

PIECING TOGETHER

PIECES OF LEGISLATION THAT FEED TRUE TRANSFORMATION

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Did you know that the B-BBEE Act, the Skills Development Act and Employment Equity Act feed each other? Read as one, they collectively support compliance and provide a platform for an organisation to reap the rewards of a diverse, skilled and powerful workforce.

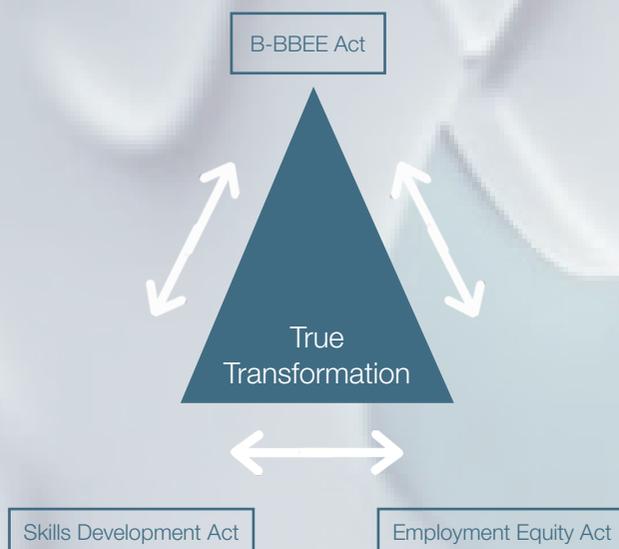
Many view the legislation and compliance requirements set out for South African organisations as a time drain and distraction. It is perceived that they distract organisations from their core objective, which is making a profit. The truth be known, many organisations would like to turn a blind eye, in fact, wish them away. But, as Good Corporate Citizens, South African organisations tackle the various processes, as the consequences for non-compliance trumps the desire to turn a blind eye. To meet deadlines and ensure information captured is an accurate reflection of an organisation's status, internal departments, established committees and in some cases, external consultants are designated to drive the process.

In my experience, organisations that actively embrace and ingrain the principles of legislation and compliance into their culture, are the ones that focus on profitability and effortlessly meet the deadline for each compliance submission.

This specifically applies to three pieces of legislation that support transformation, namely the B-BBEE Act No. 53 of 2003, the Skills Development Act No. 97 of 1998 and the Employment Equity Act No. 55 of 1998. An organisation that is open-minded and embraces transformation, as well as supports the well-being of its employees, will see a noticeable difference in productivity, employee satisfaction and higher profit margins.

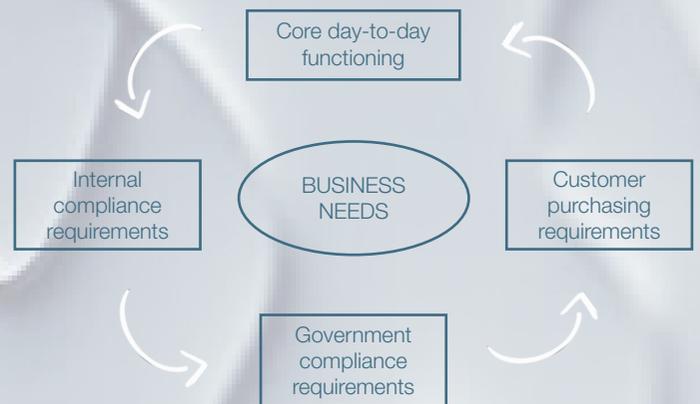
There is a cost attached to adhering to the various requirements of compliance. But with strategic planning, such results can be achieved in a cost-effective manner that aligns with an organisation's vision and budget. A mistake made by many organisations is viewing these three pieces of legislation as separate, unrelated tasks instead of a holistic, consolidated one designed to drive transformation. By incorporating them into one transformation vehicle, organisations can reduce their resources and costs, as well as fast track their Skills Development and B-BBEE objectives.

A transformation strategy that allows an organisation to operate at optimum capacity, while minimising any risk factors, takes time to roll-out. Attempting to transform an organisation in a two month period in exchange for points on the next B-BBEE measurement, will in all likelihood not deliver the desired outcome. An example, are organisations that spend money on training to chase targets. In other words, training is allocated on an adhoc basis to make up any scorecard shortfalls.



