



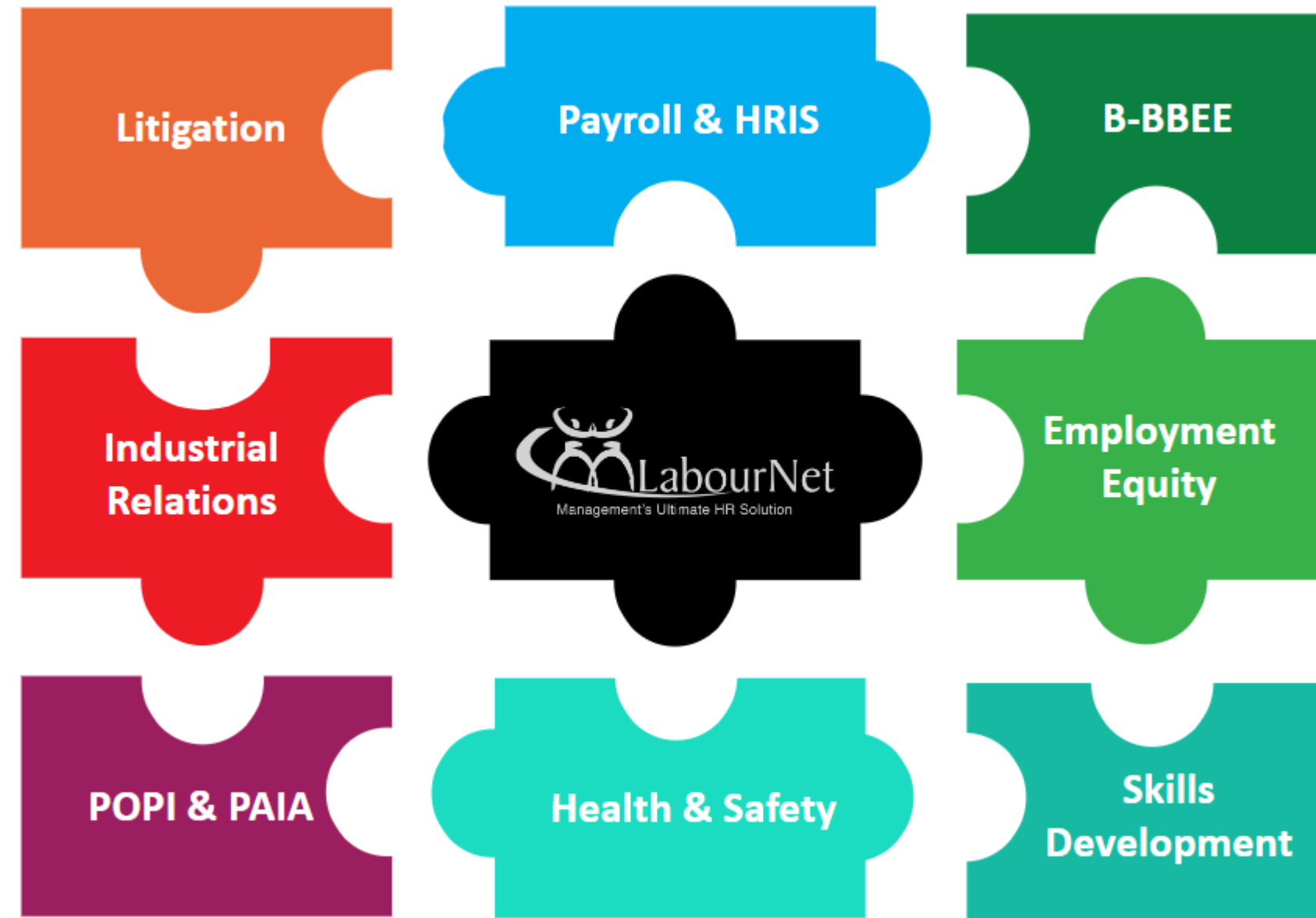
## KLCBT Compliance Workshop

Day 1

Presented by:









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Compliance Manager



# Industrial Relations

**SANEL UYS**  
**IR PRODUCT MANAGER**

# OVERVIEW OF IR COURSE

Contract of Employment

Leave as per BCEA

Disciplinary Code and Policies

Temporary Employment Services (TES)



## **Contract of Employment**

# **Essentials of the Contract of Employment**

- A voluntary agreement between
- Two legal personae (parties) in terms of which
- The employee agrees to perform certain specified and/or implied duties for the employer
- For an indefinite or specified period while
- The employer agrees to pay a fixed or ascertainable wage to the employee and
- The employer gains a (qualified) right to command the employee as to the manner in which he or she carries out his or her duties.

