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A Users Guide to the Forest Sector BBBEE Charter and Scorecard

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1. What is broad based BEE and why do we need it?

Broad based BEE is the strategy government has put in place to bring about greater participation of black people in the economy, and to spread the benefits of the economy more widely. This is of great importance to the growth and stability of our country, where the majority of the population were excluded from participating in the economy, and many are poor and rely on welfare support. B-BBEE is a strategy to enable the population to meet their own livelihood needs, whilst at the same time building the economy.

B-BBEE is not about replacing white people with black people, but rather about growing the overall size of the economy and making sure that opportunities previously enjoyed by a minority are extended to the majority. Whereas the earlier definition of BEE focused mainly ownership and management of businesses by black people, broad based BEE aims to extend economic opportunities to a much wider range of black people, including women, youth, people with disabilities and those living in rural areas. This is done through encouraging changes across all of the following key areas of business:

Ownership and management:

- ⊙ Increasing the number of black people who manage, own and control businesses
- ⊙ Providing opportunities for communities, workers and other collective enterprises to own and manage businesses

Skills development:

- ⊙ Promoting and supporting investment in skills development for black employees, including black women and disabled people

Employment Equity:

- ⊙ Ensuring equitable representation in all employment categories and at all levels of the workforce
- ⊙ Improving working conditions through setting Industry Codes of Conduct on Contracting and Employment

Preferential procurement

- ⊙ Promoting the purchase of goods and services provided by companies that have a strong B-BBEE profile
- ⊙ Ensuring fair contracting practices in the forest sector through the Industry Codes of Conduct

Enterprise development

- ⊙ Encouraging investment in enterprises that are black owned and managed
- ⊙ Industry specific initiatives. Within the forest sector this includes initiatives to support black-owned black enterprises that contribute to increased timber supply and beneficiation in the forestry value chain.

Socio-economic development

- ⊙ Encouraging businesses to implement or support development programmes amongst needy communities
- ⊙ Industry specific initiatives. Within the forest sector this includes initiatives to improve the living conditions and livelihood opportunities for the rural poor, including forestry workers and their families

Who is Black?

In BEE speak, the term “black” refers to people who are **African, Coloured and Indian South Africans**, that is, all those whose participation in the economy was limited through racially discriminatory laws of pre-1994 governments. Broad based BEE gives particular emphasis to black women, youth, the disabled, and those in rural areas.

What BEE is NOT- a note on fronting

Fronting is pretending to be BEE compliant when, in fact, the empowerment is just for show. To put a stop to this, government has clearly defined practices that will not be acceptable in terms of BEE. These are:

- ⊙ Window dressing: when black people are appointed to positions in the company but have no real influence or power
- ⊙ Benefit diversion: when the economic benefits that a company gets from being BEE rated are diverted away from the black participants who brought recognition to the company
- ⊙ Opportunism: when a joint venture with a black partners who are suppliers is set up, but most of the work is still outsourced to a non-BEE company

The B-BBEE Codes of Good Practice (Code 000 Statement 002) defines indicators of fronting risk and sets out specific procedures for reporting of fronting practices.

The Regulatory Framework for BEE

The Constitution	The concept of B-BBEE is enshrined in the constitution: The preamble gives as one of the purposes of the constitution: <i>“Improve the quality of life of all citizens and free the potential of each person”</i>
B-BBEE Act	This provides the legal basis for the B-BBEE programme. It includes: <ul style="list-style-type: none"> ⊙ Definition of who is a black person ⊙ Instructs the Minister of Trade and Industry to draft Codes of Good Practice on black economic empowerment ⊙ Provides for gazetting of Industry Charters and Sector Codes
Broad-based BEE Strategy and Scorecard	Outlines the government's 10-year BEE plan
Codes of Good Practice	The Codes explain in detail how B-BBEE is to be implemented. This user guide is a simplified overview, for further detail you must consult the Codes.
Transformation Charters	The generic Codes address BEE across the entire economy. Transformation Charters provide a sector specific BEE strategy and scorecard. A Charter can be gazetted under section 12 of the B-BBEE Act as evidence of the sector's commitment to promote B-BBEE.
Sector Codes	Transformation Charters can then be gazetted under section 9 of the B-BBEE Act as Sector Codes. A Sector Code is legally binding on businesses in that sector, and the Sector Code replaces the generic codes for that particular sector.

2. To whom does broad based BEE apply?

B-BBEE applies to all enterprises that conduct a business, trade or profession in South Africa, whether they are companies, sole proprietors, cooperatives, multi-nationals, enterprises owned by organs of state or public entities. BEE requirements apply equally to white and black owned and controlled enterprises. There are, however, different requirements depending on the size of the enterprise. Specialist enterprises that are not privately owned, such as non-profit organisations, and public entities are also treated differently. More information about how B-BBEE is measured in small enterprises, NGOs and public entities is given in section 7 below.

3. How will broad based BEE be implemented?

The basic method of implementing BEE is through procurement. If enterprises do not implement BEE, sooner or later they are likely to lose business. It works like this. In terms of Government's preferential procurement policy, state institutions (that spend a very large amount on service providers) will buy from

companies that have a good BEE rating. For an enterprise to have a good BEE rating, it must also buy from supplier with a good BEE rating. In this way, there is a cascading effect, and even companies that do not directly supply government are affected. In addition, government departments will use BEE ratings when issuing licenses, concessions or other authorisations in terms of any law. The rating will also apply when selecting preferred bidders for the sale of state owned assets or enterprises.

