

The new AgriBEE guidelines

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SECTION 1

- HIGH LEVEL OVERVIEW OF KEY AMENDMENTS TO THE B-BBEE ACT NO.53 OF 2003

SECTION 2

- REVISED CODES OF GOOD PRACTICE



SECTION 1

Key objectives of the
Broad-based Black Economic
Empowerment Amendment Act,
No. 46 of 2013



Introduction & Background

- 2013 marked 10 years since the promulgation of the BBBEE Act
- The Act was positioned as soft legislation with no consequences for circumvention
- The Act had to be strengthened to ensure effective and consistent implementation and reporting across the economy



Key Objectives of the Act

- Establishment the B-BBEE Commission to act as a *watchdog* for BBEE implementation (and the introduction of the Verification Regulator);
- Creation of a Monitoring, Evaluation and Reporting framework by all public and private institutions;
- Creation of statutory offence of Fronting and other related offences;
- Introduction of penalties ranging from maximum sentence of 10 years to 10% of company's turnover and prohibition not to trade with organs of state for 10 years;
- Trumping provision to be applicable on conflicting provisions specific to B-BBEE only; and
- Strengthened application of the Codes to organs of state and sector codes to affected sectors.



Key issues addressed

- **Circumvention : B-BBEE Fronting;**
- **Establishing a B-BBEE Commission;**
- **Trumping provision: B-BBEE Act to take precedence over conflicting provisions in legislations dealing with empowerment;**
- **Monitoring of B-BBEE in Public and Private sector; and**
- **Redesign of the B-BBEE Verification Industry.**

