

An **EMPOWERDEX** Guide



The Codes of Good Practice

Scorecard Essentials

FRAMEWORK

Code 000 – **Framework**

Statement 000 – General Principles of the Generic Scorecard

Statement 003 – Transformation Charters & Sector Codes

Statement 004 – Specialised Enterprises



Framework

Framework

Code Series 000

Framework for the measurement of B-BBEE

Statement 000

General principles and the Generic Scorecard

What you can expect:

- Application of the Codes
- Eligibility of an Exempted Micro-Enterprise
- Eligibility of a Qualifying Small Enterprise
- Start-up Enterprises
- The Elements of the Generic Scorecard
- The Generic Scorecard
- Enhanced recognition for certain categories of black people
- Framework for the Accreditation of BEE Verification Agencies
- Transitional period
- Adjustment of Thresholds
- Duration of the Codes

The Essence of Statement 000:

Essentials

- In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of **the Act and the B-BBEE Strategy must take precedence**.
- Misrepresentation or attempt to misrepresent a company's true B-BBEE Status may lead to **disqualification of the entire scorecard** of that entity.
- The division, separation or splitting of an entity as a means of ensuring eligibility as a Start-Up Enterprise, Exempted Micro-Enterprise (EME) or Qualifying Small Enterprise (QSE) is considered circumvention of the Act and may lead to **disqualification of the entire scorecard** of those entities concerned.
- Suitable evidence or documentation to support any claims made by an entity about its B-BBEE compliance. An entity not providing evidence or documentation supporting any initiative **WILL NOT receive recognition** for that initiative.

Statement Application

The following entities are measurable under the Codes:

- All **public** entities including **major public entities** such as ...
 - Airports Company
 - Central Energy Fund
 - DENEL
 - Development Bank of Southern Africa
 - ESKOM
 - Industrial Development Corporation
 - SA Post Office
 - Telkom SA
 - Transnet

- All **national and provincial public** such as ...
 - Arts Councils and Trusts
 - Consumer Affairs Courts
 - Development Tribunals
 - Economic Development Agencies and Economic Councils
 - Education and Training Board
 - Gambling Boards
 - Liquor Boards
 - Local Road Transport Boards
 - Tender Boards
 - Tourism Boards
 - Parks Boards
 - Provincial Housing Boards
 - Provincially Museums
 - Provincially-Aided Libraries
 - Regional Authorities

- Any **national or provincial government business** entities such as ...
 - Water Boards
 - Provincial Development Corporations
 - Provincial Finance Corporations
 - Government-backed Agricultural and Farming companies
 - Government-backed Commuter and Transport Corporations

- Any enterprise that does business with any organ of state or public entity

- Any company doing business, whether directly or indirectly, with major public, national and provincial public and national or provincial government business entities

Statement Measurements

Eligibility as a Start-up Enterprise –

Start-up enterprises are **recently incorporated** entities that have been **in operation for less than one year**. Start-up enterprises do not include any newly constituted entities which are merely continuations of pre-existing entities.

To qualify as a start-up enterprise, the entity **must provide** an independent confirmation of its status.

Start-up enterprises are **measured as an EME for the first year** following its formation or incorporation. This applied regardless of the enterprises' total or expected total revenue. Start-up enterprises, like EMEs, are deemed to have a B-BBEE Status of a **'Level Four Contributor'**. Level Four Contributors have a B-BBEE procurement recognition of 100%.

However, start-up enterprises must **submit a QSE Scorecard** when tendering for any contract or seeking any other business with a value higher than R5 million but less than R35 million and for contracts with a value of more than R35 million, start-up enterprises should submit **the Generic Scorecard**. The preparation of such scorecards will use annualised data.

Eligibility as an Exempted Micro-Enterprise(EME) –

Exempted Micro-Enterprises (EME) are defined simply as an entity with **an annual turnover of less than R5 million** and are exempt from having to apply the Codes.

An auditor's certificate or similar certificate issued by an accounting officer or verification agency is considered evidence of an entities qualification as an EME.

EMEs automatically enjoy BEE recognition of a **'Level Four Contributor'**, which has a B-BBEE procurement recognition of 100%. EMEs can be promoted to a **'Level Three Contributor'**, which has a B-BBEE procurement recognition of 110%, if it is **more than 50% owned by black people or black women**.

EMEs may be measured against the QSE Scorecard should they wish to maximize their points and move to the next procurement recognition level.

Eligibility as a Qualifying Small Enterprise (QSE) –

Qualifying Small Enterprises (QSEs) are defined as an entity with **an annual turnover of more than R5 million but less than R35 million** and are subject to less stringent measurement under the Codes.

QSEs are measured against the QSE Scorecard, which means they need to comply with **just four** of the seven elements of B-BBEE. QSEs are required to select which four elements they wish to be measured against. Where no selection has been made the four best element scores will be used for the purposes of measurement.

