

BEE Codes

On 6 January 2004 Government promulgated into law the Broad-Based Black Economic Empowerment Act, Act 53 of 2003. The final BBEE Codes of Good Practice have been operational as of the date of publication in the Government Gazette, No. 29617, on 9 February 2007.

The codes apply to amongst others (a) public entities, (b) enterprises undertaking business with public entities or organs of state, and any enterprise that undertakes business with (a) and (b) and which is seeking to establish its own BEE compliance. Effectively, private entities that do business with the government or government entities must comply with the Codes or risk losing government business.

Only business enterprises (those classified as "Exempted Micro Enterprises") with an annual turnover of R5 Million and less will be exempted. Such entities will automatically be recognized as Level Four BBEE Contributors with a procurement recognition level of 100%. Sufficient evidence of qualification as an Exempted Micro-Enterprise is an auditor's certificate or similar certificate issued by an accounting officer or verification agency.

Financial Sector Charter

A sector charter is an industry specific charter developed by the stakeholders within their sector or industry. A sector charter is not binding on organs of state but, once published in the Government Gazette, they are evidence of the commitment to promote BEE in the applicable sector. Accordingly, enterprises striving to comply with BEE have to be familiar with and apply the charters relevant to their own sectors. The Financial Sector Charter does not apply to our individual members.

The FIA will arrange with its auditors to annually provide us with a certificate of exemption in respect of the FIA secretariat. Should any member wish to obtain a copy of the FIA certificate, you can contact us on **012 665 0085** or info@fia.org.za.

The information below was extracted from the website www.bee-scorecard.co.za

SEB Kodes

Op 6 Januarie 2004 het die Regering die Breë-Basis Swart Ekonomiese Bemagtingswet, Wet 53 van 2003, as wetgewing gepromulgeer. Die finale BBSEB Kodes van Goeie Praktyke is operasioneel vanaf die datum van publikasie in die Staatskoerant No. 29617 op 9 Februarie 2007.

Die kodes is onder andere van toepassing op (a) openbare entiteite, (b) ondernemings wat sake doen met openbare entiteite of staatsbeheerde ondernemings, en enige onderneming wat sake doen met (a) en (b) en wat beplan om hulle eie nakoming aan SEB te vestig. In effek, private entiteite wat besigheid doen met die regering of staatsentiteite moet voldoen aan die Kodes of die risiko loop om regeringsbesigheid te verloor.

Slegs besigheidsentiteite (daardie wat as "Vrygestelde Mikro Besighede" geklassifiseer is) met 'n jaarlikse omset van R5 miljoen of minder word vrygestel. Sulke entiteite sal outomaties erken word as Vlak Vier BBSEB Bydraers met 'n aanskaffing erkenningsvlak van 100%. Voldoende

bewys van kwalifisering as 'n Vrygestelde Mikro Besigheid is 'n ouditeur se sertifikaat of soortgelyke sertifikaat deur 'n rekeningkundige beampte of verifiëringsagentskap uitgereik.

Finansiële Sektor Handves

'n Sektor handves is 'n industrie-spesifieke handves wat ontwikkel is deur belanghebbendes binne hulle sektor of industrie. 'n Sektor handves is nie bindend op staatsentiteite nie, maar wanneer gepubliseer in die Staatskoerant, is dit bewys van die verbondenheid om SEB binne die toepaslike sektor te bevorder. Dienooreenkomstig behoort besighede wat streef na voldoening aan SEB vertrouwd te wees met die handves wat relevant is tot hulle eie sektore en dit toepas. Die Finansiële Sektor Handves is nie van toepassing op ons individuele lede nie.

Die FIA sal met sy ouditeure reël om jaarliks aan ons 'n sertifikaat van vrystelling te voorsien wat betref die FIA sekretariaat. Indien enige lid 'n afskrif van die sertifikaat wil bekom kan u ons kontak by **012 665 0085** of info@fia.org.za.