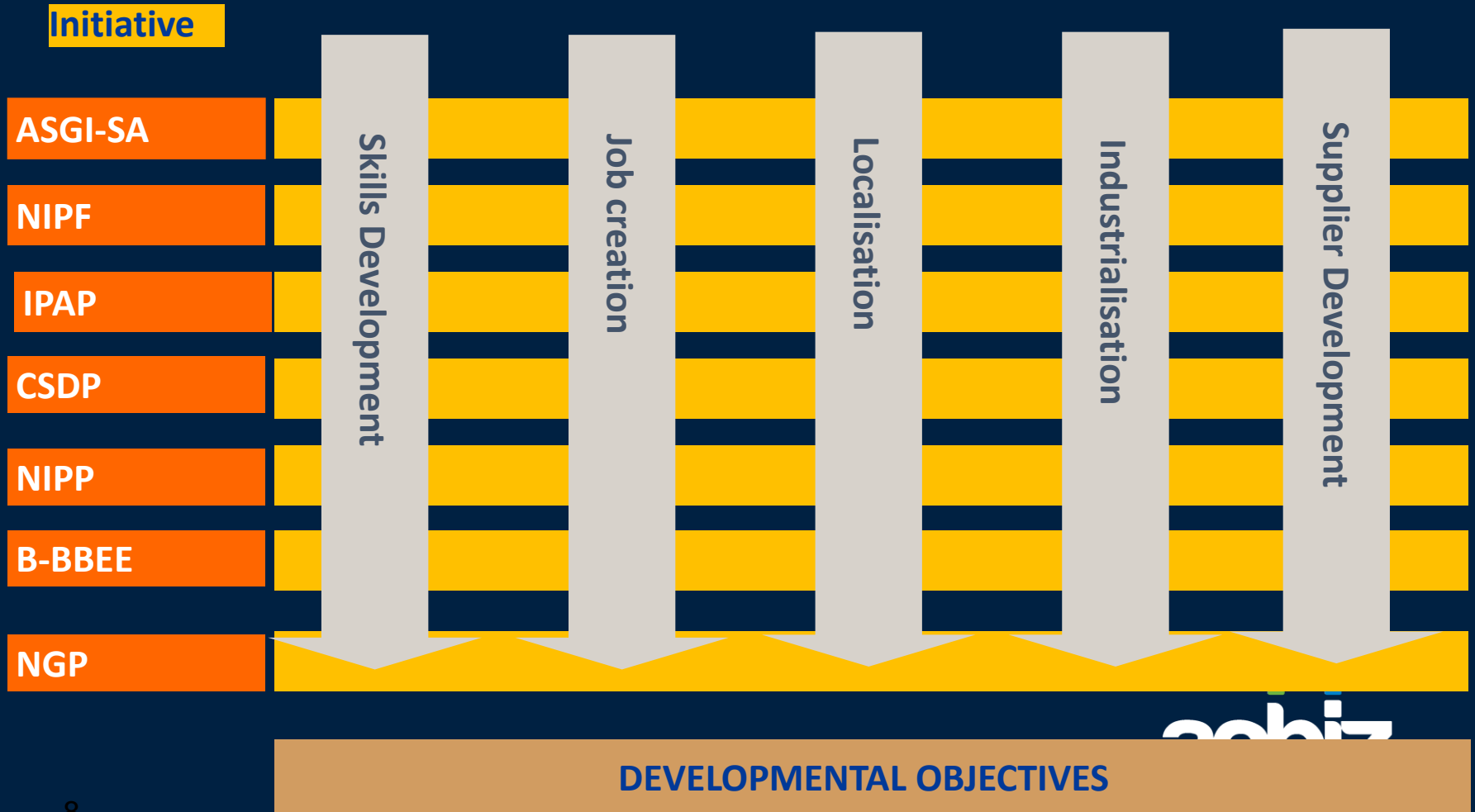


SECTION 2

Amended Codes of Good Practice



USHERING IN A NEW ERA OF EMPOWERMENT



New Direction

- Change SA culture to be supportive of entrepreneurship and diversification of value chains;
- Concerted effort in linking B-BBEE with other government economic development strategies such as IPAP, New Growth Path , etc. ;
- Empowerment efforts should result in the promotion of a culture of venturing into new territories, operational excellence and risk taking;
- Focus on businesses and industries that result in significant job creation and addressing socio economic challenges; and
- Symbiotic relationship between the public and the private sector and amongst private sector players , and large and small enterprises to unlock opportunities



Introduction

- On 5 October 2012, the Revised Codes were gazetted for 60 days public comment;
- The commentary period ended on 6 December 2012 and 555 submission were received and analysed;
- Consolidation of comments and engagements with the Presidential B-BBEE Advisory Council and other stakeholders were held and incorporated into the revised Codes;
- One year transitional period from the date of Gazette 11 Oct 2013 (Extended to April 2015)



Codes of Good Practice

- The Generic Scorecard is aligned in accordance with government key priorities
- The Generic Scorecard has five (5) elements
- All companies except Exempted Micro Enterprises (EMEs) will comply with all 5 elements
- Enhanced the recognition status of black owned EMEs and Qualifying Small Enterprises (QSE)



Codes of Good Practice

- An Exempted Micro Enterprise and Qualifying Small Enterprise that is 100% owned by black people qualify as a Level 1 contributor;
- An Exempted Micro Enterprise and Qualifying Small Enterprise that are more than 50% owned by black people qualify as a Level 2 contributor;
- No verification requirements for Exempted Micro Enterprises ;



Code 000 : Key principles

Key Principles	Description	Implication
<p>Priority Element</p>	<p>Ownership, Skills Development and Enterprise and Supplier Development have 40 % subminimum</p>	<ul style="list-style-type: none"> • QSEs to comply with at least two of the priority elements • Ownership is compulsory and either Enterprise and Supplier Dev. or Skills Development; • Large entities to comply with all priority elements • Non-compliance of the thresholds in priority elements, the overall Score will be discounted by one (1) level down
<p>Enhanced Recognition Status (ERS)</p>	<p>Enhanced the recognition status of Black Exempted Micro Enterprises (EME) and Qualifying Small Enterprises (QSE)</p>	<ul style="list-style-type: none"> • EME to obtain a sworn affidavits • Black Owned QSE only required to obtain a sworn affidavits

Code 000 : Key principles

Key Principles	Description	Implication
Adjusted Threshold	EME : Annual Total Revenue up to R10 million QSE: Annual Total Revenue R10 million - R50 million Large entities: Annual Total Revenue of R50 million and above	Companies that are expected to comply with the generic scorecard represents 2% of all active fillers. SOURCE: SARS 2012