The first step in consolidating the three Acts is establishing the required committees to drive the process. It is beneficial to have overlapping key committee members, as this provides a broader knowledge base that will drive the collaborative process. The following committees are key drivers that will essentially feed off each other's compliance targets:

- > Employment Equity Committee;
- > Training Committee;
- > B-BBEE Steering Committee consisting of Human Resources, Finance and Procurement Departments as well as Executive Management.



Link 1 | B-BBEE → Employment Equity

Part and parcel of any business are employee movements which impact on the overall compliment of a workforce. Any such changes, as well as the manner in which such positions are filled, will have an impact on an organisation's level of compliance. Therefore, addressing employee movements must be done in line with Employment Equity legislation, then aligned to B-BBEE objectives and targets.

Employment Equity targets directly feed the Management Control Scorecard.

- > Designated Employers must have successfully submitted their annual EEA2 and EEA4 reports to the Department of Labour during the reporting period. Failure to do this inside the reporting window, will result in no points being allocated to the Management Control Scorecard.
- > Both Acts speak to aligning management levels with the Economic Active Population (EAP) demographics in the region where an organisation operates. This ensures that the true transformation of a workforce takes place, specifically for Designated Groups.
- > Collectively they align all management levels representative of EAP targets for all Designated Groups.
- > Each intend to bolster recruitment policies and support succession planning that aligns with both Employment Equity and Management Control objectives, taking into account the numerical targets.
- > Both contain targets for the employment of people with disabilities.

Link 2 | Skills Development → Employment Equity

There are mechanisms available whereby an organisation can reduce and offset their employee training costs. This can be achieved through strategically implementing all training and recruitment in line with Employment Equity requirements by:

- > Increasing youth employment of new employees. This is defined as people between the ages of 14 and 35 years old as per the National Youth Commission Act of 1996. Doing this will qualify an organisation for the Employee Tax Incentive (ETI) and subsequent Tax deduction using Section10(i)S of the Income Tax Act;

- > Engaging in talent and acquisition programs using Learnerships, Apprenticeships and Internships which have sizable tax deductions via the 12(H) Tax Incentive for Learnerships.
- > Succession planning for identified employees to drive Employment Equity numerical goals and targets, as well as training costs. This is providing such plans form the backbone of an organisation's WSP and ATR submissions.
- > Establishing Training and Employment Equity Committees by Designated Employers. Typically both committees are represented by the same members. The benefit is that the Employment Equity goals help identify any Skills Development needs, which creates a path for succession planning and the implementation methodology.
- > Identifying common barriers hampering progression in an Employment Equity Plan will highlight any critical skills needs in an organisation.

- > In order to apply for Grants from a specific SETA, an organisation must ensure that they:
 - Submit their annual WSP and ATR by the end of April annually. Failure to submit disqualifies an organisation from receiving grants until the closure of the next reporting period.
 - Adhere to the WSP and implement identified training throughout the year. The SETAs are more likely to award funding if an organisation follows through with their training plan and provide evidence thereof.
- > Grants carry a value of:
 - Up to 20% of the 1% Skills Development Levy for Mandatory Grants.
 - Up to 49% of the 1% Skills Development Levy for Pivotal Grants.

