



# BBBEE ACT AND CODES EXPLAINED

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# 01



# BACKGROUND TO THE GUIDE

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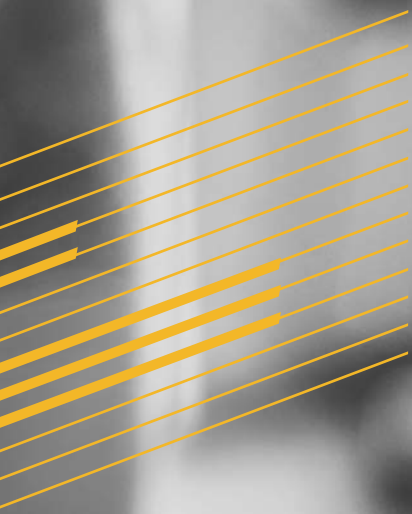
The Broad-Based Black Economic Empowerment Act 53 of 2003 ("**BBBEE Act**") provides the legislative framework for Broad-Based Black Economic Empowerment ("**BBBEE**") in South Africa. Codes of Good Practice may be issued by the Minister of Trade and Industry under the BBBEE Act and such Codes may be "generic" (i.e. of general application) or apply to a specific sector of the economy (so called sector codes that are developed by stakeholders in the relevant sector). The current "generic" Codes of Good Practice ("**Codes**") were published on 11 October 2013 and came into effect on 1 May 2015. Certain amendments to the Codes have been proposed by the Minister of Trade and Industry for public comment by 28 May 2018. As at the publication date of this Guide, the final form of the amendments is not clear.

The primary purpose of the BBBEE Act and the Codes is to address the legacy of apartheid and promote the economic participation of Black People in the South African economy. Please refer to the definition of "Black People" in the glossary at the end of this Guide.

The purpose of this Guide is to provide you with a basic understanding of the legal framework for BBBEE and its importance and implications for your business.

When reading this Guide, please refer to the glossary of defined terms at the end of this Guide.

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# INTRODUCTION

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The BBBEE Act and the Codes are a powerful expression of the Government's policy to actively promote and implement BBBEE. The manner in which a firm applies BBBEE in its business is effectively left for the individual firm to decide and the BBBEE Act and Codes do not impose legal obligations on firms to comply with specific BBBEE targets. The Codes simply provide a methodology for measuring a firm's BBBEE rating and the targets in the Codes are not legally binding (BBBEE points may still be scored on a pro-rata basis if the targets are not met). However, a firm's BBBEE status is an important factor affecting its ability to successfully tender for Government and public entity tenders, and (in certain sectors like mining and gaming) to obtain licences. Private sector clients also increasingly require their suppliers to have a minimum BBBEE rating in order to boost their own BBBEE ratings.

BBBEE is accordingly an important factor to be taken into account by any firm (whether foreign or local) conducting business in South Africa. The starting point of any BBBEE strategy is for the firm first to decide what BBBEE status it commercially requires, and then to determine and implement a commercially practical strategy to achieve that status.

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# THE BBBEE ACT

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**The BBBEE Act establishes the Broad-Based Black Economic Empowerment Commission ("Commission"), which is headed by a Commissioner appointed by the Minister of Trade and Industry, for not more than two terms of five years each. The Commission became operational in 2017 and its functions include, to:**

- > oversee, supervise and promote adherence to the BBBEE Act in the interest of the public, and strengthen and foster collaboration between the public and private sectors to promote and safeguard the objectives of BBBEE;
- > maintain a registry of major BBBEE ownership transactions. Such transactions with a "Transaction Value" equal to or exceeding R25 million must be registered with the Commission within fifteen days of concluding the transaction. Although the Commission's approval is not required, the Commission may (but is not obliged), within ninety days after the registration date, assess and advise the parties in writing of any BBBEE concerns it has about the transaction. The Commission may initiate an investigation if its concerns are not remedied within a reasonable period. Advisory opinion services are provided by the Commission;
- > receive and investigate complaints relating to BBBEE and, on its own initiative, investigate any matter relating to BBBEE. Several cases have been and are being investigated by the Commission and in practice these investigations have primarily related to so-called fronting practices (please see the glossary at the end of this Guide for the definition) and other contraventions of the BBBEE Act. The Commission has wide ranging investigative powers including subpoena powers and the right to apply to Court to restrain a breach of the BBBEE Act and/or a fronting practice. The Commission is not empowered by the BBBEE Act to impose a penalty or other criminal sanctions, but it is obliged in terms of the BBBEE Act to refer a matter to the National Prosecuting Authority or the South African Police Service if it is of the view that it may involve a criminal offence in terms of the BBBEE Act or any other law. It may also refer a matter to the South African Revenue Services and/or any applicable regulatory authority. The Commission may publish its findings and recommendations once any judicial review and/or criminal proceedings have been finalised.