The BEE rating of an enterprise is worked out using the **BEE scorecard**. This Scorecard will either be the “generic” Scorecard outlined in the Codes of Good Practice published by the Department of Trade and Industry or the Sector Scorecard, if this has been gazetted by Government as a “Sector Code”. The scorecard sets targets for each of the 7 indicators of BEE, and allocates points for achieving these targets. If you meet the target, you get all the points. If you are only half way to the target, you get half the points. Points scored under each indicator are then added up to work out your BEE Status. When an enterprise buys from a BEE supplier, the amount they claim as BEE spend must be adjusted according to the BEE rating of that supplier. If the supplier has a low BEE rating, then only a small proportion of the spend can be claimed as BEE procurement. The table below shows the relationship between points scored, BEE Status, and BEE procurement recognition level.

BEE contributor status	Points scored	BEE procurement recognition level
<i>Level 1 contributor</i>	<i>At least 100 points</i>	<i>135%</i>
<i>Level 2 contributor</i>	<i>At least 85 points, and less than 100</i>	<i>125%</i>
<i>Level 3 contributor</i>	<i>At least 75 points, and less than 85</i>	<i>110%</i>
<i>Level 4 contributor</i>	<i>At least 65 points, and less than 75</i>	<i>100%</i>
<i>Level 5 contributor</i>	<i>At least 55 points, and less than 65</i>	<i>80%</i>
<i>Level 6 contributor</i>	<i>At least 45 points, and less than 55</i>	<i>60%</i>
<i>Level 7 contributor</i>	<i>At least 40 points, and less than 45</i>	<i>50%</i>
<i>Level 8 contributor</i>	<i>At least 30 points, and less than 40</i>	<i>10%</i>
<i>Non-compliant</i>	<i>Less than 30 points</i>	<i>0</i>

Example: If your business scores 58 points, you will qualify as a level 5 contributor. If you sell R10 000 worth of goods to another business, then 80%, or R8 000 of that amount will count towards their preferential procurement target. If however, your score is only 31 points, only 10% will count. The customer may need to find an alternative supplier with a better BEE score in order to meet their procurement target. More detail on how scores for preferential procurement are calculated is provided in Section 9, Element 5 on page 26

4. Why and how was the Forest Sector Charter developed?

Why a Charter?

Section 12 of the Broad Based BEE Act makes provision for sectors to develop transformation charters. What advantages are there to developing a Sector Transformation Charter?

Sector Charters enable a sector to:

- ⊙ Build sector-wide commitment to broad based BEE, including undertakings by both government and the private sector to implement measures to fast-track broad-based BEE
- ⊙ Set industry specific targets and timeframes tailored to the needs and circumstances of the particular sector. Without a Charter, the generic scorecard will apply.
- ⊙ Identify the activities that will qualify in terms of the industry specific component of the scorecard
- ⊙ Establish institutional arrangements for monitoring and reporting on the implementation of transformation in the sector

Sector Transformation Charters can be converted into a Sector Code, giving the Charter legal status. When this takes place, the scorecard in the Charter will have precedence over the generic scorecard.

How was the Charter developed?

The development of the Forest Sector Charter was a two-year process involving stakeholder representatives and experts from throughout the sector. A Steering Committee comprising 26 members was responsible for overseeing the work of sub-sector working groups. The 5 sub-sector working groups were: Growers, Forestry Contractors, Saw-millers, Charcoal & Pole Producers; and Fibre. The working groups identified challenges facing their sub-sector, developed sub-sector scorecards, and identified instruments and sector undertakings needed to implement the scorecards. Task teams were convened to look at specific challenges facing broad based BEE in the sector. Specific task teams were established to detail the skills development instruments, financial instruments and government undertakings in the Charter.

The Charter development process was officially launched by the Minister in April 2005 at an indaba held in Midrand. The draft Charter was presented to the sector by the Minister of Water Affairs and Forestry at a second national indaba held in June 2007. Thereafter, the Charter will be published for public comment. After incorporation of public comment, the final Charter will be gazetted as Transformation Charter and Sector Code in terms of sections 12 and 10 of the Broad Based BEE Act.

5. What are the aims of the Forest Sector Charter?

The forest sector charter outlines the following vision for the sector:

- **An inclusive and equitable forest sector in which black women and men fully participate.**
- **A forest sector that is characterised by sustainable use of resources, sustainable growth, international competitiveness and profitability for all its participants.**
- **A forest sector that contributes meaningfully to poverty eradication, job creation, rural development and economic value adding activities in the country.**

6. What does the Forest Sector Charter contain?

The Forest Sector Charter contains the following five key elements:

- ⊙ A set of **Objectives and Principles** to guide the B-BBEE process in the forest sector.
- ⊙ A summary of challenges facing the sector
- ⊙ The **B-BBEE Scorecard and Targets** that will apply to measured enterprises operating within the Forest Sector.
- ⊙ **Undertakings by government, industry and labour** to put in place instruments to enable the forest sector as a whole, as well as individual businesses, to achieve their B-BBEE targets.
- ⊙ Agreement to establish a **Forest Sector Charter Council** to oversee and facilitate the implementation of the Charter, as well as procedures for progress reporting and review.

The Forest Sector Charter contains a summary of the above elements; more detail can be found in the Companion Document to the Charter.

What is the Forest Sector Charter Council? The Forest Sector Charter Council will be established to oversee and facilitate the implementation of the Charter. The Council will monitor the implementation of the Charter, see to it that the scorecard and undertakings made by business and government are implemented, and make sure that the Charter is widely publicised. The Council shall consist of 19 members that fairly reflect the stakeholders in the sector and have fair representation of black people and women.

