

The Dti Gazetted as published on 29 March 2018, unexpectedly announced for 60 day public commentary, a significant piece of BEE Legislation that will change the BEE landscape if Finally Gazetted in its current form.

The Gazette is attached but here is a short description and evaluation.

- It amends Code 000 (General Principles and the Generic Scorecard) and Code 300 (Skills Development).
- Enhanced B-BBEE recognition for QSEs for 100% or 51% Black ownership must be calculated using flow-through and cannot benefit from the modified flow-through provisions.
- The Enhanced recognition provisions are extended to Generic entities in that a Generic entity with 100% Black ownership is recognised as a BEE level 1 via a BEE Verification Certificate verifying the ownership element. Likewise, a 51% Black-owned entity is recognised as a BEE Level 2. In both cases enhanced black ownership to a BEE Level 1 or 2 cannot be achieved by the use of modified flow-through, the presence of private equity funds or mandated investments or through sale of assets or provisions catering for black sale or loss of shares (the latter sometimes referred to as “once empowered always empowered”).
- The eligibility of Unincorporated Joint Ventures is spelled out.
- BEE levels can be enhanced by the use of the Youth Employment Service (Y.E.S.) by QSE and Generic entities who are compliant with their Priority Elements requirement. EMEs can also benefit from this provision. Based on a formula around headcount, NPAT and Absorption rates and certain prerequisite conditions, if targets are met for the provision of jobs for black youth, the entities BEE Recognition Level can be enhanced by one or two BEE Recognition Levels.
- 50% of Informal Skills Development expenditure for Y.E.S. employees can be included under Cat F & G in the Skills Development scorecard.
- Skills Development has been significantly changed as follows:-
 - Points and targets for skills development expenditure have been reduced to 6 and 3.5% respectively
 - A new indicator is included measuring expenditure on bursaries for black students at higher education institutions has been added with 4 points and a 2.5% target. Demographic targets do not apply to these bursaries.
 - The limit on Ancillary costs such as travel, catering and the cost of a skills development facilitator does not apply to expenditure under the new indicator for bursaries for black students.
 - Stipends of black students under the new indicator can be counted alongside Category B, C & D salaries towards skills development expenditure targets
 - The targets for Learnerships for previously employed and previously unemployed black people are now clearly separated and the points reduced to 3 each.
 - The limit for recognition of Informal training is increased from 15% to 25%.

Due to time constraints, this is not an exhaustive summary but gives the broad outline of the proposed legislation.

It would appear that organisations can now choose between:

- black ownership where the shareholding is 51% or above without modified flow-through or the use of other techniques mentioned above or
- Exploiting the Skills Development and Y.E.S provisions to achieve a credible BEE Level.

It's also good news for black youth who are wanting to undertake tertiary education.

In light of this pending development, we'll be hosting two urgent workshops (19 April 2018 in Johannesburg and 25 April 2018 in Cape Town) with the following objectives:

- Clarifying suggested changes;
- Obtaining commentary to enable Sigma to make practical recommendations to the Dti; and
- Suggest possible solutions to attendees.

Should you like to attend either of these, please email info@sigma.co.za to receive further details.

**Looking forward to hearing from you,
Sigma Group**

BEE Legislation For 60 Day Public Commentary information supplied by Mantis Network.