

- Shareholding by the BEE programme
- Existing shareholders

MEMORANDUM OF INCORPORATION	SHAREHOLDERS AGREEMENT	CONSTITUTION OF PROGRAMME
<ul style="list-style-type: none">• Comply with new Companies Act• Make provision for specific instances or special resolutions• Cater for outside shareholders• Protect existing directors / shareholders	<ul style="list-style-type: none">• Economic interest• Voting rights• Pre-emptive rights	<ul style="list-style-type: none">• Names trustees / fiduciaries• Name beneficiaries• Determine benefits



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OUR VALUE-ADDING BEE SERVICE

All services and legal work relating to the implementation of your customised BEE strategy are included in our fees.

The following is included:

- Issuing of an accredited BEE verification certificate by an accredited verification agent.
- Developing of strategies and compiling of a strategic report to enhance BEE levels.
- Setting up BEE ownership structures i.e. collective programmes, employee- or broad-based programmes, community beneficiaries, programmes etc.
- All agreements relating to such structures, i.e. shareholder agreements, subscription agreements, etc.
- All BEE joint venture, partnership and association agreements.

- All amendments in this regard as required by the Companies and Intellectual Property Commission of South Africa (CIPC).
 - All resolutions and special resolutions to give effect to the above.
 - Access to unique Empowerment Development structures for purposes of Enterprise, Supplier and Social Development.
- Continuous professional consultation and advice.

Legal representation at the BEE Commission in respect of any dispute or inquiry relating to any BEE aspect emerging as a result of work done by SERR SYNERGY as per your contractual agreement and conditions.



BEE AND SKILLS DEVELOPMENT

Both skills development and employment equity are imperative for businesses to comply with B-BEEE or BEE requirements.

Skills Development has become a strategic priority for businesses that wish to attain or retain an acceptable BEE level and also meet the requirements of the Skills Development Act. The **Skills Development Act** provides businesses with a solid framework to implement learning strategies towards skills development that will improve the South African workforce's skills.

With the revised BEE scorecard, companies can earn maximum skills development points if they spend

the required 3% or 6% of their annual payroll on SETA-accredited training initiatives (depending on the business category).

The **Skills Development Levy (SDL)** is payable by employers in different sectors of the economy and serves to fund learning and development initiatives for socially and economically marginalised groups in South Africa.

SKILLS DEVELOPMENT LEVY PAYABLE

- Existing legislation requires all businesses with an annual payroll in excess of R500 000 (including director fees) to pay **1% of their payroll** to SARS, which will then distribute the money to the appropriate SETA with which the business is registered.
- **Failure to pay this levy constitutes an offence.**



BENEFITS OF PAYING SKILLS DEVELOPMENT LEVY

If your company promotes learning and development in the workplace you will reap the rewards of a better skilled and more productive workforce.

By paying your **SDLs** monthly, you qualify for and have access to:

- Skills development grants (mandatory and discretionary)
- Substantial tax allowances when you implement learnerships in your company.

TAX REBATE - YOUTH SUBSIDY

Businesses also qualify for a tax rebate of up to 50% on the remuneration of all employees below the age of 29 (youth subsidy) under certain circumstances

A further R60 000 (possibly to be increased to R80 000) as an additional tax expense to be recouped on all registered learnerships.

Businesses that are unaware of these incentives and claiming processes will forfeit valuable revenue.

CLAIMING OF SKILLS LEVIES (SDL) ALREADY PAID

Contributing employers may annually claim back between 20% - 69,5% of levies paid to SARS, provided that they:

- register a Skills Development Facilitator (SDF)
- submit a Workplace Skills Plan (WSP) indicating training for the next reporting period
- submit a Pivotal Plan that gives account of all training provided to employees during the reporting period
- offer SETA-accredited training.

At SERR SYNERGY we will advise businesses in this regard and provide a **Skills Development Facilitator** service that assists businesses in claiming back portions of the Skills Development Levies already paid to SARS.

THE WORKPLACE SKILLS PLAN AND BEE CODES

A prerequisite for recognising any points under Skills Development on your BEE Scorecard is the submission of the following:

- Workplace Skills Plan (WSP),
- Pivotal Plan
- Annual Training Report (ATR) prior to the deadline in **April** each year.

Businesses will only receive points on their BEE scorecard once they **prove that a Workplace Skills Plan was submitted.**

The new amended BEE Codes further require that the WSP and Pivotal Plan be approved by the SETA prior to earning any points on the BEE scorecard.