Die inligting hieronder is 'n uitreksel vanaf die webwerf www.bee-scorecard.co.za

BEE INFORMATION

➤1. BEE Industry

1.1 How is BEE Compliance Expressed and what Level is considered Compliant?

BBBEE Compliance is expressed in terms of Eight Recognition Levels. These are:

BEE CONTRIBUTION LEVEL	SCORECARD POINTS	PROCUREMENT RECOGNITION
1	100 or above	135%
2	85 to 99.99	125%
3	75 to 84.99	110%
4	65 to 74.99	100%
5	55 to 64.99	80%
6	45 to 54.99	60%
7	40 to 44.99	50%
8	30 to 39.99	10%
Non Compliant	< 30	0%

Level Four is considered fully Compliant.

1.2 When must the business entity be compliant?

On 6 January 2004 Government passed into law the Broad-Based Black Economic Empowerment Act, No. 53, 2003. The final BBBEE Codes of Good Practice are now operational as of the date of publication in the Government Gazette, No. 29617, on 9 February 2007.

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.

1.3 Does every business have to have Black people as shareholders?

Black shareholding can attribute a maximum of 23% to the Generic Scorecard, but there is no legal obligation that can be enforced. In any event, Qualifying Small Enterprises may choose any four of the seven Elements on which to be rated, and can leave out the Ownership element entirely, although black representation does contribute to bonus points as well as promotions under certain circumstances.

The Generic Scorecard consists of 7 Elements, of which Ownership is only one. The weightings excluding bonus points are as follows:

B-BBEE ELEMENT	WEIGHT
Ownership	20.00%
Management	10.00%
Employment Equity	15.00%
Skills Development	15.00%
Preferential Procurement	20.00%
Enterprise Development	15.00%
Socio Economic Development	5.00%

1.4 If the business has no Black shareholders, what is the point of going through a BBBEE rating?

There are seven BBBEE elements and each contributes to the outcome of the Scorecard and the ownership element is just one of these. Since ownership carries a weighting of maximum 23% and 28% respectively, based on either the Generic Scorecard or the QSE Scorecard, it is possible to achieve an acceptable BBBEE Rating without having any Black shareholders in the business.

1.5 Do all business entities have to be BBBEE compliant?

Only business enterprises (those classified as 'Exempted Micro Enterprises') with an annual turnover of R5 Million and less will be exempted. Such entities will automatically be recognized as Level Four BBBEE Contributors with a procurement recognition level of 100%.

Start-up enterprises are Exempted Micro-Enterprises for the FIRST YEAR following

their formation or incorporation regardless of their expected revenue. Tendering for contracts above R5 million does require Scorecard submission.

Businesses that are not exempt fall into one of two categories:

- i)** Those with an annual turnover between R5 Million and R35 Million are measured under the QUALIFYING SMALL ENTERPRISES ('QSE') codes.
- ii)** Those with a turnover of R35 Million and above are measured under the GENERIC SCORECARD codes.

1.6 What is the difference between the QSE and the Generic Scorecard?

The Qualifying Small Enterprise ('QSE') must elect to be rated on any four of the seven BBEE elements. Where a selection is not specifically made by the business enterprise, the four best element scores will be used to calculate the final result.

This means that an enterprise can still achieve a reasonable BBEE rating, in spite of not performing well in three of the seven elements.

The Generic Scorecard includes all seven BBEE Elements, namely:

- Ownership
- Management Control
- Employment Equity
- Skills Development
- Preferential Procurement
- Enterprise Development
- Socio-Economic & Sector Specific Contributions

➤2. More on BEE Exemption

In view of the latest release of information by the DTI, the rules for BEE Exemption have changed as follows

- Being BEE exempted means having an automatic B-BBEE Contribution Level of Four and a procurement recognition of 100%
- **Sufficient evidence of qualification as an Exempted Micro-Enterprise is an auditor's certificate or similar certificate issued by an accounting officer or verification agency.**
- Businesses with an annual turnover of between R5 and R35 million needs to only comply with FOUR of the seven BEE Scorecard elements
- Exempted enterprises DO qualify for a promotion to the next BBEE Status level under certain shareholding conditions
- The Sector that the business operates in does not influence exemption
- The number of employees of the business also has no impact on exemption
- Start-up enterprises are Exempted Micro-Enterprises for the FIRST YEAR following their formation or incorporation regardless of their expected revenue. Tendering for contracts above R5 million does require Scorecard submission.



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