**Contract of Employment**

## **Category of Employees**

- Permanent Employees
- Temporary Employees (casual/intermittent)
- Part-time Employees (fixed term/project based)
- Full-time Employees
- Probationary Employees
- Senior Managerial Employees

## **Contract of Employment**

# **Fixed Term Contracts**

- Specific time period, project/task, event
- No expectation of permanent employment
- Retrenchment Clause (Buthelezi Case)
- Non Renewal of Fixed Term Contract
  - Section 186(1)(b)
  - If employee reasonably expected the employer to renew it on the same or similar terms but employer renewed on less favourable terms or did not renew it
  - Duration of the contract – same rights as any employee



## Contract of Employment

# Foreign Employees

- Can employer dismiss if they do not have a valid work permit?
- *Discovery Health and Southern Hotel Cases*
- Employer can be fined
- No duty to assist but must grant reasonable time to obtain

## **Contract of Employment**

# **Additional clauses to consider including in contract of employment**

- Provision for transfer to other department, or another branch
- Probation
- Awareness of policies and procedures
- Retirement age
- Overtime
- Forfeiture of annual leave
- Termination of employment
- Agreement to deduct from final payment; failure to serve required notice
- Disclosure
- Polygraph testing and security checks
- POPI



# Exclusions

**Leave as per BCEA**

- Less than 24 hours per month
- Employees who earn in excess – R 224 080,30 per year (R 18 673 p.m.)
- Independent Contractors

# Annual Leave

**Leave as per BCEA**

- 21 consecutive days per year, or
- 1 day for every 17 days worked, or
- 1 hour for every 17 hours worked.
- Public Holiday cannot be counted as leave
- Subject to employer's approval
- Section 40: on termination of employment, employer must pay employee any outstanding leave.
- Forfeiture of leave: *Jardien, Jooste & Ludick*
- Section 20(4) – leave forfeiture



# Sick Leave

During every sick leave cycle (3 years cycle), an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a 6-week. During the first 6 months of employment, employees are only entitled to 1 day of paid sick leave for every 26 days worked.

## **Proof of incapacity:**

- More than 2 consecutive days or more than two occasions within 8 week cycle
- Signed by medical practitioner/person certified to diagnose and treat patients
- Traditional healers?
- Kievietskroon – must recognise their certificate provided they are registered.

**Leave as per BCEA**

# Maternity Leave

**Leave as per BCEA**

- At least 4 consecutive months of unpaid maternity leave
- Employees may take maternity leave 1 month before their due date, or earlier or later as agreed or required for health reasons.
- Employees may not go back to work within 6 weeks after the birth unless their doctor or midwife say it is safe.
- Unpaid – UIF

# Paternity Leave

**Leave as per BCEA**

- Male employees
- Ten (10) consecutive day's unpaid paternity leave
- An employee may commence parental leave on:
  - the day that the employee's child is born; or
  - the date that the adoption order is granted; or that a child is placed in the care of a prospective adoptive parent by a competent court, pending the finalisation of an adoption order in respect of that child, whichever date occurs first
- UIF benefits



**Leave as per BCEA**

# Family Responsibility Leave

- Applies only to certain employees (longer than 4 months employed; 4 days a week)
- Three (3) days paid leave
- Employees may take family responsibility leave:
  - when the employee's child is sick
  - in the event of the death of the employee's spouse or life partner, parent or adoptive parent, grandparent, child or adopted children, grandchild, siblings (brothers or sisters)
  - Employers may require reasonable proof of the birth, illness or death for which an employee requests leave.

## COVID-19 Leave

Workers who have **tested positive and are symptomatic** must:

- Inform their employer
- Self-isolate as per NDH guidelines unless a longer period is prescribed by medical practitioner

Where an employee displays **symptoms or is positive and symptomatic**, the employer will:

- Place the employee on paid sick leave. If sick leave is exhausted, apply for illness benefit in terms of UIF
- Make sure the employee is not discriminated against based on Covid-status

If Covid was contracted at work, lodge a claim for compensation in terms of COIDA.

Employees who have **tested positive but does not have any symptoms** do not need to isolate and can continue working.