In terms of the BBBEE Act, it is a criminal offence if a person “knowingly” (please see the glossary at the end of this Guide for the definition):

- > misrepresents or attempts to misrepresent a firm’s BBBEE status;
- > provides false information or misrepresents information to a BBBEE verification professional to secure a certain BBBEE status or benefit;
- > provides false information or misrepresents information relevant to assessing BBBEE status to an organ of state or public entity;
- > engages in a “fronting practice” (please see the glossary at the end of this Guide for the definition).

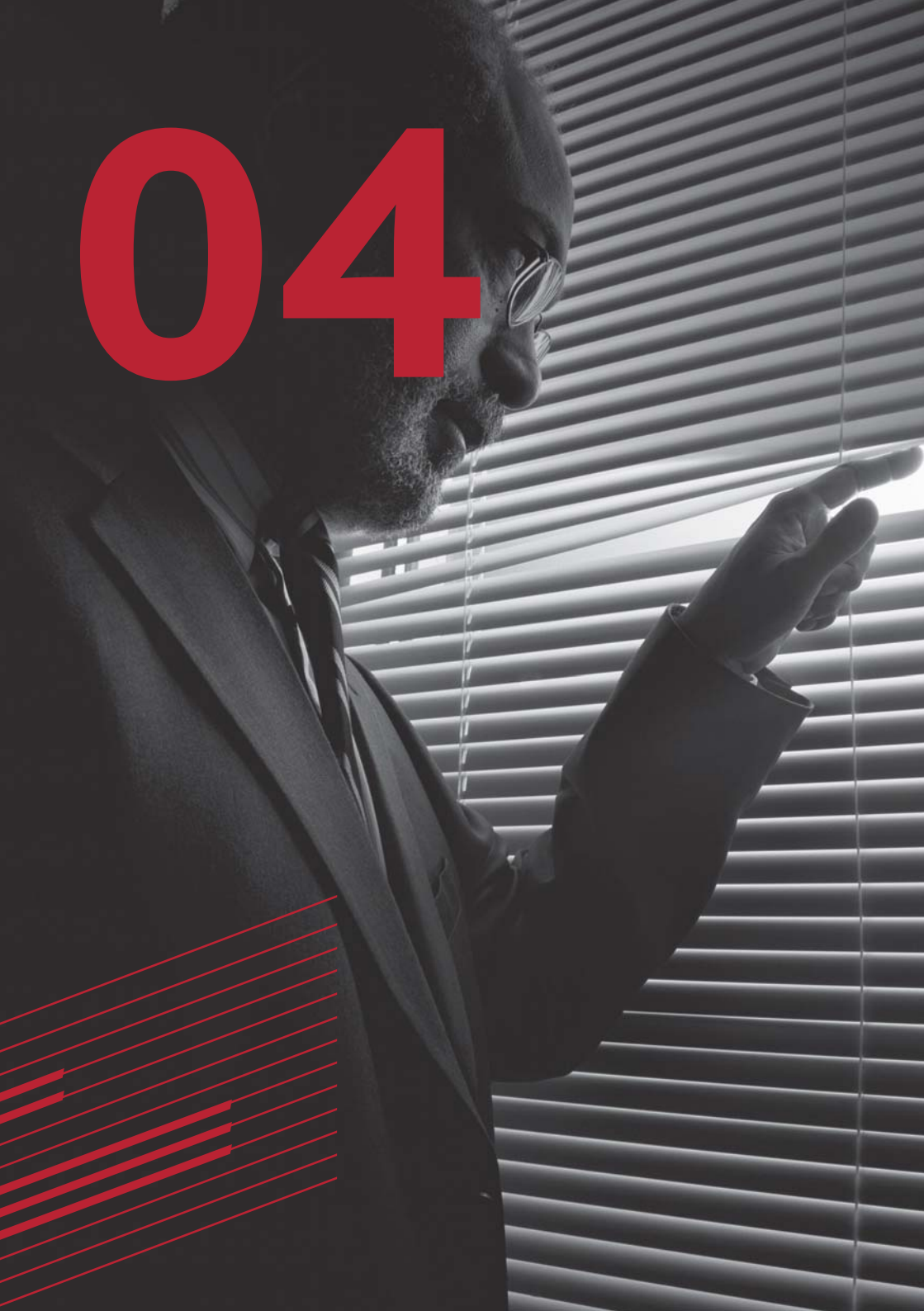
A fine and/or up to 10 years’ imprisonment may be imposed on individuals, and a firm may be fined up to 10% of its annual turnover. A convicted person (and in certain circumstances its shareholders and directors) is banned from transacting with the Government and public entities for 10 years from the date of conviction. A BBBEE verification professional or procurement officer of a Governmental body or public entity who becomes aware of and fails to report any such an offence is also guilty of a criminal offence and a fine and/or up to twelve months imprisonment may be imposed.

