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Overview of B-BBEE related legislation for 2018

2018 has been a year of many changes within several industries and Broad-Based Black Economic Empowerment has been at the forefront once again.

Below is a list of the most significant publications for the year.

1. March 2018 and September 2018 - Youth Employment Service (Y.E.S. Initiative) to promote employment opportunities for the youth (18 to 35 years of age).
2. March 2018 via Gazette Number 41546 - broad amendments to the B-BBEE Code including measurement of the minimum requirements for priority elements and flow-through principles.
3. March 2018 - Construction Sector Codes - Affidavit format has been published.
4. May 2018 via Gazette Number 41709 - Enterprise and Supplier Development including new definitions and new wording.
5. September 2018 - The finalised Mining Charter was gazetted for implementation with immediate effect. This charter includes several significant amendments with extensive compliance criteria ultimately affecting the application and status of mineral rights.
6. October 2018 - Practice Note for Implementation of the Y.E.S. Initiative. This 9 page document provides implementation guidelines and includes use of the Employment Equity Act during the verification process.
7. November 2018 - Defence Sector Codes were gazetted.
8. December 2018 - Finalised Mining Charter implementation guidelines.



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Additionally, it is important that the public remain aware of developments on the BEE Commission's website, www.bbbeeecommission.co.za .

The website contains a wealth of information relevant to the Act as follows:

- Regulations,
- Guidelines,
- Rulings,
- Codes of Good Practice,
- Explanatory Notes,
- Brochures,
- Research Reports,
- Annual Reports,
- Presentations,
- Strategic Plans and,
- The State of Transformation in South Africa amongst others

In the last couple years the Commission has entered in to Memoranda of Understanding with the CIPC and SARS to facilitate co-operation between these three departments during auditing of companies alleged to be in contravention of the B-BBEE Act.

During 2018, the Commission finalised two investigations in to contraventions of the Act and both companies were found to have contravened the Act. Should a company be found to be in contravention of the Act, the principles of Sections 13N and 13O of the Act will be applied and the matter may proceed to Court with commensurate penalties being imposed. It is of utmost importance that companies avoid contravention of the Act with a particular emphasis on avoiding fronting practices.

Important websites to note:

<https://www.bbbeeecommission.co.za/>
http://www.dti.gov.za/economic_empowerment/bee.jsp
<http://www.cipc.co.za/za/>
<http://www.sars.gov.za/Pages/default.aspx>

Subscribe to the BEE Ratings - SA newsletter and keep yourself informed. We have a number of articles published on a regular basis to help you understand B-BBEE related matters.

Contact BEE Ratings - SA at your earliest convenience for further detail and an appointment.