## **Disciplinary Code**

A disciplinary code is an internal company document that sets out:

- What type of sanction is to be imposed for certain offences
- What procedures are to be adopted when imposing sanctions

Generally a disciplinary code is a guideline only and should not be seen as a system of hard and fast rules that are inflexible.



## **Disciplinary Code**

# **Characteristics of a Sound Disciplinary System**

- Immediacy
- Consistency
- Impartiality
- Forewarning

Therefore presupposes:

- Knowledge of Rules
- Timely Action
- Fair and Just Action
- Positive Approach

## **Other Policies and Procedures**

- Harassment Policy
- Grievance Policy and Procedures
- Smoking Policy
- COVID-19 Policy
- Non-discrimination Policy

# TES and the Law

- Temporary employment services (TES) are commonly referred to as **labour brokers**, in South Africa.
- TES are regulated mainly by the Labour Relations Act 66 of 1995 (LRA) and the Basic Conditions of Employment Act 75 of 1997 (BCEA).
- Amendments to the LRA, which came into effect in January 2015, affect sections 198 and 198A of the act, and brought about changes to the way a relationship between a TES, its employees and its clients is regulated.

# What are temporary services?

The term “*temporary services*” is defined in the LRA as:

- Services limited to a fixed time period of not more than three months
- Where the employee is a substitute for a temporarily absent employee of another employer (i.e the client of the TES)
- Where a collective agreement or sectoral determination designated a particular work category as a temporary service, or designated the maximum temporary period

**Temporary Employment Services**



# Amendments to the Labour Relations Act, 66 of 1995

Section 198A(3)(b)(i) of the LRA essentially holds that under certain circumstances a TES employee is deemed to be an employee of the client or third party.

## Temporary Employment Services

Any employee working for a period of longer than three months is deemed to be an employee of the client. Employee of a labour broker may not treat that employee less favourably than, and must remunerate them on the same terms as their won employees.

# QUESTIONS?



# Skills Development

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## Skills Development Act

- # Purpose

The Skills Development Act was implemented to develop and improve the skills of people in the workplace.

- # How

Through the introduction of Learnerships and occupationally directed qualifications.

- # Why

To redress the skills gaps in an organisation for employees from a disadvantaged background.



## **Skills Development Levies Act**

- A levy grant scheme to fund skills development initiatives in the country.
- The intention is to encourage a planned and structured approach to learning to increase employment prospects for work seekers.
- Participating fully in the scheme will allow Employers to benefit from incentives and to reap the benefits of a more skilled and productive workforce.

# Levy Recovery Cycle

**SDL = 1% of Payroll  
amount**



**National Skills  
Fund  
-NSF (20%)**

**Mandatory Grant  
(20%)**

**Discretionary  
Grant (49,5%)**

**SETA  
Administration  
(10,5%)**



# **Return on Investment: SETA Submissions**

|                                    |                       |
|------------------------------------|-----------------------|
| <b>Annual Payroll</b>              | <b>R 5,000,000.00</b> |
| <b>SDL (1%)</b>                    | <b>R 50,000.00</b>    |
| <b>Mandatory grant (20%)</b>       | <b>R 10,000.00</b>    |
| <b>Discretionary grant (49.5%)</b> | <b>R 24,750.00</b>    |
| <b>TOTAL GRANT AVAILABLE</b>       | <b>R 34,750.00</b>    |

# Employer duties: Mandatory Grant



Confirm SARS Registration and up-to-date levy payments  
Register a Skills Development Facilitator



Set up a Training Committee if 50+ employees



Compile and submit the Workplace Skills Plan – 30 April



Compile and submit the Annual Training Report



Implementing the Skills Development Interventions - 80% Completion on prior report required.



# Employer duties: Discretionary Grant



Application window determined by SETA



Pivotal training – Professional, Vocational, Technical and Academic Learning Programmes that result in qualifications or part qualifications registered on the National Qualifications Framework (NQF) that address critical and scarce skills needs (SSP).



Examples: Skills Programmes , Accredited Learnerships , ABET Training, Bursaries , Apprenticeships, Learnerships, Work Integrated Learning, etc.