### **The BBBEE Act also:**

- > introduces a statutory right for the Government and public entities to cancel any contract or “authorisation” awarded due to “knowingly” furnished false information on a firm’s BBBEE status;
- > imposes an absolute obligation on Government and public entities to apply the Codes (or a relevant sector code) in their procurement policies and qualification criteria for licences and authorisations, and for entering public private partnerships;
- > imposes an obligation on entities listed on the Johannesburg Stock Exchange to report to the Commission on their compliance with BBBEE.



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# BBBEE STATUS IN TERMS OF THE CODES

BBBEE status is measured in terms of the following tables having regard to a firm's score on the five elements of BBBEE. The score for each element is calculated in accordance with various scorecards set out in Annexure A of this Guide. In practice, annual assessments are done by an accredited BBBEE verification agent who issues an annual BBBEE certificate confirming the firm's BBBEE status. Such certificate may be used by the firm for the purposes of its business, including when submitting tenders to customers.

BBBEE Status	Number of Weighting Points Required
<b>Level 1</b>	≥100 points
<b>Level 2</b>	≥95 but <100 points
<b>Level 3</b>	≥90 but <95 points
<b>Level 4</b>	≥80 but <90 points
<b>Level 5</b>	≥75 but <80 points
<b>Level 6</b>	≥70 but <75 points
<b>Level 7</b>	≥55 but <70 points
<b>Level 8</b>	≥40 but <55 points
<b>Non-Compliant</b>	<40 points

BBBEE Element	Maximum Number of Weighting Points Available
<b>Ownership</b>	25
<b>Management Control</b>	15 plus 4 bonus points
<b>Skills Development</b>	20 plus 5 bonus points
<b>New Enterprise and Supplier Development</b>	40 plus 4 bonus points
<b>Socio-Economic Development</b>	5
<b>TOTAL</b>	118

## SMALL, MEDIUM-SIZED, START-UP AND LARGE ENTERPRISES

**Under the Codes, all Exempted Micro-Enterprises ("EMEs") are (regardless of the composition of their ownership) deemed to have a Level 4 BBBEE status and start-up enterprises (in the first year from formation or incorporation) are measured as EMEs. EMEs are entities with an annual total revenue of R10 million or less.**

The threshold for being a Qualifying Small Enterprise ("QSE") is an annual total revenue of between R10 million and R50 million. The BBBEE status of QSEs is measured by reference to all five BBBEE elements in terms of a specific scorecard for QSEs in the Codes.

Firms with an annual total revenue of R50 million or more are classified as Large Enterprises.