OUR VALUE-ADDING SKILLS

FACILITATION SERVICE (*also included

in the STANDARD training product option)

EMPLOYMENT EQUITY

The Employment Equity Act requires businesses that employ more than 50 people or exceed certain thresholds as set per the specific industry to submit Employment Equity Reports to the Department of Labour before **October** of each year (or **January** if submitted electronically).

Businesses that fail to comply could potentially:

- Face fines of up to R2,7 million or 10% of annual turnover. The Employment Equity Act creates various criminal offences and stipulates that **no points** may be awarded under the Employment Equity element for BEE purposes if an **Employment Equity Report** was not submitted.
- Be deemed not to be an **Empowering Supplier** and as such will be unable to accumulate any points on the procurement element of their clients.

In order to create synergy between the Skills Development Act, the Employment Equity Act and the BEE Codes, SERR SYNERGY will on behalf of the client:

- ensure that your business is registered with the relevant SETA.
- act as Skills Development Facilitator (SDF) for your business.
- complete and submit an annual Workplace Skills Plan and Pivotal Plan.
- complete and submit quarterly reports.
- claim annually from your industry-specific SETA.
- introduce accredited training programmes for the business to be presented by accredited training providers.
- introduce learnerships and youth subsidies.
- draft an Employment Equity Plan.
- submit annual Employment Equity reports.



- assist with the establishment of Training and Employment Equity Committees.

ACCREDITED TRAINING AND LEARNERSHIPS

The short supply of skilled staff is a serious obstacle to the competitiveness of industries in South Africa. The training of employees in South Africa is no longer just a luxury – it is compulsory.

We understand the operational challenges that businesses face daily and that they may not always have the time to attend to training initiatives or strategies.

Various statutory regulations determine mandatory or compulsory training in the areas of:

- first aid
- fire-fighting
- occupational health and safety, and more.

SERR SYNERGY has compiled a very unique training product whereby businesses can benefit from skills development and SETA-accredited training within their organisation.

We have combined accredited mandatory training and discretionary training courses into one comprehensive product that is available on an affordable monthly retainer basis.

Our **STANDARD training product** option also includes the services of a Skills Development Facilitator (SDF).

**See service offering.*

For our other training and development products this service is optional – kindly contact our office for an option that suits your specific requirements.

LEARNERSHIPS

Our 12-month, **industry-specific and generic learnership programmes** are designed to suit those businesses that want to qualify for additional tax

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rebates and SETA funding, and wish to maximise their B-BBEE points and qualify for bonus points.

These learnership programmes have proved to optimise SDL refunds, increase profit and cash flow, and

ensure a more productive and motivated workforce.

You can also refer to our ***Accredited Training and Learnerships*** booklet for additional information.





LABOUR PRO

Our integrated Labour Relations Programme for businesses

Good labour relations in any business are imperative for growth, increased revenue and profit. South African labour legislation regulates the relationship between employers, employees and trade unions.

It is extremely important for business owners to be well informed as to what legislation affects them and the impact it could have on their business. If not properly managed, it could

potentially become a minefield.

With the new ***national minimum wage*** envisaged by our government, businesses will have to ensure that employment policies and procedures are sound as some employees and unions might see this as an opportunity to exploit the situation.

Employers that fail to comply with the necessary legislation risk getting caught up in unnecessary legal action and disputes.

Our experienced legal team at SERR SYNERGY deals comprehensively on your behalf with the relevant labour legislation and most common pitfalls that businesses encounter.





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LEGISLATION COVERED BY OUR SERVICE

BASIC CONDITIONS OF EMPLOYMENT ACT

- This legislation applies to all employers and workers and regulates leave, working hours, employment contracts, deductions, pay slips and termination to promote economic development and social justice by establishing and enforcing basic conditions of employment.

LABOUR RELATIONS ACT

- This applies to all workers and employers and aims to promote economic development, social justice, labour peace and democratisation of the workplace by fulfilling the primary objectives of the Act.

OCCUPATIONAL HEALTH AND SAFETY ACT

- Aims to provide and regulate health and safety in the workplace for all workers.

UNEMPLOYMENT INSURANCE AND WORKMEN'S COMPENSATION LEGISLATION

- The Unemployment Insurance Fund Act (UIF Act) makes provision for unemployment benefits, maternity benefits, illness benefits, etc.
- The aim of the Compensation for Occupational Injuries and Diseases Act is to provide for compensation in the event of disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases, and related matters such as medical expenses, etc.



We guide and assist businesses in a practical and supportive way with regard to the required processes and procedures to ensure compliance and to minimise the risk to which the business is exposed when employing staff.

We provide our customers with an on-site professional to deal with procedures associated with labour disputes.