7. Does the Charter apply to me?

Sub-sectors: The Forest Sector Charter applies to all enterprises that are engaged in commercial timber production and first level processing of wood products. This includes the following sub-sectors:

- Timber growers
- Contractors
- Fibre: pulp and paper; woodchips; board products; wattle bark
- Sawmilling: sawn timber; mining timber; matches
- Pole producers
- Charcoal producers

Beneficiaries: The Charter also applies to a wide range of potential beneficiaries, including black investors, black entrepreneurs, black employees and job seekers, as well as unemployed black people and the rural poor.

What size of business qualifies?

The government would like to see all enterprises, irrespective of their size, participating in B-BBEE. This includes sole proprietors, co-operative societies, trading trusts, partnerships, closed corporations, and companies. However, the government recognises that it is more difficult for small and micro businesses to comply with BEE provisions, and has provided for an exemption for micro enterprises - Exempted Micro-Enterprises, and slightly different rules for small enterprises - Qualifying Small Enterprises. The definition of these different categories of enterprises, Medium and Large, Qualifying Small Enterprises, and Exempted Micro-Enterprise is given below.

Measurement of BEE for various sizes of business

Medium and large enterprises Turnover > R35 million +	Qualifying Small Enterprises - QSE Turnover R5 m – R35 m	Exempted Micro Enterprises EME Turnover < R5 m
Large corporate businesses	Medium sized commercial operations	Owner-manager or family businesses Informal and part time operations Start up enterprises, for first year.
Medium and Large Enterprise scorecard All 7 indicators	QSE scorecard Any 4 of the 7 indicators, each counts 25%	Exempted Micro-Enterprises Automatic level 4 BEE status Enterprises with over 50% black ownership: level 3 BEE status Must comply with Industry Codes of Conduct

A note on exempted micro-enterprises. A business is an exempted **micro-enterprise** if the annual turnover (also referred to as revenue) is R5 million or less. The majority of owner-manager enterprises in the sector fall into this category, including all growers that have less than approximately 2000ha of plantations, small sawmills and charcoal and pole producing operations. Start-up enterprises are measured as ESME's for the first year, regardless of expected total revenue.

Exempt micro-enterprises are not measured using a scorecard, but can automatically claim level 4 BEE Status, or level 3 if they are more than 50% owned by black people. It is necessary however, for ALL businesses in the forestry sector, irrespective of size, to comply with the Industry Codes of Conduct on contracting and employment. When enterprises submit proof of their EME-status, they will have to sign a commitment of compliance with the Industry Codes of Conduct. Failure to do so or to comply with Industry Codes of Conduct will result in a downgrading of their BEE recognition level.

To claim automatic status, micro-enterprises must submit evidence of:

- ⊙ Turnover within the R5m/annum threshold,
- ⊙ BEE ownership profile if claiming level 3 status,
- ⊙ Compliance with the Industry Codes of Conduct.

Exempted Micro Enterprises can elect to be measured in terms of the QSE scorecard should they wish

to maximise their points and move to the next procurement recognition level.

What are the Industry Codes of Conduct?

The forest industry through its representative associations and in consultation with labour, has undertaken to establish Industry Codes of Conduct for the Forest Sector. The following Codes will be developed:

1. Codes for forestry contracting: control and direct the relationship between contracting companies and contractors,
2. Codes for emergent forest grower schemes: These Codes will control and direct relationship between contract growers and companies
3. Codes for charcoal contracting: These Codes will control and direct the relationship between small black charcoal producers and the brand name producers and industrial users of charcoal.
4. Codes for employment practices: These Codes will give practical effect and weight to fair labour practices as provided for under the Basic Conditions of Employment Act, 1997, and other labour legislation as it applies to employees, including contract workers, in the forest sector.

The Industry Codes shall be included in a later version of this User Guide when they become available

Rules for Qualifying Small Enterprises (QSEs) There is a separate scorecard for QSEs. The QSE scorecard is simpler than the scorecard for medium and large companies, and QSEs can select which 4 of the 7 indicators they wish to be scored on. The QSE scorecard is explained further in Section 8 and 9 below.

Risk of circumvention: If you are thinking that it may be a good idea to break your business up into smaller units in order to become micro-exempt, or qualify as QSE, think again! The combined turnover of all “related enterprises” of a measured entity will be taken into account when determining the compliance requirements of ESME’s and QSE’s.

What if my business cuts across two or more sectors?

If your business cuts across two or more sectors, for example a grower who also produces agricultural crops, you will be measured against the sector scorecard that applies to the part of your business with the highest mean annual turnover. If your business is divided into separate trading entities or operating units, you will be measured against the relevant scorecard for each unit.

How are organisations that are not privately owned measured?

Certain types of businesses and organisations cannot transform their ownership, such as not-for-profit organisations, Section 21 companies, higher education institutions and enterprises owned by the State. These are known as “specialist enterprises”, and are to be measured using a different scorecard that excludes the ownership element. This scorecard is called the *Adjusted generic scorecard*. See Code 000, statement 004 for more information.

8. How will the aims of broad based BEE be met through the Charter? Introducing the sector scorecards

The **Scorecard** is the main tool for setting standards for transformation, and against which individual enterprises will be measured. In addition to setting out sector specific scorecards, the Charter commits government, industry and labour to putting in place **instruments** to enable businesses to achieve their BEE targets. These undertakings are listed in the Forest Sector Transformation Charter. Responsibilities and due dates for each are clearly specified and implementation will be monitored by the Charter Council.

The Forest Charter sets the standards for broad based BEE in the sector through the sector scorecard. The scorecard is based on the **generic scorecard** as set out in the Codes of Good Practice issued by DTI. The Codes of Good Practice make provision for 2 scorecards: one for small businesses, called

Qualifying Small Enterprises (QSE) and another for medium and large scale enterprises. The Charter likewise includes scorecards for both QSEs and medium and large scale enterprises.