EMEs and QSEs that are 100% Black-owned are deemed to have a Level 1 BBBEE status, and EMEs and QSEs that are 51% Black-owned are deemed to have a Level 2 BBBEE status. This is a significant advantage over other EMEs and QSEs.<sup>1</sup>

EMEs and QSEs no longer need a certificate from a BBBEE verification agent to confirm their BBBEE status. All that is required is an affidavit certifying its total annual income and level of Black ownership.<sup>2</sup> This saves costs for all EMEs and QSEs.

## WHAT ARE THE CONSEQUENCES IF TARGETS IN THE CODES ARE NOT MET?

**Generally speaking, if targets in the Codes are not met, the main consequence is that the firm will not score the maximum number of available BBBEE points (although some points may still be scored on a pro rata basis if the target is not achieved) and this may negatively affect its BBBEE status. However, in terms of the Codes, ownership, skills development and enterprise, and supplier development are identified as "priority elements" and the following "sub-minimum requirements" are provided for:**

- > 40% of the "net value" targets for the ownership element. "Net value" measures the "debt free" portion of the BBBEE ownership of a firm and provides targets for repayment of the BBBEE shareholder's acquisition debt over 10 years;
- > 40% of the total weighting points for the skills development element;
- > 40% for each of the three subcategories of the enterprise and supplier development element (being preferential procurement, supplier development and enterprise development).

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<sup>1</sup> Amendments proposed to the Codes in March 2018 provide that the deemed BBBEE status will only apply if the 51% or 100% shareholding is based on the flow through principle, i.e. having regard to actual black ownership only. It has also been proposed that the deemed BBBEE status will apply for 51% and 100% Black-owned Large Enterprises (again based on the flow through principle). Financial targets for entities qualifying for the Youth Employment Service (Y.E.S) Initiative have been proposed, which if met would increase the firm's BBBEE status. The amendments have as at the publication date of this Guide not been finalised.

<sup>2</sup> Amendments proposed to the Codes in March 2018 provide that a certificate confirming turnover issued by the Companies and Intellectual Property Commission is sufficient for EMEs. The amendments have as at the publication date of this Guide not been finalised.

If a Large Enterprise fails to comply with all three of the sub-minimum requirements, its BBBEE status will automatically be downgraded by one level. In other words, if its score would otherwise have been Level 4, it will automatically be downgraded to Level 5. The downgrade is punitive as it applies regardless of the reasons for the failure to comply (i.e. there is no exception or defence).

The automatic downgrade will also apply to a QSE, which does not comply with the sub-minimum requirement for ownership and either one of the skills development or enterprise and supplier development elements.

The automatic downgrade does not apply to EMEs.

## **HOW WILL A DOWNGRADE FOR FAILING TO MEET THE SUB-MINIMUM REQUIREMENTS AFFECT EXISTING AND NEW BBBEE TRANSACTIONS?**

The risk of a downgrade has serious implications for BBBEE ownership transactions that often involve providing financing to the BBBEE shareholder, which will be repaid out of dividend flows (these depend on the company's profits and ultimately factors that are generally beyond the company's control, such as the state of the national and global economy). Mechanisms will have to be provided to deal with the possible failure to meet the sub-minimum "net value" BBBEE ownership targets especially as warranties and undertakings, that the BBBEE shareholder will "deliver" a certain minimum BBBEE status, are common in transaction documents and if they are breached, may cause a transaction to unwind. Existing BBBEE transactions should be reviewed and, if necessary, amended to cover the likelihood and effect of a downgrade. Ironically, BBBEE shareholders may be required to fund transactions (in whole or in part) using their own resources to decrease their upfront acquisition debt in order to meet "net value" targets. The downgrade may accordingly have an unintended "chilling effect" on funding for BBBEE transactions and make BBBEE transactions more complicated and costly.

## **HOW ARE FOREIGN FIRMS TREATED BY THE CODES?**

The BBBEE status of foreign firms and their local subsidiaries are measured in the same way as local firms. They will accordingly also be subject to the automatic downgrade in BBBEE status if they do not comply with the sub-minimum requirements. However, a foreign multinational may consider using the so called "equity equivalent programme" which allows it to score BBBEE ownership points without actually having a BBBEE shareholder or partner. The programme must be approved by the Department of Trade and Industry and usually involves the foreign multinational funding an approved programme (for example for training Black People). This option has, however, not been much used by multinationals partly because to qualify, the multinational must usually have a worldwide policy of only having wholly owned subsidiaries.

