



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 issue 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 1600: MEASUREMENT OF THE ENTERPRISE DEVELOPMENT ELEMENT OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 1600: THE RECOGNITION OF ENTERPRISE DEVELOPMENT CONTRIBUTIONS 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 **"Beneficiary Entity"** means:

1.1.1 a micro enterprise which is an Exempted Micro Enterprise as defined in Code 1000 Statement 1000;

1.1.2 an Enterprise which is 50% or more owned by black people and which is a Level One to Six contributor to BEE as determined by reference to Code 1000 Statement 1000;

1.1.3 an Enterprise which is a Level One to Three BEE contributor to BEE as determined by reference to Code 1000 Statement 1000, regardless of the black ownership status of the Enterprise;

1.1.4 a Qualifying Small Enterprise which is 50% or more owned by black people and which is a Level One to Level Six contributor to BEE as determined in Code 1000 Statement

1000; or

- 1.1.5 For the purposes of this definition, the term "**50% owned by black people**" is to be interpreted as meaning an Enterprise in which:
- 1.1.5.1 black people hold more than 50% of the exercisable voting rights and more than 50% of the economic interest in that enterprise; and
 - 1.1.5.2 that enterprise has achieved the full seven points under the net equity interest component of the ownership scorecard,
 - 1.1.5.3 the "economic interest, "exercisable voting rights" and "net equity interest" referred to in paragraph 1.1.5.1 must be measured in accordance with Code 1100 Statement 1100; and
 - 1.1.5.4 the modified flow-through, control and exclusions principles shall not be applied;
- 1.2 "**EBITDA**" means earnings before income tax, depreciation and amortisation interpreted in accordance with South African Generally Accepted Accounting Practice;
- 1.3 "**Measured Enterprise**" means the Qualifying Small Enterprise subject to measurement under this statement;
- 1.4 "**Qualifying Enterprise Development Contributions**" means Contributions actually initiated and implemented in favour of Beneficiary Entities by a Measured Entity with the specific objective of assisting and/or accelerating the development, sustainability and ultimate financial and operational independence of such Beneficiary Entities through the expansion of those Beneficiary Entities' financial and/or operational capacity; and
- 1.4.1 measured in accordance with Code 600, Statement 600
- 1.5 "**QSE Enterprise Development Scorecard**" means the scorecard in paragraph 6;
- 1.6 "**Qualifying Small Enterprise**" has the meaning defined in Code 1000 Statement 1000; and
- 1.7 "**the Act**" means the Broad-Based Black Economic Empowerment Act 53 of 2003.

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 enterprise 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 enterprise 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 Enterprise Development Scorecard

5 STATEMENT OF PRINCIPLE

- 5.1 Qualifying Small Enterprises are entitled to receive points on the QSE Enterprise Development Scorecard based upon enterprise development contributions made by them.
- 5.1.1 In determining the nature of the enterprise development contribution made by Qualifying Small Enterprises, those Enterprises should be guided by this statement read in conjunction with Code 1000 Statement 1000; and
- 5.1.2 if there is any uncertainty or lack of specificity in this statement as to the recognition of any specific type of enterprise development contribution identified in the QSE Enterprise Development Scorecard or the manner of calculation of those calculations in the QSE Enterprise Development Scorecard, regard must be made to the principles outlined in the statements in Code 600.

6 THE ENTERPRISE DEVELOPMENT SCORECARD

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

Criteria	Weighting Points	Compliance Target
Qualifying Enterprise Development Contributions made by the Qualifying Small Enterprise as a percentage of EBITDA	20	2%