



## **Overview**

### **Broad-Based Black Economic Empowerment (B-BBEE) in terms of Act 53 of 2003 and amended by Act 46 of 2013.**

All measured entities must use the Broad-Based Codes of Good Practice as amended as a basis for measurement. The thresholds determining whether an entity qualifies as an Exempt Micro Enterprise (EME) has also been amended.

### **What is BEE?**

Broad-based Black Economic Empowerment (B-BBEE) is an initiative launched by the South African Government to address the restrictions that exist within the country for Black people to participate fairly in the economy.

According to the B-BBEE Act 46 of 2013 Section 1(b), the definition for “Black people” is a generic term which means Africans, Coloureds and Indians:-

- (a) Who are citizens of the Republic of SA by birth or decent; or
- (b) Who became citizens of the Republic of SA by naturalization:-
  - I. Before 27 April 1994; or
  - II. On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date.

The BEE Act allows for the existence of the B-BBEE ‘Codes of Good Practice’ which provide the structures for the BEE Scorecard and certain rules associated with claiming BEE points.

If the company has a recognised BEE status then customers can claim BEE points on their BEE scorecard by buying from those businesses.

The different BEE status (from level 8 to level 1) depends on what contributions have been made to support the integration of Black people into the economy. The better level of BEE status you have the more BEE points can be claimed.

## Amended BEE Codes

The table below shows the BEE Point requirement for each of the 8 BEE Status Levels and how much customers can claim on their BEE Scorecard as a result.

Qualification on the Generic Scorecard	BEE Status	BEE Recognition Level
$\geq 100$	1	135%
$\geq 95$ but $< 100$	2	125%
$\geq 90$ but $< 95$	3	110%
$\geq 80$ but $< 90$	4	100%
$\geq 75$ but $< 80$	5	80%
$\geq 70$ but $< 75$	6	60%
$\geq 55$ but $< 70$	7	50%
$\geq 40$ but $< 55$	8	10%
$> 40$	Non Compliant	0%

The amended codes apply to Exempt Micro Enterprises (EME), Qualifying Small Enterprises (QSE), and Generic Sized Entities (GSE).

## Exempted Micro Enterprises (EMEs)

It is unrealistic to expect a start-up or micro business to contribute to BEE as there are likely to be few employees. Most businesses are vulnerable try to limit their overhead costs in the first few years.

For this reason any business that turns over less than R10 million is exempted from being measured against any BEE Scorecard.

Black Ownership	BEE Status Level	Procurement Recognition
100% Black	Level 1	135%
>51% Black	Level 2	125%
<51% Black	Level 4	100%

**EMEs** are required to produce a **sworn affidavit** declaring their qualification as an Exempt Micro Enterprise. EME's automatically qualify as Empowering Suppliers so their customers are all able to claim BEE Points for purchasing from them.

The new codes state that the verification under the new amended codes of an EME is only required to obtain a **sworn affidavit** on an annual basis confirming the following:

- Annual total revenue of R10 million or less, and
- Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the B-BBEE Act as amended.

Under the new codes any enterprise with an annual turnover of R10 million or less qualifies as an

### **EME**

- An EME is deemed to have a B-BBEE status of **level 4**, with contributors having a B-BBEE **recognition level of 100%**.
- An EME that is 100% Black owned qualifies for elevation to a **level 1** contributor, having a B-BBEE **recognition level of 135%**.
- An EME that is at least 51% Black owned qualifies for elevation to a **level 2** contributor having a B-BBEE **recognition level of 125%**.
- However, an EME is allowed to be measured in terms of a QSE should they wish to maximize their points and move to a higher recognition level, but then they are verified under the QSE scorecard, and the rules for a QSE will apply.

An IAC Accounting Officer may issue a client with a **sworn affidavit** for an EME.

As from 1 May 2015, EMEs are able to submit a sworn affidavit attesting to its EME status. This affidavit must be taken in front of a Commissioner of Oaths.

**Accounting officers that are registered with the Institute of Accounting and Commerce (IAC) are recognised as Commissioners of Oaths and may therefore issue a sworn affidavit in the case of EME's.**

**NB: In accordance to the Justices of the Peace and Commissioners of Oaths Act 16 of 1963, a Commissioner of Oaths is not allowed to charge a fee for administering an oath or affirmation, attesting a declaration or certifying a document.**

## Qualifying Small Enterprises (QSEs)

Under the new codes any enterprise with an annual turnover of between R10 million and R50 million or less qualifies as a **QSE**.

