

July 12, 2018

Revised Draft Amendments to the B-BBEE Codes June 2018



Within a short period of time the Minister of Trade and Industry published two draft amendments to the Broad-Based Black Economic (B-BBEE) Codes.

The first of these *proposed amendments to the B-BBEE Codes were published in March 2018* and while we were anxiously awaiting the outcome of this draft, we were hit with more changes on 15 June 2018.

For ease of reference and in order to reduce the complexity of the proposed amendments, we have outlined the salient points below:

- **Ownership** - The inclusion of enhanced recognition levels for Generic Entities (entities recording above R50 million in annual turnover) assigning these large entities level 1 and 2 B-BBEE status based solely on having 100% and 51% black shareholding respectively.
- **Skills Development** - Points and spend targets for training were reduced to 6 and 3,5%, respectively, and a new indicator will be included measuring expenditure on bursaries for black students at tertiary institutions for 4 points at a spend target of 2,5%. Please note that Economically Active Population (EAP) targets will not apply to the bursary indicator.
- **Procurement** - The two separate indicators for purchases from both Qualifying Small Enterprises (QSEs) and Exempted Micro Enterprises (EMEs) will now be merged into a single indicator with 5 points and a spend target of 25% - up from 15%. An additional provision permits Generic Entities that are 51% black owned to form part of the current 51% black-owned EME and QSE indicator, increasing the points and spend target to 11 and 50% respectively.
- **Enterprise & Supplier Development** - The definition of qualifying Enterprise & Supplier Development beneficiaries is changed to EME, QSE **or Generic** entities that are 51% Black Owned or 51% Black Women Owned using the Flow Through Principle. A further provision now excludes suppliers from also benefiting from Enterprise Development contributions. Enterprise and Supplier Development beneficiaries must now be separate entities.

The above-mentioned proposals are intended solely for the B-BBEE Codes of Good Practice. The DTI has provided no confirmation of how this will affect the various sector charters, nor has any feedback been received on whether it will be aligned with the above and, if so, by when this could happen. However, by aligning this to the sector charters, the relevant charter scorecards might also have to be amended as there are different targets and points for each charter.

Once incorporated into the B-BBEE Codes, *the proposed amendments are likely to effectuate the implementation of 51% Black ownership transactions*. We encourage our clients and other impacted businesses to *contact us* for specific guidance on how these amendments are likely to affect them.

About the Author: Rylan Wissing joined SERR Synergy in 2014 and currently holds the title of Gauteng BEE Assistant Manager. He is a BCom (Law) [2008], LLB [2010] graduate from the University of Pretoria and was also admitted as an attorney of the High Court in 2014. He has been involved with B-BBEE for the last 7 years assisting in excess of 200 Companies across South Africa with various strategies, consultation and legal compliance within the B-BBEE industry.