We offer our customers extended assistance and prodigious peace of mind with an **exclusive guarantee of up to R150 000** per annum on all our dismissal procedures in the very unlikely event of an award against our client.

OTHER BUSINESS RISKS COVERED BY OUR SERVICES

Continuous advances in technology and changes in legislation require employers to review existing policies and procedures and to seek the necessary protection against:

- hacking of systems by employees
- contemptuous remarks made by employees about the employer's business on various social media sites

- unauthorised access to data and other sensitive information
- disclosure of company information, that of customers and co-employees.

We ensure that provision is made for *electronic communication intervention* by you as the employer.

OUR UNIQUE GUARANTEE

In the unlikely event of an award against an employer in matters relating to a dismissal of an employee(s) for procedural unfairness, SERR SYNERGY will be liable for such an award of up to R150 000 per annum if SERR SYNERGY had conducted all the procedures leading up to the dismissal.

* Only applicable if joining Employers organisation



OUR VALUE-ADDING INTEGRATED LABOUR RELATIONS PROGRAMME:

With our customer at heart, our professional services are offered at an affordable monthly subscription.

- Drafting of new contracts of employment or reviewing and amending existing contracts of employment for employees, admin staff, managers and executives
- Implementation of contracts with the use of an interpreter service
- Conducting disciplinary and poor work performance inquiries on-site
- Telephonic and e-mail advice
- Recognition agreements with unions
- Wage and union negotiations
- Dispute resolution (representation at the CCMA and bargaining councils - on joining the Employers Organisation)
- A set of policies and procedures
- Labour Compliance and Induction files
- Annual inspection and issuing of compliance certificates
- Occupational health and safety assistance * see note
- Labour Court matters, such

as reviewing applications and strike interdicts

- Assistance with matters relating to registration with and claims under the Unemployment Insurance Fund and Workmen's Compensation Fund
- Letters of good standing from the Workmen's Compensation Commissioner
- Evaluation of Workman's Compensation annual assessments
- Settling of disputes with the Workmen's Compensation Commissioner
- Eviction of employees from the premises on termination of service with employer
- Retrenchment, lay-offs and short time
- Assistance with labour inspector compliance orders and inspections
- Exemptions from bargaining councils.

* NOTE: We also provide an additional ***Occupational Health and Safety service*** specifically designed for the Construction, Manufacturing and Mining industries, etc. ***Please refer to our Labour Pro booklet for more information.***



LABOUR RELATIONS FOR DOMESTICS

Our exclusive service to households employing domestic workers

Domestics are an essential facet of South African households and over the past few years important measures have been put in place to regulate a previously unregulated industry.

Most recent statistics show that South Africa has in excess of one million domestic workers, accounting for more than 8% of the total workforce in our country. According to the CCMA's statistics, domestic workers are the biggest segment in the South African workforce referring disputes to the CCMA.

In terms of the Basic Conditions of Employment and Labour Relations Acts, domestic workers' wages and

working conditions are set by the Minister of Labour and are amended annually and published in the Government Gazette as law.

What does this means for households?

Domestic workers are, amongst others entitled to:

- a letter of employment
- UIF benefits
- a minimum wage of R2 230 per month in major metropolitan areas, with an annual increase
- Workmen's Compensation benefits in terms of **new legislation.**

Some of the entitlements may further create complexities for stay-in workers. For average households to deal with the abovementioned legal requirements and associated risks could be overwhelming and prove to be costly. What happens when things go wrong?

Our SERR SYNERGY Domestic services have been specially designed to take care of all of the above as well as other legislative requirements. We offer households overall peace of mind and comprehensive protection in this regard at an affordable price.

OUR VALUE-ADDING DOMESTIC LABOUR SERVICE

- Providing a contract of employment and reviewing existing contracts of employment / letters of appointment.
- Providing a short summary of the minimum wage and conditions of employment requirements for domestic workers.
- Assistance with UIF and Workmen's Compensation registration and claims relating to the above in terms of the new legislation for domestic workers.
- Providing documents and supportive material relating to any disciplinary matter.
- Representation at the CCMA in the event of any dispute referred

to the CCMA by the relevant employee or union official.