Link 3 | B-BBEE → Skills Development

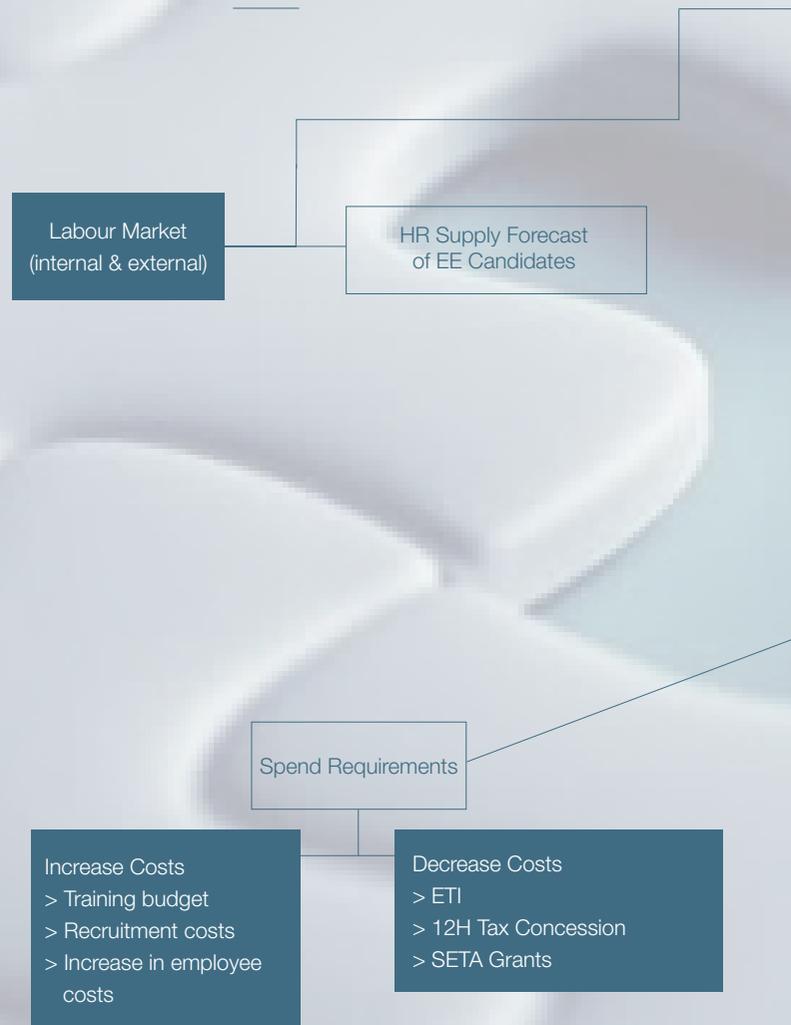
The Skills Development spend target currently stands at 6% of an organisation's Leivable Amount. This is often one of the most costly elements, if not properly planned and managed. Organisations with a salary base of more than R500,000.00 per annum must register with their relevant industry SETA and contribute an equivalent 1% of the value via their monthly Skills Development Levy (SDL) payments. Furthermore, upon meeting specific conditions, there is an avenue whereby organisations can claim a portion of their contribution back in the form of Mandatory, Pivotal and Discretionary Grants, see page 34. From our experience, the SETAs are more favourable to organisations with training plans focused on Designated Groups as per the various SETA grant policies.

