

Preparing for empowerment

By [Mark Stewart](#)

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Proposed revisions to the broad-based black economic empowerment (BBBEE) codes of good practice will have a resounding impact on businesses and their employment, procurement and skills development policies.

The proposed codes were released for public comment in October this year, and the process comes to an end on 2 December, 2012.

The proposed codes will reduce the total number of compliance elements on the BBBEE scorecard from seven to five, with a greater emphasis being placed on black ownership. Three of these elements will be regarded as "priority elements" and failure to meet at least 40% of the targets in those elements will result in large enterprises being penalised by two status levels and Qualifying Small Enterprises (QSEs) being penalised by one status level.

An increased focus on black ownership

Erika Petersen-Holmes of Shepstone & Wylie says that the proposed codes show an increased focus on black ownership and a decreased focus on the broad-based aspects of BBBEE.

Priority elements are ownership, skills development and enterprise and supplier development. The remaining elements are management and socio-economic development. In the management element, the focus is on executive management and the categories for junior management and non-executive directors have been deleted.

The proposed codes will increase the thresholds for Exempt Micro-Enterprises (EMEs) (an annual turnover below R10 million) and QSEs (annual turnover R10 to 50 million).

The proposed scorecard weights the elements as follows:

Element	Total Points
Ownership	25
Management & Employee Equity	15
Skills Development	20 + 5
Enterprise and Supplier Development	40 + 3
Socio Economic Development	5
Total	105 + 8 bonus points = 113

The changes propose that QSEs must now be compliant on all five levels, while EMEs that are 50.1% black owned

automatically qualify as a Level Two Contributor status and EMEs that are 100% black owned qualify for Level One Contributor status.

Wholly black-owned entities within the EME category are automatically Level One Contributor status.

BBBEE verification services AQRate chief operating officer, Brigitte Brun, says the skills development element has been raised from 3% to 6% of the leviable amount and now includes non-employees. Procurement is now based on procurement status level and the value-added status.

Race classifications have been further divided

While the definition of "black people" remains unchanged, within the management control and skills development elements, race classifications have been further divided into sub-race groups. All sub-races must be represented within the company's employee breakdown for the full points to be achieved.

Brun says in measuring BBBEE ratings, generic companies must achieve 40% of the annual nett value targets for ownership, skills development and enterprise, and supplier development to avoid an overall discounting on the scorecard by two levels.

Stewart says that while the changes to the BBBEE codes of good practice had not addressed industry codes, amendments to the BBBEE Act would bring industry codes in line with the amended ones.

Brun says the new codes will introduce skills spending on unemployed black South Africans and this element will no longer be limited to employees. Companies will have to achieve a minimum 40% of the targets set out in the scorecard to avoid being downgraded, but could no longer claim learners' salaries or wages as skills development spending.

Socio-economic development programmes covered a broad range of initiatives for women, the youth, people with disabilities and those living in rural areas. It incorporated support for health care, HIV/AIDS initiatives, education programmes, resources and materials to primary, secondary and tertiary education, and bursaries and scholarships as well as community training and skills development among the unemployed, and for adult basic education and training. However, as Petersen-Holmes points out, this element has been relegated to a total of just five points of the total of 113 points on the proposed scorecard.

Questions remaining

Companies supporting the arts, culture and sports development, or proposing an environmental awareness, education and waste management, would secure points on their scorecard. Other areas included infrastructural development, enterprise creation and reconstruction in the underdeveloped areas.

Stewart says that the key implication of the new codes was that companies could now only procure goods and services from value-adding BBBEE-compliant suppliers. Priority elements had to become focal points to avoid losing status.

However, there remain several questions on the codes, including whether or not the threshold discounts was limited to two levels or two levels per priority element. There was also uncertainty about the targets for specific race sub-groups that needed addressing.

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