Approval of application at discretion of SETA



Payment schedules from SETA



Not applicable to training that's already commenced

# Additional Relief Measures: 12H Tax Benefits applicable to Learnerships

|                        | Annual allowance           |                         | Completion allowance       |                         |
|------------------------|----------------------------|-------------------------|----------------------------|-------------------------|
| NQF Level of programme | Learner with no disability | Learner with disability | Learner with no disability | Learner with disability |
| 1-6                    | R 40,000.00                | R 60,000.00             | R 40,000.00                | R 60,000.00             |
| 7-10                   | R 20,000.00                | R 50,000.00             | R 20,000.00                | R 50,000.00             |

# Additional Relief Measures: 12H Tax Benefits and Savings

|                        | Total allowance            |                         | Tax saving (28%)           |                         |
|------------------------|----------------------------|-------------------------|----------------------------|-------------------------|
| NQF Level of programme | Learner with no disability | Learner with disability | Learner with no disability | Learner with disability |
| 1-6                    | R 80,000.00                | R 120,000.00            | R 22,400.00                | R 33,600.00             |
| 7-10                   | R 40,000.00                | R 100,000.00            | R 11,200.00                | R 28,000.00             |

# Why Skills Development?





# B-BBEE





## **Codes, Sector Codes and Charters**

Based on the nature of a Client's business and the industry they form part of, either the 2013 General Amended Codes or a specific Sector Code is applicable. To date the following has been gazetted:

**2009 Transport Sector Code** (*Domestic Aviation, Forwarding and Clearing, Maritime Transport and Service Industry, Public Sector, Rail, Road Freight, Taxi, Bus, Commuter and Coach Services*)

**2015 Amended Tourism Sector Codes**

**2016 Marketing, Advertising & Communication Sector Code (MAC)**

**2016 Amended Information and Communication Technology Sector Code (ICT)**

**2017 Amended Forestry Sector Code**

**2017 Amended Property Sector Code**

**2017 Amended Construction Sector Code**

**2017 Amended Financial Services Sector Code**

**2017 Amended Agri Sector Code**

**2018 Defence Sector Code**

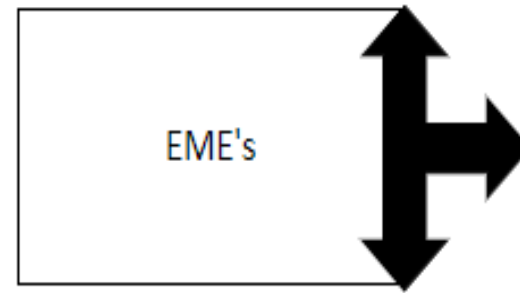
## **Turnover Thresholds**

**Exempt Micro Enterprise (EME)** - Less than R 10 million p/a

**Qualifying Small Enterprise (QSE)** - R 10 to R50 million p/a

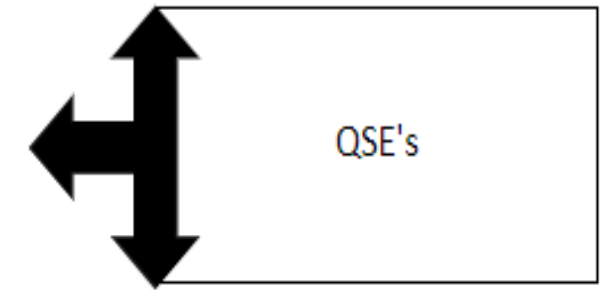
**Large Enterprise (LE)** - More than R50 million p/a

# Automatic Recognition



- 100% Black Ownership = Level 1
- ≥ 51% Black Ownership = Level 2
- ≤ 51% Black Ownership = Level 4

- 100% Black Ownership = Level 1
- ≥ 51% Black Ownership = Level 2
- ≤ 51% Black Ownership – requires formal BEE Verification



B-BBEE Procurement Recognition Levels

| Points      | <40 | 40-55 | 55-70 | 70-75 | 75-80 | 80-90 | 90-95 | 95-100 | 100+ |
|-------------|-----|-------|-------|-------|-------|-------|-------|--------|------|
| Level       | N/C | 8     | 7     | 6     | 5     | 4     | 3     | 2      | 1    |
| Recognition | 0%  | 10%   | 50%   | 60%   | 80%   | 100%  | 110%  | 125%   | 135% |

# Automatic Recognition: Affidavit

## SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL

I, the undersigned,

|                     |  |
|---------------------|--|
| Full name & Surname |  |
| Identity number     |  |