NOTE

Adjustment of Thresholds

The Minister is authorized to **adjust the above thresholds** by notice in the Gazette. Any such changes will apply to compliance reports prepared for entities after a 12-month period following the gazetting of the adjustment.

The Scorecard System

Element	Weighting	<p>Using a system of weightings and targets, companies express their BEE Contribution as a score out of 100 points</p> <p>The Codes of Good Practice explain how you measure each indicator</p> <p>Generic scorecard comprises seven elements measured as a score out of 100 points</p>
Ownership	20 points	
Management	10 points	
Employment Equity	15 points	
Skills Development	15 points	
Preferential Procurement	20 points	
Enterprise Development	15 points	
Socio-Economic Development	5 points	

BEE Status –

A company's overall score will then be used to determine its BEE Status. Generally **the higher the BEE Score, the higher the recognition** to any person/enterprise interacting with that company. Customers (public and private sector) generally prefer to interact and procure from entities with higher BEE status since this bolsters their own B-BBEE recognition.

Throughout the Codes various criteria appear which advance the interests of certain categories of black people, these include:

- **Black Women**, who should form between **40% and 50% of the beneficiaries** of all the elements featured on the Generic Scorecard
- **Black People with Disabilities**, **Black Youth**, **Black People living in Rural Areas** and **Black Unemployed** People must make up for between **2% and 3% of the beneficiaries** of all the elements featured on the Generic Scorecard.

B-BBEE Status	Qualification	B-BBEE Recognition Level
Level One Contributor	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic Scorecard	80%
Level Six Contributor	≥45 but <55 on the Generic Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic Scorecard	10%
Non-Compliant Contributor	<30 on the Generic Scorecard	0%

NOTE

Transitional Period

For the first year after the commencement of the Codes, that is until February 2008, a measured entity may elect to use either:

- The Generic Scorecard (measuring all seven elements of B-BBEE) or
- The Transitional Scorecard (measuring only Ownership and Management and Control)

The Transitional Scorecard assigns a BEE Status using the following formula:

$$A = B \times 1.92$$

Where:

A is the indicative BEE Status during the transitional period

B is total score achieved under Code series 100 and 200

Duration of the Codes

A Code remains in effect until it is amended, substituted or repealed under section 9 of the B-BBEE Act. The Minister will review the Codes at the end of the **tenth year** following the commencement of the Codes. Despite this, **annual reviews** will be undertaken to monitor the implementation of B-BBEE throughout the economy.

Framework for the Accreditation of BEE Verification Agencies

“Verification of BEE compliance is encouraged and to this end, the dti will from time to time issue clear guidelines on the verification process.”

Accreditation –

- Accreditation of BEE verification agencies will be conducted by the South African National Accreditation System (SANAS) on behalf of the dti
- The terms of the BEE Verification Agency accreditation criteria will be developed, maintained and enforced by SANAS
- SANAS is the national accreditation body that operates in compliance with the requirements for accreditation bodies as defined in the International ISO/IEC Guide 62 and ISO 17011
- Such Accreditation Standards govern the terms and conditions on which the Accreditation Body may grant, refuse to grant, revoke or suspend an accreditation of a Verification Agency
- Verification agencies wishing to apply for accreditation do so through SANAS.

Industry Body –

- The dti encourages the establishment of an independent Industry Body that will provide guidance to the verification industry through the development and maintenance of high-quality and reliable BEE verification standards
- The dti together with this Industry Body will from time to time develop Verification Methodology and other relevant practices that will be used as standards by all verification agencies
- The dti will, together with the Industry Body, implement such mechanisms as may be necessary to ensure that Verification Certificates are accurate and reliable
- The dti will establish a publicly accessible central database containing the information underlying each verification certificate.

Framework Code Series 000

Framework for the measurement of B-BBEE

Statement 003

Guidelines for the development and gazetting of Transformation Charters and Sector Codes

What you can expect:

- Procedure for developing and gazetting Transformation Charters
- Procedure for developing and
- Status of Transformation Charters and Sector Codes
- Recommended model for developing transformation Charters
- Variation of indicators

The Essence of Statement 003:

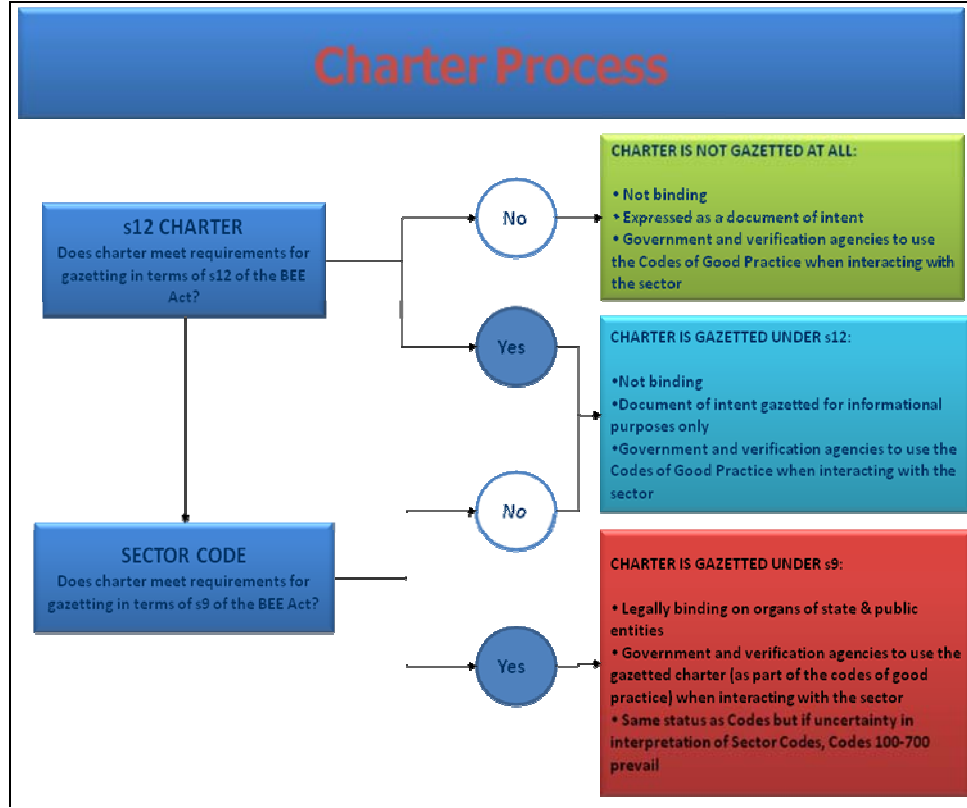
Statement Basics

Various sectors of the economy have drafted documents, more widely known as sector Transformation Charters, which summarise each sector's intent and commitment with regard to transformation. In terms of the B-BBEE Act, sector transformation charters are commitments by a sector to accelerate BEE and are gazetted for information purposes only. However, the deluge of Transformation Charters that have been introduced to the market have revealed a substantial difference exist between charters, primarily because there has been no overall framework against which to benchmark the individual charters.

This statement lays out a comprehensive regulatory framework to guide the development of transformation charters developed in terms of section 12, as well as those charters developed to be gazetted as Codes of Good Practice.

Statement Essentials

- Only by the **gazetting** of a Transformation Charter will it become a **Sector Code**
- Sector Codes **enjoy equal status** with that of the other Codes of Good Practice
- The gazetting of a Transformation Charter under section 12 of the B-BBEE Act is **evidence of the commitment to promote B-BBEE in an applicable sector** and is not binding on organs of state or public entities
- Code series 000 to 700 and any statement under those Codes **remain applicable** to entities in the applicable sector **despite the gazetting** of their Transformation Charter
- Where there is uncertainty in the interpretation of the Sector Code, the **Codes of Good Practice will prevail**.



Recommended Model for the development of Transformation Charters

The following matters need to be **considered by sectors** developing a Transformation Charter:

- the sector seeking to gazette their Transformation Charter **should interact or transact with the organs of state or public entities**
- there should be **common commercial** and other characteristics within the entities forming part of the proposed sector
- the sector should be significant having regard to:
 - the **national strategic importance** of the sector as determined by government; and
 - the **volume and value of transactions** taking place between the sector and organs of state or public entities collectively - this is measurable by reference to the total volume and value of transactions taking place within the sector.

The following is the **recommended model** for developing a Transformation Charter:

Public Proclamation of Charter: there must be a public proclamation of the object of developing a Transformation Charter.

