

An EMPOWERDEX Guide



The Codes of Good Practice

Reaffirming SA's commitment to transform its economy

Introduction

The promulgation of the Codes of Good Practice for Broad-Based Black Economic Empowerment (B-BBEE), essentially a blue print for the transformation of the economy, went almost unnoticed after the three-year debate that preceded their gazetting. The final step in the prolonged process of formalizing a regulatory framework for implementing and measuring B-BBEE, the February gazetting of the Codes resolve a number of outstanding uncertainties about the government's stand on B-BBEE and since the Codes are significantly more pragmatic than originally anticipated. The finalized Codes represent a balance between government's initial stand on Broad-Based BEE and the wishes of business. More than anything else, the final version of the Codes reveals the Department of Trade and Industry's flexibility in being able to meet the private sector half way while not selling out to the spirit of empowerment.

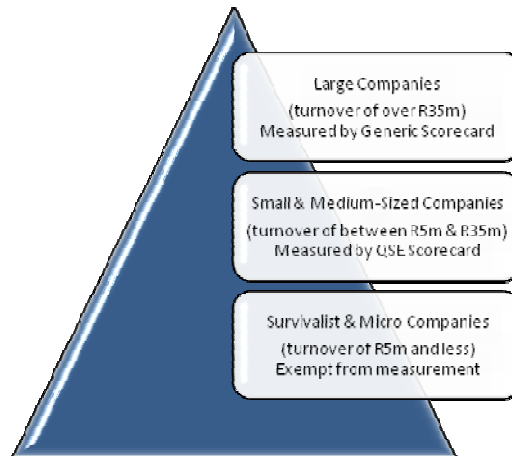
Now that the Codes have been gazetted, the only other possible change could be the amendment of Black Economic Empowerment legislation to give it more teeth. As it stands, the B-BBEE Act does not give the government enough muscle to take action against companies that refuses to recognise the Codes. "That is why we are currently considering reviewing the act to give it more teeth," she said.

In the meantime, the Department of Trade and Industry (dti) is working with other government departments to ensure the Codes are enforced. Minister of Trade and Industry Mandisi Mphahlele also warned in December that the government would act against any sectors unwilling to transform.

Besides the Mining Charter, which is already legislated as part of the Mineral and Petroleum Resources Development Act, none of the Transformation Charters have yet been made Sector Codes. The Financial Services Charter and the Construction Charter were, however, gazette under section 12 which makes them documents of intent gazetted for informational purposes only.

Measured Entities

Three years in their crafting, the Codes of Good Practice for Broad-Based Black Economic Empowerment (B-BBEE) have been gazette. Companies have been given a transitional period of a year to gear up for the Codes' formal implementation, which means by February 2008, all companies with a turnover of R5 million per annum will be subject to measurement under the Codes.



Companies with a turnover of R35 million and over will be measured against the Generic Scorecard, small and medium sized businesses with turnover of between R5 million and R35 million will be measured against the Qualifying Small Enterprises (QSE) Scorecard and companies with a turnover of R5 million and under are considered survivalist or micro enterprises and are exempt from compliance.

Effect on the Economy

Company size	Turnover threshold	Number of companies of this size	GDP contribution of businesses of this size	BEE compliance
Large (Generic)	R35m and over	1.5% to 2%	62%	Full compliance
Small & Medium (Qualifying Small Enterprises)	R5m to R35m	10%	28%	Relaxed compliance
Survivalist & Micro (Exempt Micro-Enterprises)	R5m or less	88%	10%	No compliance