## WHAT IS THE STATUS OF THE SECTOR CODES?

The BBBEE Act allows any sector of the economy to have its own BBBEE Code. The BBBEE Act provides that the BBBEE status of a firm in the relevant sector may only be measured in accordance with the sector code for that sector. If there is no sector code, then the "generic" Codes will apply. The following table indicates the current status of the various sector codes:

No.	Sector Code	Draft Publication Date	Estimated Expiry of Consultation Period (60 days, unless otherwise specified)	Date of Commencement
<b>1</b>	Amended Property Sector Code	Initially published on 23 October 2015 and re-published on 30 October 2015  Amended Property Sector Code published 9 June 2017  Correction notice issued on 21 June 2017  Second correction notice issued on 28 June 2017	30 December 2015	28 June 2017
<b>2</b>	Amended Forest Sector Code	6 November 2015	6 January 2016	21 April 2017
<b>3</b>	Amended AgriBee Sector Code	20 November 2015	20 January 2016	8 December 2017
<b>4</b>	Amended Information and Communication Technology (ICT) Sector Code	Initially published 24 February 2016 and re-published 29 February 2016	29 April 2016	7 November 2016
<b>5</b>	Amended Financial Services Sector Code	17 March 2016	17 May 2016	1 December 2017
<b>6</b>	Draft Amended Transport Sector Code	Initially published 26 February 2016 and re-published 8 April 2016	8 June 2016	

No.	Sector Code	Draft Publication Date	Estimated Expiry of Consultation Period (60 days, unless otherwise specified)	Date of Commencement
<b>7</b>	Chartered Accountancy	Repealed on 17 February 2016	No draft has been published	
<b>8</b>	Amended Construction Sector Code	Repealed on 17 February 2016 Amended draft published on 28 October 2016	28 December 2016	1 December 2017
<b>9</b>	Amended Tourism Sector Code	30 June 2015	30 August 2015	20 November 2015
<b>10</b>	Marketing, Advertising, and Publication Sector Code	4 September 2015	4 November 2015	Initially came into effect on 1 April 2016. A duplicate copy was re-published on 6 May 2016
<b>11</b>	Defence Sector Code	4 August 2017	4 October 2017	
<b>12</b>	Liquid Fuels Sector	Being developed. A proclamation published on 13 September 2017 appointed a steering committee		

# 05



# Annexure A

## SCORECARDS FOR THE ELEMENTS OF BBBEE

### 5.1 Ownership<sup>3</sup>

BBBEE Element	Indicator	Description	Weighting Points	Compliance Target
Ownership	Voting Rights	Exercisable Voting Rights in the Entity in the hands of Black People	4	25% + 1 Vote
		Exercisable Voting Rights in the Entity in the hands of Black women	2	10%
	Economic Interest	Economic Interest in the Entity to which Black People are entitled	4	25%
		Economic Interest in the Entity to which Black women are entitled	2	10%
		Economic Interest of any of the following Black natural people in the Measured Entity		
		Black designated groups; <sup>4</sup> Black participants in Employee Share Ownership Programmes; <sup>5</sup> Black People in Broad-based Ownership Schemes; <sup>6</sup> Black participants in Cooperatives	3	3%
		New Entrants <sup>7</sup>	2	2%
	Realisation Points	Net Value	8	Measured in terms of formulae in the Codes having regard to the extent that the acquisition debt has been repaid

<sup>3</sup> There are detailed provisions dealing with the methodology for measuring BBBEE ownership.

<sup>4</sup> These are defined as certain unemployed Black People, Black youth, Black People with disabilities, Black People living in rural and under developed areas and Black military veterans.

<sup>5</sup> The Codes contain detailed requirements for these programmes.

<sup>6</sup> The Codes contain detailed requirements for these schemes.

<sup>7</sup> New Entrants are defined as Black participants who have not held equity instruments in other entities with a total value of more than R50 million. Amendments proposed to the Codes in June 2018 amend the definition of New Entrants by deleting the words "other Entities" and replacing such with "any Entity". The amendments have as at the publication date of this Guide not been finalised.