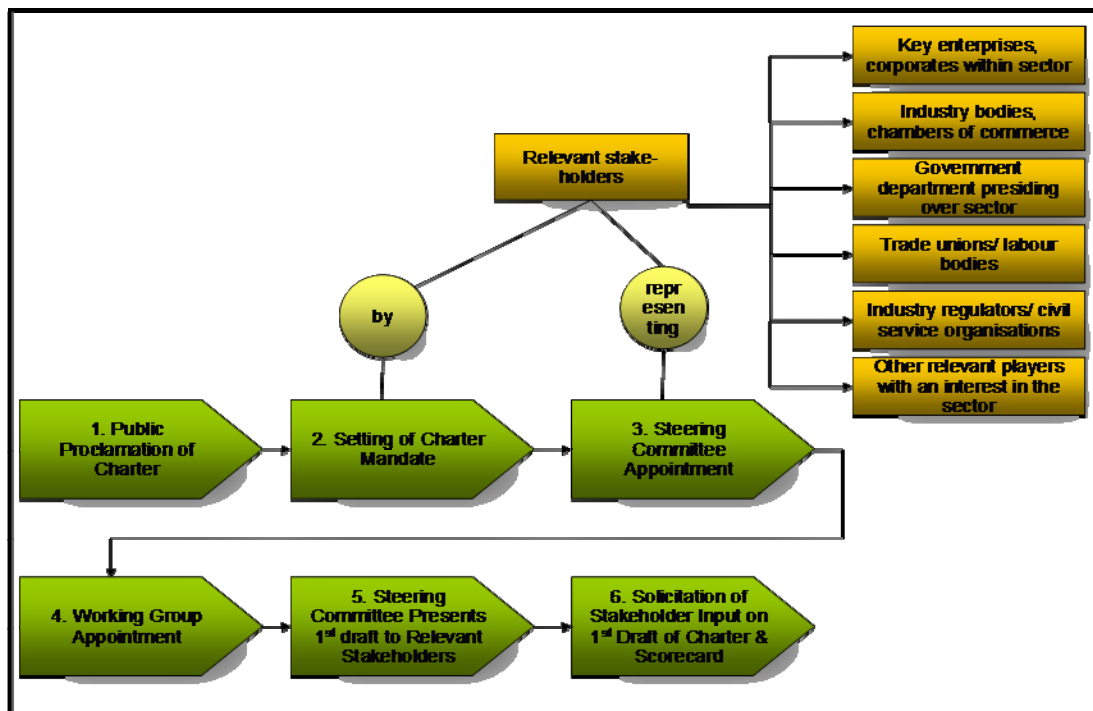
Setting of Charter Mandate: the initiators of the Charter process propose setting the mandate of the Charter and the Charter's overall objectives. These initiators should then present a proposed mandate for the Charter, to relevant stakeholders for consideration and comment. The final mandate of the Charter must reflect the concerns and needs of the stakeholders.

Appointment of a Steering Committee: the initiators of the Charter process appoint a Steering. This Steering Committee should represent relevant groups of stakeholders and should consist of senior and influential members of entities, organisations or departments in the sector.

Appointment of relevant Working Groups: the Steering Committee appoints several working groups to aid in drafting the Charter. Element specific working groups are desirable.

First Draft: Based on recommendations by the appointed Working Groups, the Steering Committee must compile the first draft of the Charter for presentation to stakeholders.

Consultation with Stakeholders: the Steering Committee will communicate the key elements of the first draft of the Transformation Charter, including a draft of its scorecard to stakeholders.



Framework
Code Series 000

Framework for the measurement of B-BBEE

Statement 004

Scorecards for Specialised Enterprises

What you can expect:

- The Adjusted Generic Scorecard
- The Adjusted Qualifying Small Enterprises Scorecard
- Important Clarification

The Essence of Statement 004:

Statement Essentials

This statement can only be used in the measurement of:

- Public entities and other Enterprises **wholly owned by an organ of state**
- **Higher Education Institutions** that are not public entities
- **Companies limited by guarantee and section 21** companies with no shareholding (companies limited by guarantee and section 21 companies sharing in the ownership of other Enterprises are excluded from measurement under this statement)
- **Non-profit Organisations and Public Benefit Organisations** (Nonprofit Organisations and Public Benefit Organisations sharing in the ownership of other Enterprises as broad-based ownership schemes or special benefit schemes are excluded from measurement under this statement)
- Wherever any of the entities listed above need evidence of their own BEE compliance, they will use the Adjusted Generic Scorecard. If those entities are also Qualifying Small Enterprises, they will use the Adjusted Qualifying Small Enterprises Scorecard.

The Adjusted Generic Scorecard

Element	Weighting	Code series reference
Management control	15 points	200
Employment equity	15 points	300
Skills development	20 points	400
Preferential procurement	20 points	500
Enterprise development	15 points	600
Socio-Economic development	15 points	700

The Adjusted Qualifying Small Enterprises Scorecard

Element	Weighting	Code series reference
Management control	25 points	200
Employment equity	25 points	300
Skills development	25 points	400
Preferential procurement	25 points	500
Approved projects and enterprise development	25 points	600
Social development and sector specific contributions	25 points	700

A Measured Entity subject to this statement that is a Qualifying Small Enterprise must choose any four of the six Elements of BEE against which their BEE compliance will be measured under the Adjusted Qualifying Small Enterprise Scorecard.

Important Clarification

The status of socio-economic development contributions made to any of the types of entities subjected to measurement against the Adjusted Scorecard is not dependent on such entity's scorecard result, but rather the nature of the contribution itself and the identity of that contribution's beneficiaries.