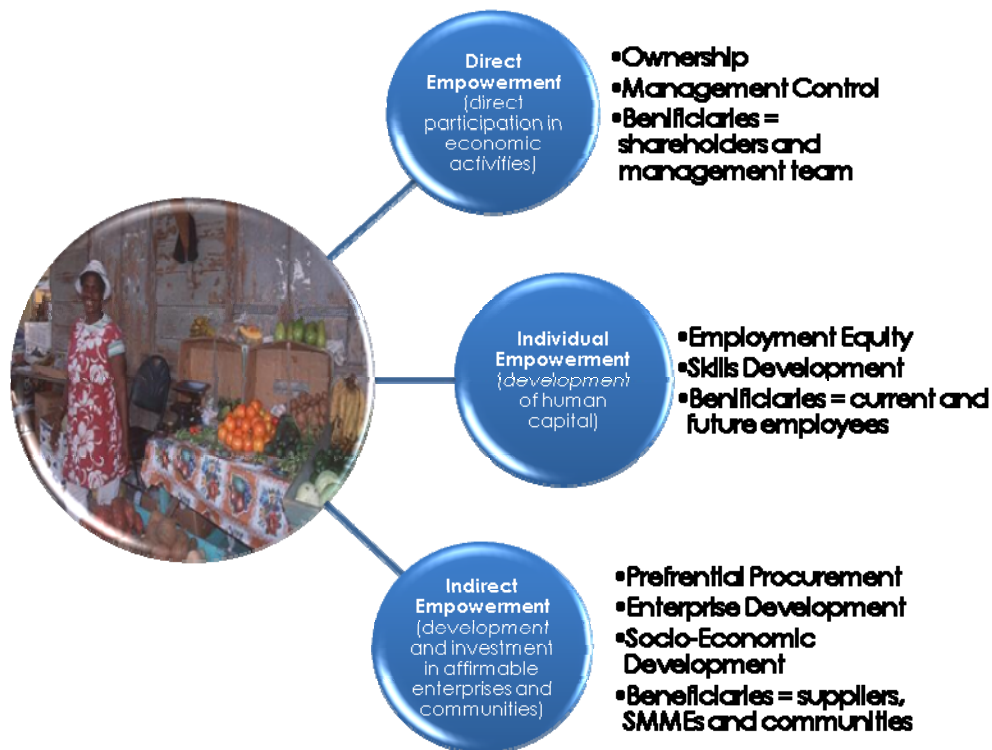
This means that:

- The only companies expected to comply fully with BEE requirements make up a mere 1.5% to 2 % of all companies but their contribution to the GDP is 62%.
- Qualifying Small Enterprises, which enjoy relaxed BEE compliance requirements, make up 10% of all companies and contribute 28% to GDP.
- The Micro-Enterprises that are excluded from compliance make up 88% of all companies and effectively contribute about 10% of GDP.

Core Components of B-BBEE

The scorecard measures three core components of BEE:

- **Direct empowerment** through ownership and management control,
- **Individual empowerment** through employment equity and skills development,
- **Indirect empowerment** through preferential procurement, enterprise development and socio-economic development.



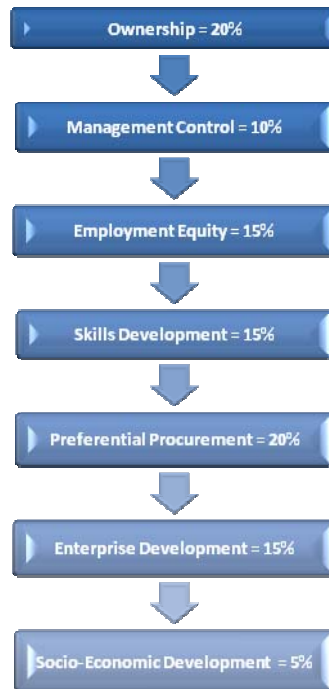
Organisation of the Codes

The Codes are organized according to the seven key elements of B-BBEE and the Statements within each of the Code Series relates to the measurement of that particular element.

Index of the Codes	
000	Framework for measuring Broad-Based Black Economic Empowerment
100	Measurement of the Ownership Element of Broad-Based Black Economic Empowerment
200	Measurement of the Management Control Element of Broad-Based Black Economic Empowerment
300	Measurement of the Employment Equity Element of Broad-Based Black Economic Empowerment
400	Measurement of the Skills Development Element of Broad-Based Black Economic Empowerment
500	Measurement of the Preferential Procurement Element of Broad-Based Black Economic Empowerment
600	Measurement of the Enterprise Development Element of Broad-Based Black Economic Empowerment
700	Measurement of the Socio-Economic Development Element of Broad-Based Black Economic Empowerment
800	Measurement of Qualifying Small Enterprises Broad-Based Black Economic Empowerment

Index for Generic Statements		
Code Series	Statement Number	Statement Title
000	000	General Principles and Generic Scorecard
	003	Guidelines for the development and gazetting of Transformation Charters and Sector Codes
	004	Scorecards for Specialised Enterprises
100	100	The General Principles for Measuring Ownership
	102	Recognition of the Sale of Assets
	103	Recognition of Equity Equivalents for Multinationals
200	200	The General Principles for Measuring Management Control
300	300	The General Principles for Measuring Employment Equity
400	400	The General Principles for Measuring Skills Development
500	500	The General Principles for Measuring Preferential Procurement
600	600	The General Principles for Measuring Enterprise Development
700	700	The General Principles for Measuring Socio-Economic Development

Element Weightings



The Generic Scorecard

Carrying the indicators, points and weighting for each element, the Generic Scorecard is the key to the entire implementation of the Codes. The weightings and point allocation reveal the level of priority the government has assigned to each element.