Table 8.1 shows the allocation of **weighting points** across the 7 elements, or business areas, for both medium to large scale enterprises and QSEs. The allocation of points is a reflection of the relative importance of this indicator to B-B BEE.

TABLE 8.1: Forest Sector scorecards– relative weighting points of the elements and allocation of bonus points

	Medium/large scale enterprises	Qualifying small enterprises
1. Ownership	20	25
<i>Bonus points</i>	5	3
2. Management Control	10	25
<i>Bonus points</i>	-	2
3. Employment Equity	15	25
<i>Bonus points</i>	3	2
4. Skills Development	15	25
5. Preferential Procurement	20	25
6. Enterprise Development	15	25
7. Socio-economic Development	5	25
<i>Bonus points</i>	3	3
<i>Total possible number of points</i>	111	110

Medium – Large scale enterprises: The weighting of each indicator is the same as the generic scorecard. In addition to these 100 points, the forest sector scorecard makes provision for 11 bonus points, as against 7 in the generic scorecard. The additional bonus points have been included to promote sector specific targets.

Qualifying small enterprises: The QSE scorecard measures the same indicators as the Medium and large-scale enterprises scorecard, but because each indicator is allocated 25 points, only 4 of the indicators need to be measured to make up the full 100 points. The enterprise owner can select 4 of the indicators to focus on and be scored under. So, for example, a small business with one white owner could ignore targets such as ownership and management control and focus on achieving other targets such as those for skills development and preferential procurement, and still be able to obtain an acceptable BEE rating. Likewise, a black owned business could decide to focus on targets such as those for ownership and management control and ignore targets such as those for enterprise development and socio-economic development. Bonus points linked to the indicators selected can be earned up to a maximum of 10 points, as against 7 in the generic scorecard.

In order to score points, enterprises must be measured against the **targets** set for various indicators listed under each of the 7 elements. Each indicator has its own sub-weighting and compliance target. In the following section we will see how each of the elements is broken down, and how to use the scorecard to calculate a score for an enterprise. Information and ideas for improving BEE rating are provided, as well as tips for potential beneficiaries.

9. How do I use the BEE scorecard? Tips for business owners and beneficiaries

The aim of this section is to give business owners the tools to assess their current broad-based BEE rating and find out more about how to improve their rating. It is also a guide for those who want to find out more about the scorecard, in order to identify opportunities available to beneficiaries.

Each of the 7 scorecard elements is presented in this section. The following is covered for each element:

- ⊙ The detailed **scorecard** is presented, showing targets and weightings. Both the main scorecard (applicable to business with a turnover of above R35 million) and the QSE scorecard (applicable to enterprises with turnover of between R5 and R35 million) are presented. Where there are differences between sub-sectors, these are shown.

- ⊙ The **scoring method** is explained, including an explanation of what is meant by the terms used in the scorecard.
- ⊙ Tips and ideas are given for how a business can score more points for this indicator. This is of interest to both business owners and beneficiaries.

The information contained in this section of the guide is drawn mainly from the DTI Codes of Good Practice for Broad-based Black Economic Empowerment, as published in Government Gazette No. 29617, February 9th, 2007. For further details or clarification, readers should refer directly to the Codes. The Gazette in which the Codes are published can be downloaded from the DTI website: www.thedti.gov.za/bee/codes2005.html

Copies of the Gazette can be purchased from the Government Printer or obtained from the Department of Trade and Industry offices.

Table 9.1 An Index of the B-B BEE Codes

CODE #	Heading	Topic
000	Conceptual framework of B-BBEE	General principles and the Generic Scorecard
100	Ownership	Measures effective ownership of enterprises by black people
200	Management control	Measures effective control of enterprises by black people
300	Employment Equity	Measures initiatives intended to achieve equity in the workplace
400	Skills Development	Measures initiatives intended to develop the competencies of black employees
500	Preferential Procurement	Measures the extent that enterprises buy goods and services from BEE compliant suppliers as well as black owned entities
600	Enterprise Development	Measures the extent that enterprises carry out initiatives contributing to effective enterprise development
700	Socio-economic development	Measures the extent that enterprises carry out initiatives contributing to socio-economic development
800	Qualifying Small Enterprises	Codes of Good Practice for Qualifying Small Enterprises
Schedule1	Interpretations and definitions	Provides interpretation and definitions of all terms used in the Codes

Element 1: Equity Ownership

Counts 20 points / 25 for QSEs

The scorecards below show how the equity ownership element allocates points. The first scorecard gives the targets and allocation of points for medium to large companies, and the second gives those for QSEs. Ownership points are allocated not only for number of shares owned by black people, but also for the voting rights associated with these shares, shares owned by black women and designated groups, and for payment of the shares allocated.