**The concept of “Once Empowered Always Empowered” raised in the context of the Mining BBBEE Charter is not recognised in the BBBEE Act or the Codes. However, in terms of the Codes, a firm may continue to score BBBEE ownership points after the sale or loss of shares by a Black Person subject to complying with the following:**

- > such Black Person has held the shares for a minimum period of three years;
- > “net value” must have been created in the hands of Black People (this measures the repayment of the acquisition debt and benefits actually accruing to the Black Person);
- > transformation must have taken place within the firm (this measures the improvement, if any, in the firm’s BBBEE status);
- > the relevant loan or security arrangement must be recorded in a written agreement between the lender, such Black Person and the firm (unless the firm is the lender);
- > the continued recognition is only permitted for a period equal to that for which the Black Person held the shares and cannot contribute more than 40% of the score on the firm’s ownership scorecard.

The Codes also allow BBBEE ownership points to be scored by the seller of assets, equity instruments or a business to Black People subject to complying with various requirements including that the transaction results in the creation of a viable and sustainable business owned by Black People and transfers “critical and specialised skills, managerial skills and productive capacity” to Black People, that the business has no “unreasonable limitations or conditions with regard to its clients”, and has customers and suppliers other than the seller, and that Black People must hold the asset for at least three years. Licences, leases and sales of franchises by franchisors to franchisees do not qualify.

Special rules apply for private equity funds and non-profit companies.

## 5.2 Management

Measurement Category & Criteria	Weighting Points	Compliance Targets
<b>Board Participation</b>		
Exercisable voting rights of black board members as a percentage of all board members	2	50%
Exercisable voting rights of black female board members as a percentage of all board members	1	25%

Measurement Category & Criteria	Weighting Points	Compliance Targets
Black Executive directors as a percentage of all executive directors	2	50%
Black female Executive directors as a percentage of all executive directors	1	25%
<b>Other Executive Management</b>		
Black Executive Management as a percentage of all executive directors	2	60%
Black female Executive Management as a percentage of all executive directors	1	30%
<b>Senior Management</b>		
Black employees in Senior Management as a percentage of all senior management	2	60%
Black female employees in Senior Management as a percentage of all senior management	1	30%
<b>Middle Management</b>		
Black employees in Management Middle as a percentage of all middle management	2	75%
Black female employees in Middle Management as a percentage of all middle management	1	38%
<b>Junior Management</b>		
Black employees in Junior Management as a percentage of all junior management	1	88%
Black female employees in Junior Management as a percentage of all junior management	1	44%
<b>Employees with disabilities</b>		
Black employees with disabilities as a percentage of all employees	2	2%

## 5.3 Skills Development<sup>8</sup>

Category	Skills Development Element	Weighting Points	Compliance Target
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### Skills Development Expenditure on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leviable Amount<sup>9</sup>

Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leviable Amount	8	6%
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leviable Amount	4	0.3%

### Learnerships, Apprenticeships and Internships

Number of black people participating in Learnerships, Apprenticeships and Internships as a percentage of total employees	4	2.5%
Number of black unemployed people participating in training specified in the learning programme matrix as a percentage of number of employees	4	2.5%

### Bonus Points

Number of black people absorbed by the Measured and Industry Entity at the end of the Learnership programmes	5	100%
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## 5.4 Enterprise and Supplier Development<sup>10</sup>

Criteria	Weighting Points	Compliance Targets
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### Preferential Procurement

BBBEE Procurement Spend from all Empowering Suppliers based on the BBBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	80%
BBBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises <sup>11</sup> based on the applicable BBBEE Procurement Recognition <sup>1</sup> Levels as a percentage of the Total Measured Procurement Spend	3 <sup>12</sup>	15 <sup>13</sup> %

<sup>8</sup> Please note that amendments to the skills development scorecard were proposed in March 2018 and have as at the publication date of this Guide not been finalised.

<sup>9</sup> The term "Leviable Amount" is defined in the Skills Development Levies Act, 1999.