Amended B-BBEE Recognition levels

B-BBEE Status	Current Qualification	New Qualification	B-BBEE recognition level
Level One Contributor	≥100 points on the Generic Scorecard	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥85 but <100 points on the Generic Scorecard	≥95 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥75 but <85 on the Generic Scorecard	≥90 but <95 on the Generic Scorecard	110%
Level Four Contributor	≥65 but <75 on the Generic Scorecard	≥80 but <90 on the Generic Scorecard	100%
Level Five Contributor	≥55 but <65 on the Generic Scorecard	≥75 but <80 on the Generic Scorecard	80%
Level Six Contributor	≥45 but <55 on the Generic Scorecard	≥70 but <75 on the Generic Scorecard	60%
Level Seven Contributor	≥40 but <45 on the Generic Scorecard	≥55 but <70 on the Generic Scorecard	50%
Level Eight Contributor	≥30 but <40 on the Generic Scorecard	≥40 but <55 on the Generic Scorecard	10%
Non-Compliant Contributor	<30 on the Generic Scorecard	<40 on the Generic Scorecard	0%

Codes of Good Practice

- Employment Equity and Management Control merged into one element: **Management Control (MC)**
- Preferential Procurement and Enterprise Development merged into one element: **Enterprise and Supplier Development (ESD)**
- Introduced minimum requirements for priority elements: **Ownership, Skills Development, and Enterprise and Supplier Development**



Code 000: Amended Generic Scorecard

Element	Weighting	Compliance Target
Ownership	25 points	25% + 1 vote
Management control	19 points	(50% to 88%)
Skills Development	20 points	6% of payroll
Enterprise and Supplier Development	40 points	PP = 80% SD = 2% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	109 points	



AgriBEE Charter Council

- New 5 year term appointment by Minister
- Terms of Reference
- Major Focus Areas:
 - Align AgriBEE Sector Code
 - Establish AgriBEE Charter Council as a NPC
 - AgriBEE Portal to post score on annual basis
- Call to enterprises to submit scorecards





agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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MEDIA RELEASE

AgriBEE Charter Council calls on all enterprises in the broader agricultural sector to submit B-BBEE scorecards

Following the gazetting of the AgriBEE Sector Code on 28 December 2012, the AgriBEE Charter Council and the Department of Agriculture, Forestry and Fisheries (DAFF) developed the AgriBEE Portal Information System. The AgriBEE portal was specifically developed to capture B-BBEE certificates and AgriBEE Sector Code scorecards to enable the AgriBEE Charter Council to report on the status of transformation in the agricultural sector.

Implementation of the AgriBEE Sector Code was effective from the date of publication and all sector stakeholders must now report their B-BBEE status, as required by the B-BBEE Amendment Act, 2013 (Act No. 53 of 2013). Section 6 of the Act reads that “(4) Enterprises operating in a sector in respect of which the Minister has issued a sector code of good practice in terms of section 9, must report annually on their compliance with broad-based black economic empowerment to the sector council that may have been established for that sector”.

All agricultural enterprises that fall within the scope of application of the AgriBEE Sector Code are therefore requested to upload their valid B-BBEE certificates and scorecards on the AgriBEE portal at <http://webapps.daff.gov.za/agribee/>. All exempted micro-enterprises (EME's) are also required to upload an accountant/auditor's letter of declaration onto the portal. Alternatively, agricultural entities can submit their valid AgriBEE certificates and scorecards and/or EME status accountant letters electronically to DAFF at AgriBEE@daff.gov.za. In brief, the scope of application of the AgriBEE Sector Code includes any enterprise that derives the majority of its turnover from:

- The primary production of agricultural products;
- The provision of inputs and services to enterprises engaged in the production of agricultural products;
- The beneficiation of agricultural products, whether of a primary or semi-beneficiated form;
- The storage, distribution, and/or trading and allied activities related to non-beneficiated agricultural products.

The AgriBEE Charter Council sincerely appreciates the cooperation of all enterprises in submitting their scorecards.

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THANK YOU