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

|                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Enterprise Name:                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Trading Name (if Applicable):                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Registration Number:                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Enterprise Physical Address:                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Type of Entity (CC, (Pty) Ltd, Sole Prop etc.): |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Nature of Business:                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Definition of "Black People"                    | As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –<br><br>(a) who are citizens of the Republic of South Africa by birth or descent; or<br>(b) who became citizens of the Republic of South Africa by naturalisation-<br>i. before 27 April 1994; or<br>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"                                                                                                                                                                  |
| Definition of "Black Designated Groups"         | "Black Designated Groups means:<br><br>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;<br>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;<br>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;<br>(d) Black people living in rural and under developed areas;<br>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;" |

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%

- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
- Please Confirm on the below table the B-BBEE Level Contributor, by ticking the applicable box.

|                           |                                                        |  |
|---------------------------|--------------------------------------------------------|--|
| 100% Black Owned          | Level One (135% B-BBEE procurement recognition level)  |  |
| At least 51% Black Owned  | Level Two (125% B-BBEE procurement recognition level)  |  |
| Less than 51% Black Owned | Level Four (100% B-BBEE procurement recognition level) |  |

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp



## Scorecard: Large Enterprise

| Elements (incl. Scorecard Items)    | Weighting Points            | Code Series Reference |
|-------------------------------------|-----------------------------|-----------------------|
| Ownership                           | 25                          | 100                   |
| Management Control                  | 19                          | 200                   |
| Skills Development                  | 20 + 5 bonus points         | 300                   |
| Enterprise and Supplier Development |                             |                       |
| Preferential Procurement            | 27 + 2 bonus points         | 400                   |
| Supplier Development                | 10                          |                       |
| Enterprise Development              | 5 + 2 bonus points          |                       |
| Socio-economic Development          | 5                           | 500                   |
| <b>TOTAL</b>                        | <b>111 + 9 bonus points</b> |                       |

## Priority Elements

- **Ownership:** 40% of the Net Value points (3.20 out of 8 points)
- **Skills Development:** 40% of the Total Points, exc. Bonus Points (8.00 out of 20 points)
- **Enterprise and Supplier Development:** 40% of the Total Points, exc. Bonus Points for each of the 3 sub-elements:
  - 
  - 1. Preferential Procurement (10.80 out of 27 points)
  - 2. Supplier Development (4.00 out of 10 points)
  - 3. Enterprise Development (2.00 out of 5 points)

Large Enterprises need to comply with all 3 priority elements and QSE's need to comply with Ownership and one other priority element.

**NB: Missing a sub-minimum target in 1 or more of the above priority elements will result in the overall BEE Level being discounted by one level.**

# Ownership

| Indicator                                                                                                                                                                                                                                    | Weighting Points | Compliance Target                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------------------------------------------------|
| Exercisable Voting Rights of Black people                                                                                                                                                                                                    | 4                | 25% + 1 Vote                                              |
| Exercisable Voting Rights of Black Women                                                                                                                                                                                                     | 2                | 10.00%                                                    |
| Economic Interest of Black people                                                                                                                                                                                                            | 4                | 25.00%                                                    |
| Economic Interest of Black Women                                                                                                                                                                                                             | 2                | 10.00%                                                    |
| Economic Interest of Black natural people i.e.:<br>•Black Designated Groups<br>•Black Participants in Employee Share Ownership Programmes;<br>•Black people in Broad-based Ownership Schemes (BBOS);<br>•Black participants in Co-operatives | 3                | 3.00%                                                     |
| Involvement of Black new entrants                                                                                                                                                                                                            | 2                | 2.00%                                                     |
| Net Equity Value                                                                                                                                                                                                                             | 8                | 2.5 % – 25%<br>Net Equity Calculations<br>(Formula A / B) |
| <b>Total</b>                                                                                                                                                                                                                                 | <b>25.00</b>     |                                                           |

# Management Control

| Indicator                                               | Weighting Points | Compliance Target |
|---------------------------------------------------------|------------------|-------------------|
| Exercisable voting rights of Black board members        | 2                | 50.00%            |
| Exercisable voting rights of Black female board members | 1                | 25.00%            |
| Black persons who are executive directors               | 2                | 50.00%            |
| Black female executive directors                        | 1                | 25.00%            |
| Black Other Executive Management                        | 2                | 60.00%            |
| Black Female Other Executive Management                 | 1                | 30.00%            |
|                                                         |                  |                   |



