

The New Legal Sector B-BBEE Codes: Transforming the Legal Landscape



The legal profession in South Africa has a complex history shaped by systemic inequalities established during the apartheid era which severely limited access to opportunities for black practitioners.

Following the transition to democracy in 1994, the South African government introduced the *Broad-Based Black Economic Empowerment (B-BBEE) Act in 2003*, aiming to redress these historical injustices across various sectors, including the Law.

The long-awaited B-BBEE Legal Sector Codes¹, officially promulgated on 20 September 2024, represent a critical step towards addressing these imbalances.

These Codes aim to enhance the representation of black practitioners within law firms, foster inclusivity, and ensure that the legal profession reflects the demographics of the nation.

For law firms, understanding and implementing these Codes are not just a regulatory requirement but also a strategic imperative that can enhance reputation and foster growth.

Scope of Application

The B-BBEE Legal Sector Codes apply to a range of legal practitioners and entities, including--

- **Law Firms & Advocates:** All legal entities choosing to be measured against the B-BBEE framework;
- **Organs of State:** Government departments involved in legal matters;
- **State-Owned Entities:** Public enterprises operating in the legal space.

Key Objectives of the Legal Sector Codes

The B-BBEE Legal Sector Codes are designed with several objectives that are particularly relevant for law firms:

- **Increasing Black Representation:** Law firms must develop strategies to improve the representation of black attorneys, particularly in leadership and partnership roles. This is essential not only for compliance but also for fostering a more diverse workplace.
- **Encouraging Enterprise Development:** Firms are incentivised to support black-owned legal practices through mentorship and financial assistance, which in turn can lead to valuable partnerships and new business opportunities.
- **Enhancing Skills Development:** The emphasis on training and development for black professionals ensures that firms invest in their talent pipeline, which is crucial for long-term growth and sustainability.

Key Components of the Legal Sector Codes

The B-BBEE Legal Sector Codes include several critical components that law firms need to integrate into their operations.

Sector-Specific Benchmarks

The Legal Sector Codes provide tailored benchmarks for various types of legal entities, ensuring a fair assessment based on size and capacity. This allows smaller firms to participate meaningfully without being held to the same standards as larger entities.

Under the framework established by the Legal Sector Codes, law firms with annual revenues below R25 million are afforded the opportunity for Automatic Recognition, provided they meet Ownership criteria, while advocates with revenues below R15 million may benefit similarly.

Upon the implementation of the scorecard, firms must also integrate supplementary components such as *Preferential Procurement*, Enterprise Development, and Skills Development initiatives. These initiatives variably encompass structured internships, comprehensive training programmes, Candidate Legal Practitioner training, absorption strategies, and robust mentorship schemes. Such measures are essential not only to cultivate a diverse legal workforce but also to enhance B-BBEE points on the scorecard, reinforcing the principle of *ius aequum*—the pursuit of equitable legal standards across varying sizes of practice.

Implementation Guidelines

Guidelines outline how firms should implement transformation strategies, including best practices for recruitment, retention, and promotion of black talent. This framework helps to create a more equitable workplace.

Compliance Requirements

- **Large Enterprises** (Generic – Law Firms with turnovers exceeding R25 million and Advocates with turnovers exceeding R15 million): Required to comply with all Priority Elements, including Ownership, Skills Development and Enterprise and Supplier Development.
- **Qualifying Small Enterprises** (QSEs – Law Firms with turnovers between R5 million and R25 million, and Advocates with turnovers between R3 million and R15 million): Required to comply with Ownership as a compulsory element and either Skills Development or Enterprise and Supplier Development.
- **Exempted Law firms & Advocates** (ELEs – Law Firms with turnovers below R5 million and Advocates with turnovers below R3 million): Required to comply with Ownership and are further fully exempt from the Legal Sector Codes.

The Legal Sector Codes prioritise substance over form, encouraging firms to focus on genuine transformation rather than merely meeting technical requirements.

While the B-BBEE Legal Sector Codes mark significant progress, they also underscore the ongoing need for transformation within the legal profession. The establishment of the Legal Sector Transformation Fund (LSTF) is particularly noteworthy, as it provides resources for training and development of historically disadvantaged practitioners, enhancing their capacity to contribute meaningfully to the profession.

How can SERR Synergy assist with the Legal Sector BEE Codes?

SERR Synergy has been a pioneer in the field of *B-BBEE consulting*, specialising in assisting law firms to navigate the complexities of compliance and transformation. Our experienced team understands the specific challenges faced by legal practitioners and can offer tailored solutions that align with the new Legal Sector Codes. Our professional team assists law firms to perpetuate the best solutions for their firm adhering to the applicable legislation in order to achieve the priority element of ownership.

About the Author: Deonette Jacobs obtained her LLB degree in 2017 and is an admitted Advocate of the High Court of South Africa. She joined SERR Synergy in 2018 and currently holds the position of Assistant Corporate Legal Advisory Manager. She prides herself on playing a vital role in assisting law firms and companies with compliance in terms of Ownership.

¹Broad-Based Black Economic Empowerment Legal Sector Code of Good Practice in terms of Section 9 (1) of the Broad-Based Black Economic Empowerment Act 53 of 2003 as amended by Act 46 of 2013.

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