Ownership Scorecard (medium to large enterprises)

Total possible points: 20 points + 5 bonus points

Indicator description	Weighting Points	Compliance target	Your score
Voting rights			
1.1 Exercisable voting rights in the Enterprise in the hands of black people	3	25%+1 vote	
1.2 Exercisable voting rights in the Enterprise in the hands of black women	2	10%	
Economic Interest			
1.3 Economic interest of black people in the enterprise	3	25%	
1.4 Economic interest of black women in the enterprise	2	10%	
1.5 Economic interest to which the following are entitled: <input type="radio"/> Black designated groups; <input type="radio"/> Black Participants in Employee Ownership Schemes; <input type="radio"/> Black beneficiaries of Broad-based Ownership Schemes; or <input type="radio"/> Black Participants in Cooperatives	2	7.5%	
Realisation Points			
1.6 Ownership fulfilment	1	Yes	
1.7 Net equity interest	7	Yes	
Bonus points			
1.8 Bonus points for involvement in the ownership of enterprises of black participants: <input type="radio"/> In Employee Ownership Schemes; <input type="radio"/> Broad-based Ownership Schemes; or <input type="radio"/> Cooperatives	1	10%	
1.9 Bonus points for involvement in the ownership of enterprises of black new entrants	2	10%	
1.10 Bonus point for achieving a higher target for indicator 1.3	1	30%	
1.11 Bonus point for achieving a higher target for indicator 1.4	1	15%	

Ownership Scorecard (QSE's)

Total possible points: 25 points + 3 bonus points

Sub-indicator description	Weighting Points	Compliance target	Your score
Voting rights			
1.1 Exercisable Voting Rights in the Enterprise in the hands of black people	6	25%+1 vote	
Economic Interest			
1.2 Economic Interest of black people in the Enterprise	9	25%	

Sub-indicator description	Weighting Points	Compliance target	Your score
Realisation Points			
1.3 Ownership fulfilment	1	Yes	
1.4 Net equity interest	9	Yes	
Bonus points			
1.5 Bonus points for involvement in the ownership of Enterprises of black women	2	10%	
1.6 Bonus points for involvement in the ownership of enterprises of black participants in: ☉ Employee Ownership Schemes; ☉ Broad-based Ownership Schemes; or ☉ Cooperatives	1	10%	

How is an ownership score calculated?

Scores need to be worked out line at a time. First you will have to determine your level of compliance. If you meet the compliance target, you score the full number of points. If not, you score in proportion to your percentage compliance with the target.

The basic formula for calculating a score is:

Points scored = total possible points X actual percentage / target percentage

Example:

A black owned company owns a 20% share in your business.

Actual % is 20, target % is 25, and total possible points are 6

Your score: $6 \times 20 / 25 = 4.8$ points

However, the BEE company has no black women owners and nor does your company. You would score 0 for this sub-indicator, and lose two possible points.

And so on... Once you have worked out your score for each indicator, you can add these up to get the total score out of the 20 total possible points.

What does that mean? Scorecard definitions

Black designated groups: These include black people who are: youth (under 35 years); aged people (over 65); living in rural areas; unemployed workers.

Employee ownership schemes: Schemes that involve more than 90% of all employees of a business, or 90% of employees in a particular employment category

Broad based ownership schemes: schemes that involve collective investment and income received is distributed directly or used to benefit the members in accordance with the scheme rules.

Black new entrants: No prior equity transactions to the value of R20 million or more

Ownership fulfilment points refer to the payment of shares. Only when the shares are paid for in full can this point be claimed.

Net equity interest is the term used for the amount of debt that shareholder has. In order to claim the 7 points, shareholders must be paying off the shares at a rate that will ensure full payment within 10 years, or in the case of growers, at a rate that will ensure full payment by the end of the rotation period of the crop. Payment has to be spread out equally over that period.

How to score more under the ownership indicator

The codes provide for two models for increasing ownership score: sale of equity in existing business, or engaging in a "qualifying ownership transaction". Qualifying ownership transactions entail selling a part of a business, or assets, to black people to start a separate business. Shares may be retained in the new

enterprise, or not. In order to score points for the original business, the transaction must comply with the requirements of a “qualifying transaction”.

Requirements of a Qualifying Transaction

It is possible to score all 20 points in the ownership section by selling off a part of a business or assets, or using assets to establish a new business with black shareholders. The “measured enterprise” – the original business - can claim points towards its ownership scorecard - so called “ownership equivalency” – based on the value of the investment made by the measured entity in the new enterprise as a percentage of the total value of the measured entity.

To qualify, the transaction must result in sustainable business opportunities for black people, and the transfer of specialist skills or productive capacity to black people. It must not result in unnecessary job-losses. The transaction must also involve a separate associated enterprise, not encumbered by unreasonable limitations through its relationship with the initiating enterprise. Any outsourcing arrangements with the initiating enterprise must be concluded at arms-length on a fair and reasonable basis.

Note that if an equivalency percentage is claimed under the ownership indicator of the scorecard, additional points cannot be claimed under the enterprise development indicator of the scorecard.

For more detail, and for the formula used to calculate the equivalency percentage for your own business, see Code 100 Statement 101.

There are also rules for sale of shares. In simple terms these are:

- ⊙ the new BEE shareholders are allocated voting rights;
- ⊙ women and designated groups/broad based participants are amongst the shareholders;
- ⊙ financing arrangements are in place to ensure the shareholders are able to pay off their debts within the period of one rotation.

Tips for sole proprietors/ family owned businesses

Selling a share in your business is fairly straight forward if the business is in the name of a cc, company or trust. If yours is a family owned business, you cannot sell shares without first forming a legal entity such as a cc, company or trust. The Income Tax Act had been adjusted to enable the conversion of privately owned businesses, including forestry enterprises, into a company, without any tax or capital gain implications. The only limiting provision is that there can be no sale of shares to B-BBEE partners for the first 18 months after the conversion into a company. However, you can identify black partners immediately, and give them a formal option to purchase. On this basis, you can claim points under ownership immediately.

To whom can an equity share be sold?

Shares can be sold to or bought by individuals, companies or groups. Each option has its merits and limitations, and the option selected depends on the circumstances of the beneficiaries and the nature of the business entity wanting to sell shares.

i) Established black investment companies:

- + These tend to be high profile companies with significant influence and capital.
- Tend to have many other commitments and may not be able to spare much of their time for the business.