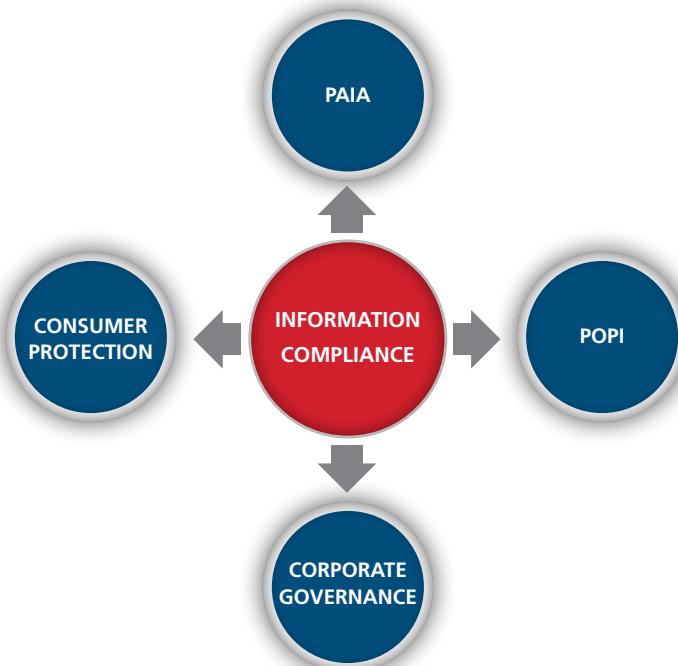
- Assisting the employer with all aspects relating to union membership and union officials pursuing access to the employer's premises.
- An additional **R5 000 in funeral benefit** per domestic worker forms part of a business BEE initiative.



SERR INFORMATION COMPLIANCE – It is not a choice, it is law

PAIA AND POPI

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 include 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 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.

For businesses and organisations to be fully **information compliant**, they will have to assess all of the following:

- Commercial activities
- Agreements
- Employment contracts and policies
- Corporate governance documents and structures.

Alignment across the total spectrum of organisational activity is therefore essential for businesses and organisations to survive in an ever-growing and regulated technologically advanced and challenging environment.

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.

These documents form the foundation of information compliance and the synergy and alignment of all documents the cornerstone of protection.

SERR SYNERGY assists businesses and organisations to compile and update information manuals as required by **PAIA**, and also assists entities to fully comply with procedures as required by **POPI** by setting up an **Information Security Management System (ISMS)**.

CONSUMER PROTECTION

The **Consumer Protection Act (CPA)** can be singled out as one of the most comprehensive pieces of legislation affecting businesses in South Africa.

The purpose of the 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 to give effect to internationally recognised consumer rights.

The CPA has replaced five other pieces of legislation and combined all the provisions into one Act. In addition, more than a hundred other Acts are affected by the Consumer Protection Act.

The overlapping of the CPA with other legislation such as the **Electronic Communications Act** and **National Credit Act** is exposing the average business owner in South Africa to

different kinds of risk associated with these legislation.

Consumer legislation poses huge consequences for all suppliers in the supply chain, with serious financial implications such as fines of up to **10% of turnover** and even closure of a business if not dealt with timeously and in the correct manner.

SERR SYNERGY assist businesses to comply with provisions of the:

- **Consumer Protection Act**
- **Electronic Communications Act**
- **National Credit Act.**

Our services include but is not limited to supporting businesses in the alignment of documents and processes with relevant legislation e.g. Money-back guarantees, cooling off periods, direct marketing, marketing material and advertising campaigns and competitions etc.



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OUR UNIQUE GUARANTEE

In the event of any legal dispute in any legal forum such as tribunals, civil courts or criminal courts, SERR SYNERGY shall be responsible for all legal expenses up to **R150 000 (one hundred and fifty thousand rand)** per annum, incurred by a business in defending any document or policy amended or implemented on our advice as part of our service.

accounting standards for company annual reports, with firmer provisions governing directors' conduct and liability.

SERR SYNERGY assists businesses to comply with the new Companies Act and amended **Close Corporations Act** by bringing all relevant company documents in line with the new Companies Act.

Please refer to our Information Compliance Booklet for more information.

CORPORATE GOVERNANCE AND BUSINESS ADMINISTRATION

The introduction of the new **Companies Act** for public companies basically means that there are more stringent requirements regarding accountability and transparency and that businesses are impacted in different ways. The Act requires enhanced standards of corporate governance, setting minimum



SERR
SYNERGY



We invite you to contact us and find out more about our range of Comprehensive Business Legal Compliance Solutions, as well as other value-adding services that **SERR SYNERGY** can offer to your business.

If you start today to do the right thing, you are already a success even if it doesn't show yet."

John C. Maxwell

NOTES

The background features a subtle, abstract design composed of light gray, flowing, wavy lines that create a sense of motion across the page. In the bottom left corner, there is a small, semi-transparent geometric element consisting of a large triangle with a smaller triangle nested inside it, forming a triangular prism-like shape.

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You can also find out more about our comprehensive range of product service solutions on our website **www.serr.co.za**



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