<sup>10</sup> In terms of the Codes, the Enterprise and Supplier Development element consists of "Preferential Procurement, Enterprise Development and Supplier Development, and Enterprise Development and Supplier Development Contributions will be recognized as a percentage of annual Net Profit After Tax". Amendments proposed in June 2018 introduce an additional measuring principle, i.e. "The Net Profit After Tax or average target applies unless:

1) a company does not make a profit last year or on average over the last five years;

2) the net profit margin is less than a quarter of the norm in the industry.

If the Turnover is to be used, the target will set at 1% x Indicative Profit Margin (NPAT/Turnover) x Turnover"

The amendments have as at the publication date of this Guide not been finalised.

<sup>11</sup> Amendments proposed to the Codes in June 2018 now make provision for the inclusion of Exempted Micro Enterprises. The amendments have as at the publication date of this Guide not been finalised.

<sup>12</sup> Amendments proposed to the Codes in June 2018 proposes that the points be 5. The amendments have as at the publication date of this Guide not been finalised.

<sup>13</sup> Amendments proposed to the Codes in June 2018 proposes a new compliance target of 25%. The amendments have as at the publication date of this Guide not been finalised.

Criteria	Weighting Points	Compliance Targets
<sup>14</sup> BBBEE Procurement Spend from all Exempted Micro-Enterprises based on the applicable BBBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%
BBBEE Procurement Spend from Empowering Suppliers that are at least 51% black-owned based on the applicable BBBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	9 <sup>15</sup>	40 <sup>16</sup> %
BBBEE Procurement Spend from Empowering Suppliers that are at least 30% black women-owned based on the applicable BBBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%

### Bonus Points

BBBEE Procurement Spend from <sup>17</sup> Designated Group Suppliers that are at least 51% black-owned	2	2%
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### Supplier Development

Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target	10	2% of Net Profit After Tax
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### Enterprise Development

Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	5	1% of Net Profit After Tax
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### Bonus Points

Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1	
Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity	1	

<sup>14</sup> Amendments proposed to the Codes in June 2018 introduces an additional criteria for measurement, i.e. "BBBEE Procurement Spend from all Empowering Exempted Micro-Enterprises based on the applicable BBBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend" with a maximum of 4 points available and a compliance target of 15%.

<sup>15</sup> Amendments proposed to the Codes in June 2018 proposes that the points be 11. The amendments have as at the publication date of this Guide not been finalised.

<sup>16</sup> Amendments proposed to the Codes in June 2018 proposes a new compliance target of 50%. The amendments have as at the publication date of this Guide not been finalised.

<sup>17</sup> Amendments proposed to the Codes in June 2018 include the word "Empowering" before "Designated". The amendments have as at the publication date of this Guide not been finalised.

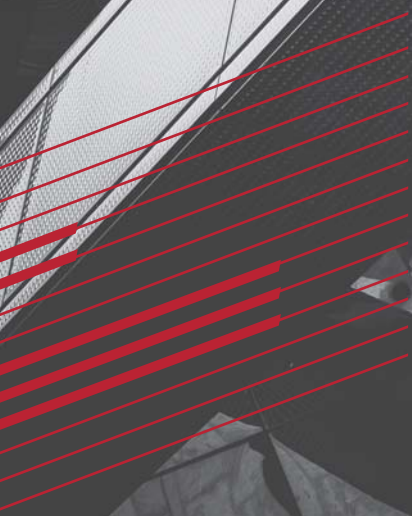
The amendments to the Codes in 2013 introduced the concept of an “Empowering Supplier”. The requirements for qualifying as such a supplier are unduly complicated and include, being a “BBBEE compliant entity” and a “good citizen”, complying with “all regulatory requirements” and meeting at least three (or for QSEs, one) of certain local procurement, job creation, raw material transformation/beneficiation and skills transfer requirements. Ironically, these changes prejudiced Black-owned and controlled firms that did not qualify as “Empowering Suppliers” as there was no incentive (from a BBBEE rating perspective) for a firm to prefer such Black-owned and controlled suppliers over others. The process of verifying whether a supplier is an “Empowering Supplier” will also involve extra administration, management time and costs. As a result, the Minister of Trade and Industry has effectively suspended the applicability of these requirements by treating all firms as “Empowering Suppliers”.