Suited to: Large operations. Investment companies will not be interested in investing in small companies or cc's

How to structure and finance: Sale of shares, financed by the black investment company. Note the flow through principle applies (see below).

ii) Key high profile individuals

- + Often will have significant influence and capital resources
- Lack local level connections, commitment may be short term, have limited specialised technical expertise

Suited to: Large operations, these individuals busy and will not have much interest in investing in small operations

iii) Group schemes

These are schemes designed to extend business equity to those who unable or unwilling to make investments on their own. These people can group together and form a scheme that makes investments

on their behalf. The codes make provision for 3 types of schemes:

- ⊙ **Broad –based ownership schemes** that involve collective investment and income received is distributed directly or used to benefit the members in accordance with the scheme rules.
- ⊙ **Employee share ownership schemes** that involve more than 90% of all employees of a business, or 90% of employees in a particular employment category.
- ⊙ **Trusts**; a legal entity for managing and distributing benefits to members of a group schemes

Positive and negative features of Group schemes

+ Credible, long term commitment; qualify for additional points in the scorecard; build improved relationships within the community / with employees; based on already established relationships; existing knowledge of the business.

- Participants likely to lack finance and influence. Can only score up to a maximum of 40% of total ownership points for broad based schemes and employee ownership schemes, unless they comply with the additional qualification criteria given in Code 100 Annex 100b.

How to structure and finance: There are stringent rules in the codes for how these schemes are to be structured and managed in order to qualify (see Code 100, annex 100b).

Case study of an employee scheme: The Bonagude- Manzini Partnership. The Manzini Estate is a family owned farm that produces timber. The owner of the Manzini Estate and the 200 workers employed on Manzini entered into a partnership to purchase a neighbouring timber farm called Spes Bona. The workers established a business vehicle, the Bonagude Trust, in order to contract with the Manzini Estate in the new venture. A loan from the Standard Bank was used to finance the purchase of Spes Bona. The Bonagude trust has 20% of the shares, Manzini Estate 70% and the remaining 10% are yet to be allocated.

The Flow Through Principle

If you sell a share to a company that is partly black owned, then the black equity in your business only increases by the amount equivalent to the black ownership share. For example, if a company that is 50% black owned buys a 25% share in your business, the black equity in your business will be 50% of 25%, i.e. 12%. This is known as the **flow-through principle**. If the company you sell shares to is majority black owned (over 50%) then the full value of the stake is recognised. The same applies to scoring voting rights

Black shareholders can sell their shares, just like any other shareholders. If they do, they take the black equity points with them, unless there is compliance with a set of criteria as set out in Code 100 para 3.5. These criteria relate to the need to make sure that the transformation that has taken place as a result of the black ownership prior to the sale will not just fall away after the sale, but will have a lasting effect. Alternatively, the mechanism of **warehouse funds** can be used to sell shares. The warehouse fund owns the shares and your BEE profile is not affected if black shareholders sell out.

Element 2: Management control

Counts 10 points 25 for QSEs plus 2 bonus points

This element measures who has a say in the strategic direction of the business. It is closely linked to the equity ownership indicator. Sale of equity is an opportunity to appoint black directors and increase black representation at senior management level.

Management control scorecard (medium to large enterprises)

Total possible points 10

Indicator description	Weighting Points	Compliance target	Your score
Board Participation			

2.1 Exercisable Voting Rights held by black Board members using the Adjusted Recognition for Gender	3	50%	
2.2 Black Executive Directors using the Adjusted Recognition for Gender	2	50%	
Management Participation			
2.3 Black Senior Top Management using the Adjusted Recognition for Gender	5	40%	
2.4 Black other Top Management, adjusted using the Adjusted Recognition for Gender	2	40%	

As QSEs may not have a board, the scorecard is simplified to measure black representation at owner-manager level, and gives bonus points representation of black women:

Management control Scorecard (QSEs)

Total possible points: 25 plus 2 bonus points

Sub-indicator description	Weighting Points	Compliance target	Your score
2.1 Black representation at Top Management level	25	50.1%	
2.2 Bonus points for black women representation at Top Management level	2	25%	

How is a management control score calculated?

Scoring is as described in the ownership element, the only new thing to take account here is the adjusted recognition for gender. The scorecard for medium and large enterprises does not have a separate indicator to measure involvement of black women, but incorporates a target for participation by black women by way of an adjustment factor termed the “**Adjusted Recognition for Gender**”. The way this works is as follows:

Step 1: Work out the number of black persons in that category (e.g. board members who are black) and adjust for gender.

Total number of black board members with voting rights (men and women) divided by 2. Add the number that are women.

Examples:

1. There are four black board members, none are women: $4/2 + 0 = 2$.
2. There are four black board members, two are women: $4/2 + 2 = 4$
3. There are four black board members, all four are women: $4/2 + 2 = 4$

NOTE: Why is the score the same for example 2 and 3 above? Is this a mistake? No, the Codes limit the number of women used in the calculation to a maximum of 50% of the total number of black people. In this example, even though there are 4 women in management, the number used in the calculation is limited to 50% of 4 which is 2.

Step 2: Calculate the overall percentage in that category (e.g black board members with voting rights) using the adjusted score.

Total number of black persons in that category adjusted for gender / total number in that category altogether X 100

Example 1 above: Adjusted score for number of black board members is 2. There are 8 board members in total. $2/8 \times 100 = 25\%$

Step 3: Calculate your score

Points scored = total possible points X actual percentage / target percentage

Example: Total possible points= 3 X 25/50 = 1.5 points.

Note: Without adjusting for gender, the company would have scored the full 3 points. This underscores the importance of ensuring gender representivity in BEE.