The enhanced B-BBEE recognition level for a QSE:

- A QSE that is 100% black owned qualifies for **level 1** B-BBEE recognition level.
- A QSE that is at least 51% black owned qualifies for **level 2** B-BBEE recognition level.

These QSE's is only required to obtain a **sworn affidavit** on an annual basis confirming the following:

- Annual Total Revenue of R50 million or less, and
- Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the B-BBEE Act as amended.

If a Black ownership of a QSE is below 51%, it is required to be measured in terms of the QSE scorecard to confirm its B-BBEE Status Level, and a certificate must be issued by a SANAS approved verification agency.

The following table represents the B-BBEE Generic Scorecard, itemizing the 5 elements:

Priority Element	Weighting	Code series reference
Ownership	25	100
Management Control	15	200
Skills Development	20	300
Enterprise and Supplier Development	40	400
Socio-Economic Development	5	500

Measured entities are to comply with priority elements under the following conditions:

- QSE to comply with at least 2 of the priority elements:
  - Ownership is compulsory; and either
  - Enterprise & Supplier Development or Skills Development.

Measured entities who do not meet the thresholds in priority elements, the overall score will be discounted one (1) level down.

Verification of **QSE's** and **GSE's** may only be performed by a verification agency who is accredited by the South African National Accreditation System (SANAS).

IRBA has opted out of being a verification agency as of 1 September 2016, and will phase out effective 31 December 2016.

## **Accounting Officers may NOT issue verification certificates for these types of entities.**

### **Generic Sized Enterprises (GSE's)**

Generic Sized Enterprises are those with a turnover exceeding R50 million.

Generic (Large) Sized Entities are required to be measured against all 5 of the BEE Priority elements. Large enterprises are to comply with all priority elements

### **The Role of Sector Codes**

The following needs to be noted on Sector Codes:

- **Economic and Industry dynamics** have been taken into account with sectors allowed to develop sector codes.
- Entities in sectors where there is a sector code **are not allowed** to be measured on the generic codes.
- **Alignment of sector codes** to the Act is critical to prevent fragmentation and confusion.
- Generic codes set **bare minimum**, with sectors codes expected to enhance or accelerate the level of empowerment.
- **Valid Sector Codes** are:
  - Tourism
  - Marketing and Communication
  - AgriBEE
  - Forestry
  - Property
  - Transport
  - Financial
  - Information and Communication Technology
- **Construction and Chartered Accountancy** sector charters are repealed.

## Verification Agency Options

In terms of the DTI's gazetted codes of good practice for BEE businesses, different sizes are measured differently. So, the first step in verification is to understand which category the business falls into.

<b><u>Turnover less than R10m</u></b>	<b><u>Turnover of R10m-R50m</u></b>	<b><u>Turnover more than R50m</u></b>
<b><u>Exempted Micro Enterprise</u></b>	<b><u>Qualifying Small Enterprise</u></b>	<b><u>Generic Sized Enterprise</u></b>
<b><u>(EME)</u></b>	<b><u>(QSE)</u></b>	<b><u>(GSE)</u></b>

Any business wanting to benefit from their BEE activities will need to prove their BEE status.

## Verified BEE Certificates

Verification Agencies exist and are able to issue valid BEE Certificates.

SANAS has been authorised by DTI to accredit Verification Agencies. A company can use any Verification Agency accredited by SANAS. As Verification Agencies get accredited, SANAS will announce new accreditations. As of 1 July 2008, any Verification Agency that has registered with SANAS and received their pre-assessment letter may issue a valid BEE Certificate.

Verification Agencies are listed on the SANAS website.

Pricing and service levels vary as the industry is still establishing itself. The Verification Agencies will take some time to work out their pricing models as the requirements involved in the verification process are still being finalised.

In order to be accredited by SANAS as a Verification Agency, the following process applies:

- 1) Application and Submission of the Quality Manual
- 2) Document Review
- 3) Initial Assessment
- 4) Clearance and non-conformance
- 5) Approvals Committee
- 6) Accreditation
- 7) Six Month visit
- 8) Annual Assessment
- 9) Re-assessment (every 3 years)

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