## Management Control (continued)

| Indicator                                         | Weighting Points | Compliance Target |
|---------------------------------------------------|------------------|-------------------|
| Black employees in Senior Management (EAP)        | 2                | 60.00%            |
| Black female Employees in Senior Management (EAP) | 1                | 30.00%            |
| Black Employees in Middle Management (EAP)        | 2                | 75.00%            |
| Black female Employees in Middle Management (EAP) | 1                | 38.00%            |
| Black Employees in Junior Management (EAP)        | 1                | 88.00%            |
| Black female Employees in Junior Management (EAP) | 1                | 44.00%            |
| Black Employees with disabilities                 | 2                | 2.00%             |
| <b>TOTAL</b>                                      | <b>19</b>        |                   |

# Economically Active Population

| National        | AM     | AF     | CM    | CF    | IM    | IF    | WM    | WF    | TOTAL   |
|-----------------|--------|--------|-------|-------|-------|-------|-------|-------|---------|
|                 | 42.70% | 35.80% | 5.20% | 4.40% | 1.70% | 1.10% | 5.10% | 4.00% | 100.00% |
| Provincial      | AM     | AF     | CM    | CF    | IM    | IF    | WM    | WF    | TOTAL   |
| Western Cape    | 20.9%  | 16.8%  | 25.1% | 20.8% | 0.6%  | 0.3%  | 8.4%  | 7.1%  | 100.0%  |
| Eastern Cape    | 42.3%  | 40.1%  | 4.8%  | 4.7%  | 0.5%  | 0.3%  | 3.7%  | 3.6%  | 100.0%  |
| Northern Cape   | 27.3%  | 21.1%  | 22.9% | 20.8% | 0.2%  | 0.0%  | 4.4%  | 3.2%  | 100.0%  |
| Free State      | 49.2%  | 40.3%  | 1.6%  | 1.0%  | 0.7%  | 0.1%  | 4.4%  | 2.6%  | 100.0%  |
| KwaZulu - Natal | 43.7%  | 42.9%  | 0.2%  | 0.5%  | 5.3%  | 3.5%  | 2.2%  | 1.6%  | 100.0%  |
| North West      | 54.8%  | 36.2%  | 0.6%  | 0.9%  | 0.4%  | 0.1%  | 3.9%  | 3.1%  | 100.0%  |
| Gauteng         | 44.6%  | 36.2%  | 2.0%  | 1.5%  | 1.8%  | 1.2%  | 7.1%  | 5.6%  | 100.0%  |
| Mpumalanga      | 52.0%  | 41.7%  | 0.2%  | 0.1%  | 0.6%  | 0.3%  | 3.2%  | 1.9%  | 100.0%  |
| Limpopo         | 52.0%  | 43.1%  | 0.2%  | 0.4%  | 1.0%  | 0.1%  | 2.1%  | 1.0%  | 100.0%  |

# Skills Development

| Indicator                                                                                                                                                       | Weighting Points | Compliance Target |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------|
| Skills Development Expenditure on Bursaries / Scholarships for Black Students at Higher Education Institutions (EAP)                                            | 4                | 2.50%             |
| Skills Development Expenditure on Black people as a percentage of Leviable Amount (EAP)                                                                         | 6                | 3.50%             |
| Skills Development Expenditure on Black employees with disabilities as a percentage of Leviable Amount                                                          | 4                | 0.30%             |
| Head Count: Number of Black people on Learnerships, Apprenticeships and Internships as a percentage of total employees (EAP)                                    | 6                | 5.00%             |
| <b>Bonus Points:</b> Number of Black people absorbed by the Measured and Industry Entity at the end of the Learnership, Internship and Apprenticeship programme | 5.00             | 100.00%           |
| <b>TOTAL</b>                                                                                                                                                    | <b>20 + 5</b>    |                   |

# Preferential Procurement

| Indicator                                                                                                                             | Weighting Points | Compliance Target |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------|
| B-BBEE Procurement Spend from all Empowering Suppliers as a % of TMPS                                                                 | 5                | 80.00%            |
| B-BBEE Procurement Spend from all Empowering Suppliers that are QSE'S as a % of TMPS                                                  | 3                | 15.00%            |
| B-BBEE Procurement Spend from all Empowering Suppliers that are EME's as a % of TMPS                                                  | 4                | 15.00%            |
| B-BBEE Procurement Spend from all Empowering Suppliers that are at least 51% Black owned as a % of TMPS                               | 11               | 50%               |
| B-BBEE Procurement Spend from all Empowering Suppliers that are at least 30% Black Women owned as a % of TMPS                         | 4                | 12.00%            |
| <b><u>Bonus points:</u></b> B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black owned as a % of TMPS | 2                | 2.00%             |
| <b>TOTAL</b>                                                                                                                          | <b>27 + 2</b>    |                   |