What does that mean? Scorecard definitions

Board members are persons elected by shareholders to serve the board.

Executive Directors are board members that are involved in the day to day management and/or the full time employ of the company and/or any of its subsidiaries

Top management includes:

- ⊙ **Senior Top Management** includes the chief executive officer, chief operating officer, chief financial officers and other people holding similar management positions
- ⊙ **Other Top Management** includes the chief information officer, the head of marketing, head of sales, head of public relations, head of transformation, head of human resources and other people holding similar management positions.

How to score more for management control

It is a good idea to put in place a succession plan for existing employees to develop management staff. This could include a mentorship programme to groom a talented manager for an executive position. Additional points could thereby be scored under Skills Development- see below. Placing emphasis on women improves scores for all the indicators for black participation (medium to large enterprises) or earns bonus points (QSEs).

A word of caution for QSEs Owner-manager enterprises may be reluctant to sell shares and/or to give over control of their business. In this case, rather than “window dressing”, it is better to focus on the other indicators in the scorecard.

Paul Janisch, B-BBEE specialist, advises small businesses that are reluctant to go the ownership route:

“Work on other aspects of empowerment that will have a better impact on the business and the country as a whole. I always recommend enterprise development as the indicator in the score card that will have most positive spin for beneficiaries and businesses.”

The following elements promote the “broad-based” part of B-BBEE. They are very important, because they provide opportunities to a wide range of beneficiaries than do the ownership and management control elements.

Indicator 3: Employment Equity

Counts 10 points, QSE 25 points

This indicator aims to promote the employment of black people throughout an enterprise or business. All businesses with 50 or more employees are required in terms of the Employment Equity Act to prepare employment equity plans and reports. The score card for medium and large scale enterprises measures % of black people at professional and management levels only, whereas the QSE employment equity targets include all black people employed by the business.

Employment equity scorecard (medium to large enterprises)

Total possible points: 10

Sub-indicator description	Weighting Points	Compliance target		Your score
		Yr 0-5	Yr 6-10	

3.1 Black employees with disabilities as a percentage of all employees using the Adjusted Recognition for Gender	2	2%	3%	
3.2 Black employees in Senior Management as a percentage of all employees using the Adjusted Recognition for Gender	5	43%	60%	
3.3 Black employees in Middle Management as a percentage of all employees using the Adjusted Recognition for Gender	4	63%	75%	
3.4 Black employees in Junior Management as a percentage of all employees using the Adjusted Recognition for Gender	4 3*	68%	80%	
3.5 Bonus points for meeting or exceeding the EAP targets in each category under 3.1 to 3.4	3			

Employment equity scorecard (QSEs)

Total possible points: 25

Sub-indicator description	Weighting Points	Compliance target		Your score
		Yr 0-5	Yr 6-10	
3.1 Black employees of the Measured Entity who are Management as a percentage of all Management using the Adjusted Recognition for Gender	13	40%	60%	
3.2 Black employees of the Measured Entity as percentage of all employees using the Adjusted Recognition for Gender	7	60%	70%	
3.3 Compliance with Industry Codes of Conduct on employment for the Forest Sector	5	Yes	Yes	
3.4 Bonus points for meeting or exceeding the EAP targets in each category under 3.1 and 3.2	2	Yes	Yes	

How is an employment equity score calculated?

Representivity: The first thing you will need is accurate information about the racial and gender breakdown of your company staff. This information should have been compiled for the purpose of drafting an employment equity plan, or EE report. If not, you will need to ask each staff member to complete an EEA1 form (obtainable from the Department of Labour), in which they will state the race they believe themselves to be. You will then be able to compile figures required to calculate your score, using the same formula as for the other indicators:

Points scored = total possible points X actual percentage / target percentage

Remember you need first to adjust for gender when calculating actual percentage. You should divide the total number of black people in that category by 2 and add the number of women, to arrive at an adjusted number. This number is then converted into a percentage of the total number in that category. For more help on how to calculate points scored after the adjustment for gender recognition see the worked example on under management control on page 20 above.

The employment categories in the medium and large enterprise scorecard are defined in terms of form EEA9 of the Regulations issued under the Employment Equity Act, and these businesses will already therefore be familiar with these categories.

Compliance with industry codes of conduct on employment: it must be noted that measured entities receive points on the Employment Equity element of the Scorecard only if they are in compliance with the

Industry Codes of Conduct for employment practices as outlined in the Charter. Enterprises that don't comply forfeit all the points under this element. QSE's must also comply with the codes, but unlike the medium and large enterprises, they can score 5 bonus points if they do so. See next page for more detail on the Industry Codes of Conduct.

How to score more for employment equity

Representivity: When making new appointments, give preference to black people, and in particular black women and black people with disabilities. By putting a training and promotion plan in place to enable a flow of black staff up through the ranks of your business, you can prepare to meet your targets in the medium to long term. Link your employment equity plan with your skills development plan, investing in developing skills of black people to fill job categories where black people are currently under represented. For medium to large enterprises, take note that employing large number of unskilled black workers is not going to earn you any EE points.

Industry Codes of conduct: The forest industry through its representative associations and in consultation with labour, has undertaken to establish Industry Codes of Conduct on employment for the Forest Sector. These codes are aimed at giving practical effect and weight to fair labour practices as provided for under the Basic Conditions of Employment Act, 1997, and other labour legislation as it applies to employees, including contract workers, in the forest sector. The codes are still being developed, but in the meantime it is a good idea to ensure compliance with all labour related legislation. To ensure compliance, carry out an audit of existing practices and put in place a plan of action to remedy non-compliances. Thereafter, regular in-house audits may be needed to make sure non-compliances are identified and remedied. In this way you are less likely to be caught out when an independent verification is carried out.