OWNERSHIP Code 100 Measures effective ownership of companies by black people Total Points = 20	Voting Rights	Exercisable Voting Rights in the Enterprise in the hands of black people	3		25%+1 vote
		Exercisable Voting Rights in the Enterprise in the hands of black women	2		10%
	Economic Interest	Economic Interest of black people in the Enterprise	4		25%
		Economic Interest of black women in the Enterprise	2		10%
		Economic Interest of the following black natural people in the Enterprise: - black designated groups - black participants in Employee Ownership Schemes - black beneficiaries of Broad-Based Ownership Schemes; or - black participants in Co-operatives	1		2.5%
		Realisation Points	Ownership fulfillment	1	
		Net value	7		25%
	Bonus Points	Involvement in the ownership of the Enterprise of black new entrants	2		10%
		Involvement in the ownership of the Enterprise of black participants: - in Employee Ownership Schemes - of Broad-Based Ownership Schemes - Co-operatives	1		10%
MANAGEMENT CONTROL Code 200 Measures effective control of companies by black people Total Points = 10	Board Participation	Exercisable Voting Rights of black Board members using the Adjusted Recognition for Gender	3		50%
		Black Executive Directors using the Adjusted Recognition for Gender	2		50%
	Top Management	Black Senior Top Management using the Adjusted Recognition for Gender	3		40%
		Black Other Top Management using the Adjusted Recognition for Gender	2		40%
	Bonus Point	Black Independent Non-Executive Board Members	1		40%
EMPLOYMENT EQUITY Code 300 Measures initiatives intended to achieve equity in the workplace Total Points = 15		Black Disabled Employees as a percentage of all employees using the Adjusted Recognition for Gender	2	2%	3%
		Black employees in Senior Management as a percentage of all such employees using the Adjusted Recognition for Gender	5	43%	60%
		Black employees in Middle Management as a percentage of all such employees using the Adjusted Recognition for Gender	4	63%	75%
		Black employees in Junior Management as a percentage of all such employees using the Adjusted Recognition for Gender	4	68%	80%
	Bonus Points	Bonus points for meeting and exceeding EAP targets in each of the above categories	3		

<p>SKILLS DEVELOPMENT Code 400</p> <p>Measures the extent to which employers develop the competencies of black employees</p> <p>Total Points = 15</p>	<p>Skills Development Spend on Learning Programmes</p>	<p>Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees as a percentage of Leivable Amount using the Adjusted Recognition for Gender</p>	6		3%
		<p>Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leivable Amount using the Adjusted Recognition for Gender</p>	3		0.3%
	<p>Learnerships</p>	<p>Number of black employees participating in Learnerships or Category B, C and D Programmes as a percentage of total employees using the Adjusted Recognition for Gender</p>	6		5%
<p>PREFERENTIAL PROCUREMENT Code 500</p> <p>Measures the extent to which companies buy goods and services from BEE compliant suppliers as well as black-owned entities</p> <p>Total Points = 20</p>		<p>BEE Procurement Spend from all Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend</p>	12	50%	70%
		<p>BEE Procurement Spend from Qualifying Small Enterprises or from Exempted Micro Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend</p>	3	10%	15%
		<p>B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend:</p> <ul style="list-style-type: none"> - Suppliers that are 50% black owned (3 of % points); or - Suppliers that are 30% black women owned (2 out of 5 points) 	5	15%	20%
<p>ENTERPRISE DEVELOPMENT Code 600</p> <p>Measures the extent to which companies carry out initiatives contributing to enterprise development</p> <p>Total Points = 15</p>		<p>Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target</p>	15		3% of Net Profit After Tax
<p>SOCIO-ECONOMIC DEVELOPMENT Code 700</p> <p>Measures the extent to which companies support socio-economic development</p> <p>Total Points = 5</p>		<p>Average annual value of all Socio-Economic Development Contributions made by the Measured Entity as a percentage of the target</p>	5		1% of Net Profit After Tax