# Enterprise & Supplier Development

| Indicator                                                                                                                                     | Weighting Points | Compliance Target |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------|
| Supplier Development: Annual value of all contributions made as a % of the target                                                             | 10               | 2.00% of NPAT     |
| Enterprise Development: Annual value of all contributions made as a % of the target                                                           | 5                | 1.00% of NPAT     |
| <b>Bonus point:</b> Graduation of one or more Enterprise Development beneficiaries to the Supplier Development level                          | 1                | Yes               |
| <b>Bonus point:</b> Creating one or more jobs directly as a result of Supplier- and Enterprise Development initiatives by the Measured Entity | 1                | Yes               |
| <b>Total</b>                                                                                                                                  | <b>15 + 2</b>    |                   |



# Socio-Economic Development

| Indicator                                                                               | Weighting Points | Compliance Target |
|-----------------------------------------------------------------------------------------|------------------|-------------------|
| Socio Economic Development: Annual value of all contributions made as a % of the target | 5                | 1.00% of NPAT     |
| Total                                                                                   | 5.00             |                   |





# POPI:

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# What are the basics?



# Protection of Personal information Act

- Government Gazetted November 2013
- Remaining provisions – 1 July 2020
- Transition period - Enforceable 2021
- Overarching regulatory framework vs piecemeal approach
- Applicability

# Protection of Personal information Act

- The purpose of POPI:
  - Constitutional right to privacy
  - Balance of right to privacy against other rights
  - Provides rights and remedies
  - Establish an Information Regulator
- Principle based legislation – not fixed rules
  - How do we practically comply?

# Life Cycle

Delete /  
Archive

Collect



Store

Use





# What is Personal Information?

**“personal information”** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

# What is Special Personal Information?

- Religious beliefs
- Philosophical beliefs
- Race
- Ethnic origin
- Trade union membership
- Political persuasion
- Health
- Sex life
- Biometric information
- the criminal behaviour of a data subject to the extent that such information relates to
  - the alleged commission by a data subject of any offence; or
  - any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

# **8 Basic Conditions**

- 1.Accountability** – section 8
- 2.Processing limitation** – section 9 – 12
- 3.Purpose Specification** – section 13 and 14
- 4.Further processing limitation** – section – 15
- 5.Information quality** – section 16
- 6.Openness** – section 17 and 18
- 7.Security safeguards** - section 19 - 22
- 8.Data subject participation** – section 23 – 35



# The Basics

- Information officer
- PAIA manual
- Operators agreements
- Impact/Risk assessment
- Security measures (Organisational / IT)
- Training
- Consent or justification (data subject notification)

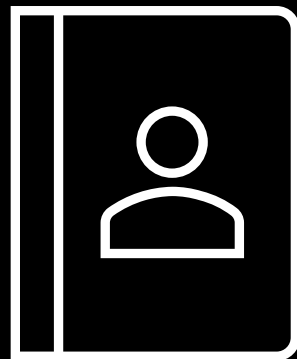
# Information Officer

1. Head of the organization by law
2. Person taking overall responsibility for the protection of personal information in the company
3. Deputy information officers
4. Registration vs non-registration





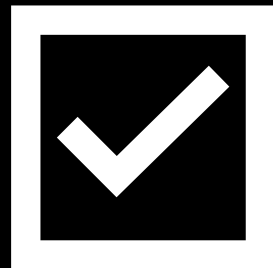
# PAIA Manual



## Promotion of Access to Information Act

- 1 January 2022
- Records
- How to access?
- Private entity – to enforce a right
- Public Entity – unconditional

# Consent vs Justification



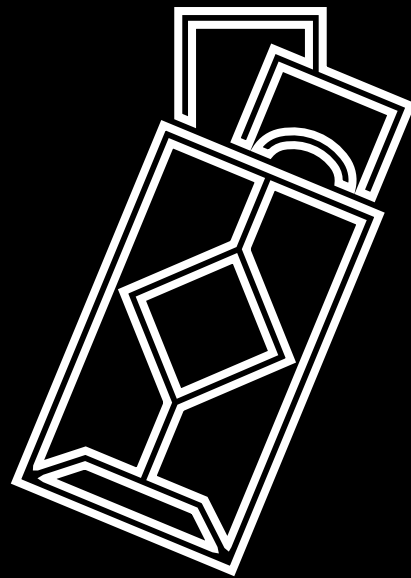
- **Consent**
  - Voluntary
  - Informed
  - Specific
  - Expression of will
- **Justification**
  - To conclude in terms of a contract
  - To comply with an obligation imposed by law on the responsible party
- **Specific consent needed**
  - Transborder
  - Special personal information
  - Direct Marketing (not existing client)
- **Data subject notification**

