



ARE YOU AWARE THAT NON COMPLIANCE WITH THE FOLLOWING ACTS CAN RESULT IN SEVERE PENALTIES?

- **POPI (Protection Of Personal Information) – fines of up to R10 million for large companies**
- **PAIA (Promotion of Access to Information Act) – up to 2 years imprisonment or a hefty fine**
- **CPA (Consumer Protection Act) – fine of up to 10% of turnover**

As at 10 November 2015

PAIA Promotion of Access to Information Act 2 – Deadline: 31 December 2015

Are you at Risk?

The purpose of the Promotion of Access to Information Act 2 of 2000 ("PAIA") is to give effect to the Constitutional right of access to any information held by the state, as well as information held by any other business that is required for the exercise or protection of any right.

The motivation for giving effect of the right to access to information is to foster a culture of transparency and accountability both in public and private bodies and to promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all their rights.

The above Act requires that the head of a private body must compile a Section 51 manual and submit it to the South African Human Rights Commission (SAHRC) by 31 December 2015. It must also be submitted to the necessary controlling body of which the private body is a member (where applicable), as well as made available as the company offices and on their website (if applicable).

EXISTING PAIA MANUALS:

Manuals that have already been submitted to the SAHRC should be updated and resubmitted. Annual updates are also required due to amendments to the Act or changes in the information of the private body.

Kindly note that failure to submit your manual by 31 December 2015 is an offence and the responsible parties may face a fine or imprisonment. If you have submitted a manual with the SAHRC you are also required to regularly review your manual and submit any changes.

Please NOTE: the PAIA Act goes hand in hand with the POPI Act

POPI

What is POPI: The Protection of Personal Information (POPI) Act explained

In simple terms, the purpose of the **POPI Act** is to ensure that all South African institutions conduct themselves in a responsible manner when collecting, processing, storing and sharing another entity's personal information by holding them accountable should they abuse or compromise your personal information in any way. The POPI legislation basically considers your personal information to be "**precious goods**" and therefore aims to bestow upon you, as the owner of your personal information, certain rights of protection and the ability to exercise control over:

- When and how **you** choose to share your information (requires your **consent**)
- The type and extent of information you choose to share (must be collected for valid **reasons**)
- Transparency and accountability on how your data will be used (limited to the **purpose**) and **notification** if/when the data is compromised
- Providing you with **access** to your own information as well as the right to have your data **removed** and/or destroyed should you so wish
- **Who** has access to your information, i.e. there must be adequate measures and controls in place to track access and prevent unauthorized people, even within the same company, from accessing your information
- How and where your information is stored (there must be adequate measures and controls in place to **safeguard** your information to protect it from theft, or being compromised)
- The integrity and continued **accuracy** of your information (i.e. your information must be captured correctly and once collected, the institution is responsible to maintain it)

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BROAD – BASED BEE SERVICES

THE NEW BEE REALITY

The amended Codes of Good Practice effective from 11 October 2013 are far reaching and will have a profound impact on businesses in South Africa. All businesses in South Africa will be measured in terms of the amended Codes as from 1 May 2015. The financial period preceding 1 May 2015 will therefore be measured. The amended Codes contain very few concessions for Qualifying Small Enterprises compared to the lenient QSE Scorecard in the 2007 codes. Instead, this has been largely replaced by Enhanced Recognition Levels for businesses with a turnover of below R50 million per year. Two Enhanced Recognition Levels are created, namely Level 1 for all 100% black-owned businesses and Level 2 for all 51% black-owned businesses. These recognition levels promote businesses to either Level 1 or Level 2 without having to complete the new scorecard.

BEE continues to have a huge impact on the way business is done in South Africa – for large corporates, family businesses, small and medium sized businesses and professional practitioners. Quite simply, BEE impacts, in one form or another, on 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 impact on the future competitiveness of family businesses in the South African economy.

OUR SERVICES

Our Services can be categorized into three phases, namely gathering of information, adopting of strategy and execution and implementation.

PHASE 1: Gathering of information; preliminary assessment; preparation for verification; and drafting of a provisional BEE strategy.

PHASE 2: Verification by an accredited verification agent should the client need a verification certificate; managing of the verification process; dealing with all queries pertaining to the verification process; and acceptance of a final BEE strategy.

PHASE 3: implementation of the BEE strategy and provision of mandates, with feedback and evaluation reports to the client on a quarterly or bi-annual basis. All services and legal work pertaining to implementation of the BEE strategy are included in our fee.

LABOUR RELATIONS – BUSINESS

Sound labour relations in a business is imperative for growth, higher revenue and profits

South African labour legislation prescribes what employers and employees are able to do, when they are allowed to do it, and how. It is, in reality, a potential minefield. Our services deal simply and comprehensively with all relevant legislation and the most common pitfalls. We will provide you with an on-site professional whenever needed to deal with all procedures to outsource the risk associated with labour disputes. To give further assistance and peace of mind, we give a guarantee on all our dismissal procedures up to R150 000 per year per client in the unlikely event of an award against our client. Legislation covered by our services:

- Basic Conditions of Employment Act
- Labour Relations Act
- Occupational Health and Safety Act

- Unemployment Insurance and Workman's Compensation legislation.

OUR UNIQUE GUARANTEE

In the unlikely event of an award against an employer in matters relating to a dismissal of an employee for procedural unfairness, Serr Synergy will be responsible for such an amount of up to R 150 000.00 per annum, if Serr Synergy had conducted all procedures leading up to the dismissal

CONSUMER PROTECTION ACT

The Consumer Protection Act can be singled out as one of the most comprehensive pieces of legislation affecting businesses in South Africa. The consumer Protection Act 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. To make it even more complicated, the Consumer Protection Act also overlaps with other legislation such as:

- The National Credit Act
- The Protection of Personal Information Act
- The Electronic Communications Act, etc.