### 5.5 Socio-Economic Development

Criteria	Weighting points	Compliance
Annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target	5	1% of Net Profit After Tax



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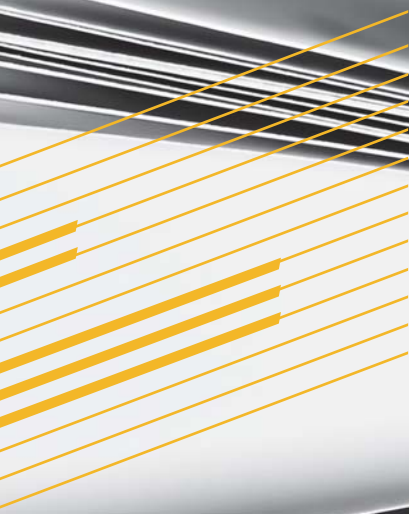
# GLOSSARY OF TERMS

Term	Meaning
<b>BBBEE Act</b>	The Broad-Based Black Economic Empowerment Act 53 of 2003, as amended
<b>BBBEE Status</b>	The BBBEE status of a firm as measured under the Codes or an applicable code of good practice issued under the BBBEE Act for a particular sector of the economy
<b>Black People</b>	<p>Natural persons who are African, Coloured or Indian (as well as certain persons of Chinese descent) who:</p> <ul style="list-style-type: none"> <li>&gt; are citizens of the Republic of South Africa by birth or descent; or</li> <li>&gt; became citizens of South Africa by naturalisation:               <ul style="list-style-type: none"> <li>- before 27 April 1994; or</li> <li>- on or after 27 April 1994 and would have been entitled to acquire citizenship by naturalisation before that date</li> </ul> </li> </ul>
<b>Broad-Based Black Economic Empowerment (BBBEE)</b>	<p>The economic empowerment of all Black People, including women, workers, youth, people with disabilities and people living in rural areas through diverse, but integrated socio-economic strategies, that include, but are not limited to:</p> <ul style="list-style-type: none"> <li>&gt; increasing the number of Black People that manage, own and control enterprises and productive assets;</li> <li>&gt; facilitating ownership and management of enterprises, and productive assets by communities, workers, cooperatives and other collective enterprises;</li> <li>&gt; human resource and skills development;</li> <li>&gt; achieving equitable representation in all occupational categories and levels in the workforce;</li> <li>&gt; preferential procurement; and</li> <li>&gt; investment in enterprises that are owned or managed by black people</li> </ul>
<b>Codes</b>	The "generic" Codes of Good Practice issued in terms of the BBBEE Act that came into effect on 1 May 2015

Term	Meaning
<b>Fronting Practice</b>	<p>A transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the BBBEE Act or the implementation of any of the provisions of the BBBEE Act, including but not limited to practices in connection with a BBBEE initiative:</p> <ul style="list-style-type: none"> <li>&gt; in terms of which Black Persons, who are appointed to an enterprise, are discouraged or inhibited from substantially participating in the core activities of that enterprise;</li> <li>&gt; in terms of which the economic benefits received as a result of the BBBEE status of an enterprise do not flow back to black people in the ratio specified in the relevant legal documentation;</li> <li>&gt; involving the conclusion of a legal relationship with a Black Person for the purpose of that enterprise achieving a certain level of BBBEE compliance without granting that Black Person the economic benefits that would reasonably be expected to be associated with the status or position held by that Black Person;</li> <li>&gt; involving the conclusion of an agreement with another enterprise in order to achieve or enhance BBBEE status in circumstances in which: <ul style="list-style-type: none"> <li>- there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;</li> <li>- the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;</li> <li>- the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis</li> </ul> </li> </ul>
<b>Knowingly</b>	<p>That a person either:</p> <ul style="list-style-type: none"> <li>&gt; has actual knowledge of the matter;</li> <li>&gt; was in a position in which that person reasonably ought to have had actual knowledge or ought to have investigated the matter to an extent that he or she would have obtained actual knowledge or ought to have taken other measures which would reasonably have provided actual knowledge</li> </ul>



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## CONTACT DETAILS

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