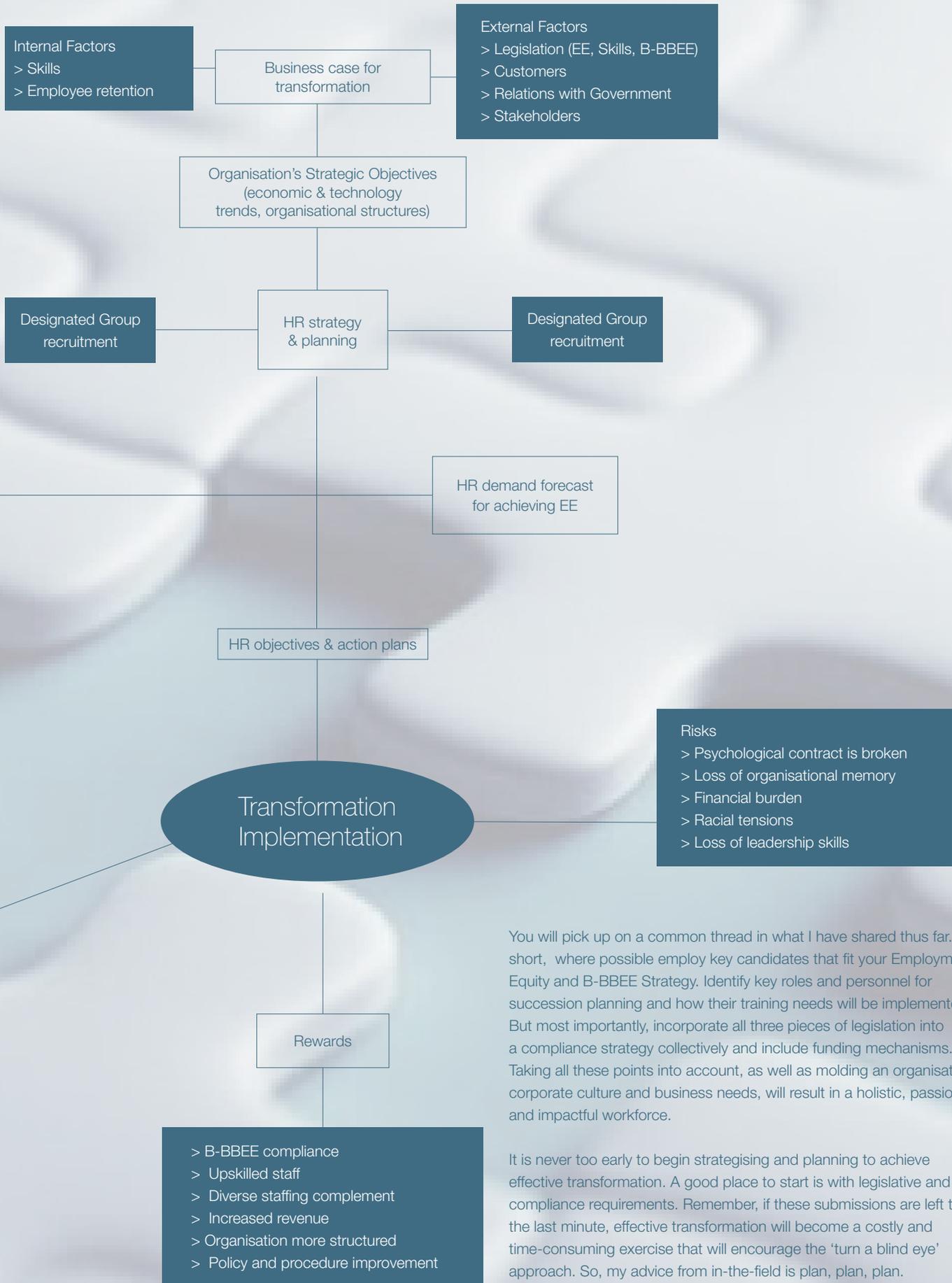
Abiding by the requirements outlined in the Skills Development Act directly reflects on an organisation's Skills Development Scorecard. Such requirements and benefits include, however, are not limited to:

- > Organisations must submit an approved WSP and ATR in order to receive points on their B-BBEE score, see page 28.
- > Develop a Talent Acquisition Program using Learnerships, Internships and/or Apprenticeships
 - Learnerships allow for a 12(H) Tax Concession to the value of up to R120,000.00 for a candidate with a disability and R80,000.00 for an able-bodied candidate.
 - The full invoice value can be claimed, monthly Cost To Company (CTC), in addition to any mentoring costs as part of an organisation's B-BBEE spend.
 - An organisation engaging candidates under the age of 29 qualify for ETI deductions.
- > Align B-BBEE needs to Learnerships, Internships and Apprenticeships in a Skills Development Plan for both employees and unemployed people.
- > Align Skills Development needs to EAP targets to ensure training implemented qualifies for the full points allocation.
- > Upon meeting specific criteria, any Skills Development costs, CTC or consulting fees can be claimed as training administration costs. Priority funding is available from some SETAs for the training of people with disabilities, specifically MERSETA.

Model for Managing the process of Transformation and Compliance

Adapted from South African Journal of Labour Relations: Vol 30 No 02 2006.





You will pick up on a common thread in what I have shared thus far. In short, where possible employ key candidates that fit your Employment Equity and B-BBEE Strategy. Identify key roles and personnel for succession planning and how their training needs will be implemented. But most importantly, incorporate all three pieces of legislation into a compliance strategy collectively and include funding mechanisms. Taking all these points into account, as well as molding an organisation's corporate culture and business needs, will result in a holistic, passionate and impactful workforce.

It is never too early to begin strategising and planning to achieve effective transformation. A good place to start is with legislative and compliance requirements. Remember, if these submissions are left to the last minute, effective transformation will become a costly and time-consuming exercise that will encourage the 'turn a blind eye' approach. So, my advice from in-the-field is plan, plan, plan.