# Children's Personal information



- Higher level of protection
  - Default
  - Consent
  - Competent person

# Operator's Agreement



- Processing personal information on another's behalf – no control (Payroll, IT, Marketing, HR)
- **Written agreement**
  - Confidential and non-disclosure
  - Security requirements
  - Breach notification
  - Knowledge and mandate
- **Warning!**

# Security requirements



- Responsible party must:
  - Ensure the integrity and confidentiality of the PI in its possession
  - By putting the appropriate and reasonable technical and organizational measures in place
- To prevent:
  - The loss of,
  - Damage to,
  - Unauthorized destruction of,
  - Unlawful access to, or
  - Unlawful processing of the PI
- IT and physical records

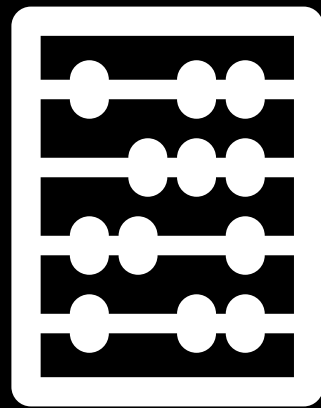


# Security requirements



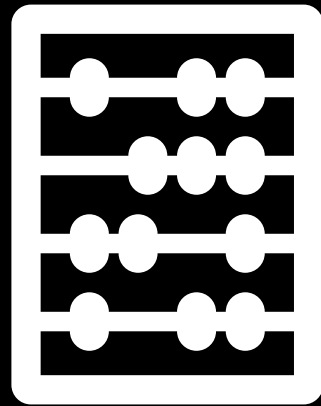
- Organizational measures
  - Data protection policy
  - Clean desk policy
  - Physical security policy
- IT Measures
  - Password policy
  - Minimum access policy
  - Server policy

# Impact Assessment



- Risk identification
- Risk Mitigation
- Solution testing
- Continuous basis – evolution of risks (internal & external)
- Continuous improvement

# Training



- Information officer's duty
- Responsible party protection
  - Reputation
  - Fines / imprisonment
- New policies
- Disciplinary action

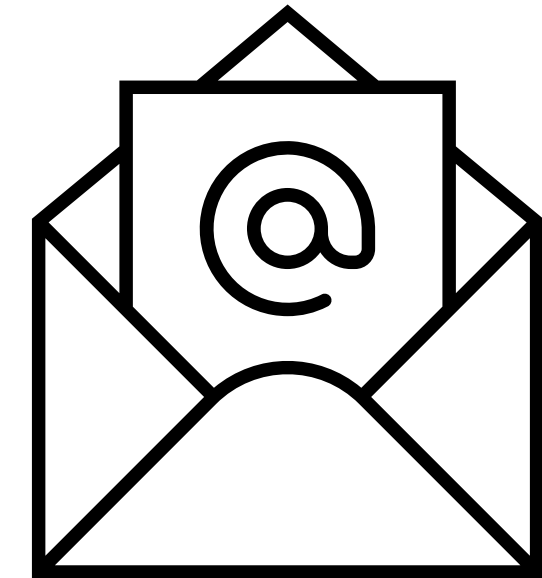


# Specific risks - Direct Marketing

- Strict conditions for lawful processing
- Separate consent from processing
- Other acts to consider, CPA and ECA
- Strategic risks
- Cold 'emailing'

# Security Breach

- To affected data subjects
- Categories of information accessed
- Consequences of abuse
- Measures taken to prevent and manage





# Investigation

- By the Information Regulator
  - Can come from a random audit or complaint
  - Information officer registered
  - PAIA Manual uploaded to website



# Treat Personal Information like Money

- Consent
  - Do not forcefully take money from someone
  - Have a contract in place
- Minimum access
  - Security measures
  - Both accidental and malicious intent
  - Protect what has been entrusted to you
- Processing limitations
  - Use the PI only what it was originally consented for
  - Accounting system





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