



REPABOLIKI YA AFERIKA BORWA

REPUBLIEK VAN SUID AFRIKA

BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT

Section 9(5): Codes of Good Practice

It is hereby notified that the Minister of Trade and Industry hereby issues the following draft Code of Good Practice for public comments under section 9(3) of the Broad-Based Black Economic Empowerment Act 53 of 2003. Interested persons are invited to furnish the Minister with comments on this proposed code within 60 days of the date of publication.

CODE 1400: MEASUREMENT OF THE SKILLS DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT FOR QUALIFYING SMALL ENTERPRISES

STATEMENT 1400: THE RECOGNITION OF SKILLS DEVELOPMENT FOR QUALIFYING SMALL ENTERPRISES

Issued under section 9(5) of the Broad-Based Black Economic Empowerment Act 53 of 2003 for public comment. Interested persons are invited to furnish the minister with comments on this proposed code within 60 days of the date of publication.

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1 DEFINITIONS

In this statement, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

- 1.1 **"employee"** bears the meaning as defined in the Employment Equity Act;
- 1.2 **"Learnerships"** refer to the skills development programs approved by the relevant SETA having jurisdiction over each of the Measured Enterprise's spheres/areas of operation and which are fully certified in accordance with the National Qualifications Framework maintained in terms of South African Qualifications Authority Act,
- 1.3 **"Leviable Amount"** bears the meaning as defined in the Skills Development Levies Act of 1999 as determined in accordance with the provisions of the Fourth Schedule to the Income Tax Act of 1962;
- 1.4 **"Measured Enterprise"** means the Qualifying Small Enterprise subject to measurement under this statement;

- 1.5 **"QSE Skills Development Scorecard"** means the scorecard in paragraph 6;
- 1.6 **"Qualifying Small Enterprise Scorecard"** means the balanced BEE scorecard included in Annexe 1000-A of Code 1000, Statement 1000
- 1.7 **"Qualifying Small Enterprise"** has the meaning defined in Code 1000 Statement 1000;
- 1.8 **"Skills Development Spend"** comprises the amount of money that a Measured Entity spends on skills development that is over and above any of the skills development levy payable in accordance with the Skills Development Levies Act determined in accordance with the provisions of the Fourth Schedule to the Income Tax Act of 1962; and
- 1.8.1 For the avoidance of doubt, Skills Development Spend includes the cost of maintaining learnerships;
- 1.9 **"the Act"** means the Broad-Based Black Economic Empowerment Act of 2003 as amended or substituted;
- 1.10 **"the Codes"** means all Codes of Good Practice issued in terms of section 9 of the Act, including without limitation, this statement; and
- 1.11 **"the Employment Equity Act"** means the Employment Equity Act of 1998, as amended or substituted.

2 INTERPRETATION OF THIS STATEMENT

This statement is to be interpreted in a manner that is consistent with the objectives of the Act, and those set out in paragraph 4.

3 APPLICATION OF THIS STATEMENT

- 3.1 This statement is to be used in the measurement of the skills development element of broad-based black economic empowerment for all Qualifying Small Enterprises.
- 3.2 Notwithstanding paragraph 3.1, this statement is not to be used in the measurement of the skills development element of broad-based black economic empowerment in respect of an Enterprise particularly excluded from the provisions of this statement by the Minister, by notice in a gazette.

4 OBJECTIVES OF THIS STATEMENT

The objective of this statement is to specify the QSE Skills Development Scorecard

5 STATEMENT OF PRINCIPLE

- 5.1 Qualifying Small Enterprises are entitled to receive points on the QSE Skills Development Scorecard based upon skills development contributions made by them.
- 5.2 In determining the nature of the skills development contributions made by Qualifying Small Enterprises, those Enterprises should be guided by this statement read in conjunction with Code 1000 Statement 1000; and
- 5.2.1 if there is any uncertainty or lack of specificity in this statement as to the recognition of any specific type of skills development contribution identified in the QSE Skills Development Scorecard or the manner of calculation of those calculations in the QSE Skills Development Scorecard, regard must be had to the principles outlined in the statements in Code 400.

6 THE QSE SKILLS DEVELOPMENT SCORECARD

The following table represents the criteria used for the purposes of deriving a score for skills development in terms of this statement:

	Criteria	Weighting points	Compliance Target
6.1	Application submitted to the National Skills Fund	5	yes
6.2	Quantifiable Skills Development Spend on black employees in addition to Skills Development Levy as a percentage of the Leviable Amount.	15	2%