



Professional Accounting Institute

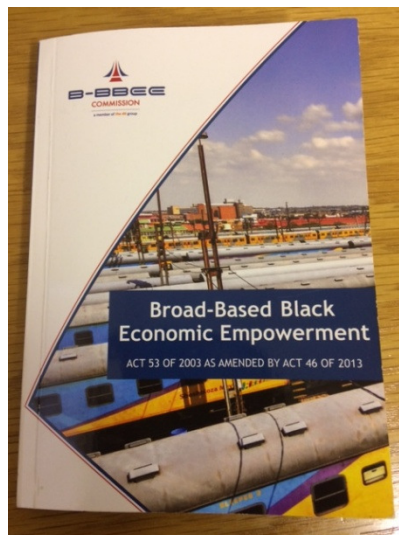


B-BBEE

Codes of Practice

Presented by:

Prakash Singh



Professional Accounting Institute



Background

- In terms of section 9 of the B-BBEE Act, the Minister is empowered to issue the Codes of Good Practice
- Broad-Based Black Economic Empowerment (B-BBEE) in terms of Act 53 of 2003 and amended by Act 46 of 2013
- Instrument to drive transformation within the economy.
- Applicable to both public and private sector



Code Principles

- The code defines “Black people” as a generic term which means Africans, Coloureds and Indians:-
 - ❑ Who are citizens of the Republic of SA by birth or decent; or
 - ❑ Who became citizens of the Republic of SA by naturalization:-
 - *Before 27 April 1994; or*
 - *On or after 27 April 1994 and*
who would have been entitled to acquire citizenship by naturalization prior to that date.

Code Principles

Classify measured entities based on annual turnover, gross receipts or allocated budget :

- **Exempted Micro Enterprise (EME):**

0 – R10m

- *No verification requirements.*
- *Enhanced recognition for black owned EMEs.*

- **Qualifying Small Enterprise (QSE):**

>R10m <R50m

- *Comply with the QSE scorecard.*
- *Enhanced recognition for black owned QSEs.*

- **Generic Size Enterprise (GSE):** **>R50m**

Code Principles

- The Codes measures 5 elements:
 - Ownership : 25 points;*
 - Management Control: 15 points;*
 - Skills Development: 20 points;*
 - Enterprise and Supplier Development: 40 points;*
 - Socio Economic Development: 5 points.*
- Points achieved will result in a B-BBEE recognition level.
- There are eight recognition levels

Code Principles

8 Recognition Levels

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

Code Principles

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

- QSE to comply with at least two of the 5 priority elements:
 - Ownership (25 points) is compulsory; and either
 - Enterprise & Supplier Development (40 points) or Skills Development (20 points)
- GSE to comply with all 5 priority elements.
 - *Measured entities who do not meet the thresholds in priority elements, the overall score will be discounted one (1) level down.*

Exempted Micro Enterprises (EME's)

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 that 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.

Exempted Micro Enterprises (EME's)

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

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.

Exempted Micro Enterprises (EME's)

EME's are required to produce a sworn affidavit declaring their qualification as an Exempt Micro Enterprise.



B-BBEE-Affidavit_EME-Sample.pdf

EME's automatically qualify as Empowering Suppliers so their customers are able to claim BEE Points for buying 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.

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full name & Surname	
Identity number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf:

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:
 - The enterprise is _____% black owned;
 - The enterprise is _____% black woman owned;
 - Based on the management accounts and other information available on the _____ financial year, the income did not exceed R10,000,000.00 (ten million rands);
 - Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

100% black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

4. The entity is an empowering supplier in terms of the dti Codes of Good Practice.
5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp

Exempted Micro Enterprises (EME's)

An IAC Accounting Officer may only act as a Commissioner of Oaths to affirm / attest a sworn affidavit.

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

The FAP, FAC and CTP that are registered with the Institute of Accounting and Commerce (IAC) are recognised as Commissioners of Oaths.

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 (QSE's)

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**.
- A QSE that is at least 51% black owned qualifies for **level 2**.

These QSE's are 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.

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.

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).

NB: IRBA has opted out of being a verification agency as of 1 September 2016, and has phased out by 31 December 2016.

Accounting Officers may NOT issue BEE Verification Certificates for these types of entities.

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.

The 9 Valid Sector Codes are:

Tourism, Marketing and Communication, AgriBEE, Forestry, Property, Transport, Financial, Info. and Comm. Technology, Mining.

Construction and Chartered Accountancy sector charters are repealed for now.

Verification Agencies

SANAS has been authorised by DTI to accredit Verification Agencies.

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.

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

Application and Submission of the Quality Manual, Document Review, Initial Assessment, Clearance and non-conformance, Approvals Committee, Accreditation, Six Month visit, Annual Assessment, Re-assessment (every 3 years)

FAQ

When did the Revised or Amended BEE Codes become applicable?

The BEE Codes were revised in October 2013 and are applicable from [1 May 2015](#).

What is the main difference between the Revised and 2007 Codes?

The scorecard elements have been reduced from [seven to five elements](#) with the Revised Codes. None of the elements have fallen away. Instead, some have been combined such as the [Management Control & Employment Equity elements AND Enterprise Development & Preferential Procurement](#).

When is the QSE scorecard applicable to a business?

The QSE scorecard is applicable to any business with a turnover of [less than R50 million, but more than R10 million, and its Black Ownership is < 51%](#). 100% Black Owned QSEs are exempt and need not do verification.

Can a family owned business improve on their QSE scorecard without Black Ownership or Shareholding?

Even though a family-run business often finds it difficult to appoint more owners or senior executive managers, such a QSE [can improve](#) on their scorecard through the other elements, such as investment into the training of their black employees, supporting black communities, buying from black owned companies and employing more black people. Without BEE ownership, however, it will be quite difficult to obtain a good scorecard

FAQ

How did the Revised Codes change the QSE scorecard?

Before the 2013 Codes, a QSE was rated on any four of the seven elements making up the scorecard. A QSE could choose on which elements to be rated and failure to make a selection simply meant that the elements in which the business performed the best would be used. With the Revised Codes, a QSE is rated on two of the five elements of the scorecard, with Ownership as a compulsory element, and either Skills Development or Enterprise and Supplier Development.

Are there entities that automatically qualify as Level 1 & 2 BEE contributors?

Yes. With the Revised Codes 100% black owned businesses are rated as Level 1 and QSEs with more than 51% black ownership qualify as Level 2 BEE Contributors.

When is a business rated according to the Generic BEE scorecard?

A business qualifies as a Generic Enterprise and is then rated according to the Generic BEE scorecard, if it has a turnover of more than R50 million per year.

Are there financial penalties for non-compliance?

Non-compliance does not come with direct financial penalties or fines, but the BEE rating levels come with the incentive of compliant businesses being favoured by buyers and procurement managers. Although there are no direct financial penalties that could be applied to non BEE compliant businesses, the system ensures that Procurement managers and Buyers will favour businesses that are compliant since that enhances their own BEE Scorecard under the Preferential Procurement element provisions.

Thank You