It is therefore safe to assume that the average business owner in South Africa is exposed to all the risks associated with this legislation. Consumer legislation poses the following consequences for all suppliers in the supply chain, with serious financial implications and even closure of business if not dealt with timeously and correctly:

- Forfeiture of unsolicited goods without receiving payment.
- Search and seizure powers for inspectors.
- Fines of up to 10% for annual turnover.
- Liabilities and damages payable to consumers even where the supplier is not acting **negligently or intentionally**.
- Minimum warranties and guarantees are required.
- Illegal marketing methods are identified and prevented.
- Fixed-term agreements with consumers are regulated.

OUR SERVICES

- Assist businesses to comply with provisions of the:
 - Consumer Protection Act
 - Electronic Communication Act
 - Protection of Personal Information Act
 - National Credit Act.
- Review of all documents in terms of above legislation such as:
 - Labels

- Marketing material
- Supplier contracts (term and conditions)
- Invoices, etc.
- Advice to align all documents and processes with the above legislation, e.g. money back guarantees, cooling off periods, direct marketing, etc.
- Continuous advice and assistance in dealing with legal enquiries relating to clients product or services
- Circumventing legal disputes and civil action by dealing with disputes in the prescribed manner
- Assistance with any dispute at the Consumer Commissioner or Tribunal
- Advice and assistance with compliance orders.

OUR UNIQUE GUARANTEE

In the event of any legal dispute forums such as tribunals, civil courts or criminal counts, Serr Synergy shall be responsible for all legal expenses up to R 150 000.00 per annum incurred by a business in defending any document or policy amendment or implemented on our advice as part of our service.

CORPORATE GOVERNANCE AND BUSINESS ADMINISTRATION

OUR SERVICES

- Assist businesses to comply with the new Companies Act and amended Close Corporations Act
- Bring company documents, such as the Memorandum of Incorporation (Mol), into line with the new Companies Act and other legislation
- Align founding statements of close corporations with the new legislation
- Set up shareholder agreements for companies and association agreements for close corporations
- Draft Director Agreements to coincide with Mols and Shareholder Agreements
- Draft Director Agreements with directors employed by the Company to comply with labour legislation
- Set up Family Trust to protect the business in the event of a shareholder's death, etc.
- Name reservations and set up new companies
- Assist with conversions from close corporations to private companies
- Tax clearance certificates
- Annual CIPC returns and confirmation of business details.

SKILLS DEVELOPMENT & EMPLOYMENT EQUITY

Skills development and employment equity are imperative for businesses that need to complete a scorecard for BEE compliance. Existing legislation requires all businesses with a pay-roll that includes director fees of more than R500 000 per annum to register with the relevant SETA and to pay 1% of the payroll as a Skills Development Levy. Failure to pay the levy constitutes an offence.

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 and a further R30 000 per year for two years on all registered learnerships. Businesses that are unaware of these incentives will lose valuable revenue. SERR SYNERGY will advise businesses in this regards and had identified various accredited training service providers nationally that can present more than 450 accredited training courses.

OUR APPROACH AND SERVICE

- In order to create synergy between the skills Development Act, the Employment Equity Act and the BEE Codes, the project manager assigned to your business will also be an approved Skills Development Facilitator. The skills Development Facilitator will:
 - Register the business with the relevant SETA
 - Act as a Skills Development Facilitator for the business
 - Conduct a training needs analysis if required
 - submit an annual Workplace Skills Plan
 - submit quarterly reports
 - claim annually from the SETA
 - introduce accredited training programmes for the business to be presented by accredited training providers
 - introduce learnerships and youth subsidies
 - compile an Employment Equity Plan
 - submit annual Employment Equity Reports

ACCREDITED TRAINING & LEARNERSHIPS

- **OPTIMIZE YOUR SDL REFUNDS**
- **INCREASE PROFIT AND CASH FLOW**
- **WE MAKE TRAINING COST-EFFECTIVE**
- **HAPPY EMPLOYEES ARE PRODUCTIVE AND MOTIVATED**

Training of employees in South Africa is no longer a luxury, but mandatory. Various statutory regulations determine mandatory training in the area of:

- First aid

- Fire fighting
- Occupational health and safety, etc.

This training allows businesses to be refunded a portion of their annual Skills Development Levies (SDL). SERR SYNERGY has compiled a unique affordable training product for businesses by combining mandatory training and non-mandatory training into one product on a monthly retainer basis. Businesses are not limited regarding the number of employees they want to send on training.

Our 12-month learnership programmes are designed to suit those businesses that want to qualify for additional tax rebates and Seta funding, and wish to maximize BEE points and qualify for bonus points. We offer three training options for clients, depending on their needs. Our standard option includes the services of a Skills Development Facilitator. For the other products this service is optional. The service under Skills Development includes the following:

- Registration of the business with the relevant Seta
- Acting as a Skills Development Facilitator for the business
- Conducting a basic training needs analysis if required
- Submission of an annual Workplace Skills Plan and Pivotal Plan
- Submission of quarterly reports
- Claiming annually from the Seta
- Introduction of accredited training programmes for the business to be presented by accredited training providers
- Introduction of learnerships and youth subsidies
- Drafting of an Employment Equity Plan
- Submission of annual Employment Equity reports
- Assistance with the establishment of Training and Employment Equity Committees.

FOR MORE INFORMATION ON ANY OF THE ABOVEMENTIONED SERVICES PLEASE CONTACT **RAYMOND DICKS** NOW ON 081 773 7818 / 031 817 4100 OR EMAIL RAYMOND airborneray4@gmail.com