More information: Basic guides to labour legislation can be obtained from the Department of Labour's website www.labour.gov.za.

Element 4: Skills Development

Counts 15 points, 25 points QSEs

Skills development lies at the heart of broad-based BEE and is the key to increasing the overall score of a business. This presents a lot of opportunities for employees who would like to further their skills and education, and for those in the business of skills development. Business managers/ owners need also pay particular attention to this element if they wish to improve their BEE rating on employment equity and management control. The good news is that businesses can score double points, scoring under for skills development AND under the other elements, if their skills development plans are well focussed.

Skills development scorecard (medium and large enterprises)

Total possible points: 15

Indicator description	Weighting Points	Compliance target	Your score
4.1 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for black employees as a percentage of Leivable Amount using the Adjusted Recognition for Gender	6	3%	
4.2 Skills Development expenditure on Learning Programmes specified in the Learning Programmes Matrix for black employees with disabilities as a percentage of Leivable Amount using the Adjusted Recognition for Gender	3	0.3%	
4.3 Number of black employees participating in Learnerships or Category B, C and D Programmes as a percentage of total employees using the Adjusted Recognition for Gender	6	5%	

Skills development scorecard (QSEs)

Total possible points: 25

Indicator description	Weighting Points	Compliance target	Your score
4.1 Skills Development spend on Learning Programmes for black employees as percentage of Leviaible Amount using the Adjusted Recognition for Gender	25	2%	

To score points for skills development, Medium and Large enterprises must produce evidence of:

- ⊙ Compliance with Skills Development Act and Skills Development Levies Act
- ⊙ Registration with applicable SETA
- ⊙ A work place skills plan
- ⊙ Implementation of programmes to develop of Priority Skills generally, and black employees specifically

These requirements do not apply to QSE's.

The QSE scorecard is relatively simple, measuring only one item: **skills development spend** - this is over and above the statutory 1% skills development levy.

The medium to large enterprise scorecard measures **two aspects** of skills development: **skills development spend** over and above the statutory 1% skills development levy (broken down into different categories of employees); and % of black employees participating in **learning programmes** specified in the **Learning Programmes Matrix**

What does that mean? Scorecard definitions and rules

Skills development spend This is the amount of money the business spends on skills development, over and above the skills development levy. Unlike the levy, the money is not paid into a national fund, but is to be spent by the employer directly. Rules regarding what can be claimed as skills development spend are given below. Skills development spend is measured as a percentage of **leviable amount**.

Leviable amount This is the amount against which the Skills Development Levy is paid under the Skills Development Levies Act. In simple terms, it is the total salary bill of the enterprise.

Learning programmes and the learning programme matrix To qualify, the skills development must fall into one of the 7 categories of learning programmes outlined in the learning programme matrix in the Codes (code 400 Annex 400A). The matrix makes provision for a wide range of instructional and work-based learning programmes, from formal qualifications offered by educational institutions to informal programmes with no specific accreditation or qualification requirements.

To work out points scored, the same basic formula applies

Points scored = total possible points X actual percentage / target percentage

The full number of points allocated in the scorecard can be claimed if the target percentage expenditure is met. So if a QSE company spends 3% of their salary bill on skills development, over and above the skills development levy, they would score the full 25 points. If they only spent an extra 1% they would score one third (1/3) of 25, which is 8.333. Points are always rounded off to the nearest whole number : 8.

What qualifies for skills development spend?

- ⊙ Training materials
- ⊙ Trainers fees/salaries
- ⊙ Facilities including catering
- ⊙ Scholarships and bursaries *
- ⊙ Course fees
- ⊙ Accommodation and travel
- ⊙ Administrative costs of running a skills development programme, including salaries of training

manager or skills development facilitator

- ⊙ Salaries of learners participating in learning programmes can only be claimed for certain types of programmes (Code 400 annex)

*Cannot claim for scholarships or bursaries if the student is expected to repay all or part of the fees, or if the grant is conditional. Only the following conditions are allowed: that the learner must continue to work for the employer for a period not exceeding the period of study, that the learner to complete the studies within the allocated timeframe.

Adjusting for gender: We looked at how to adjust the number of black people in a given category for gender in the management control element on page 19. To recap, you need to divide the total number of black people in that category by 2 and add the number of women, to arrive at an adjusted number. This number is then converted into a percentage of the total number in that category. In the skills development scorecard, however, the measure is not the number black employees on learning programmes, but the expenditure on learning programmes for black employees. How is this figure adjusted for gender? The same basic formula applies: divide the total amount spent on black employees in that category by 2, and add the amount spent on black women in that category. This is then expressed as a percentage of the total spend on all employees in that category. If expenditure cannot be directly linked to the gender of those being trained, this should be allocated in the same ratio as the spend that can be linked to gender.

Other rules

- ⊙ Expenditure on ABET (Adult Basic Education and Training) programmes can be multiplied by 1.25
- ⊙ Expenditure on uncertified learning programmes cannot account for more than 15% of the total value of claimed expenditure

1. Contact FIETA (or the SETA best suited to your training requirements) to obtain a list of the learning programmes available for different types of training; and a list of accredited training providers able to offer these.

2. Carry out a skills needs assessment and produce a work place skills plan. For assistance with this contact FIETA, or a training provider in your area. Training providers are often willing to assist employers to develop a skills plan free of charge, as they can then claim back your skills development levy funds from the SETA for the courses they run for your staff. Include a plan for learning programmes, taking account of the need to include black women and black employees with disabilities.

3. Your skills plan should include both the 1% that will be funded through the skills development levy and your additional 3% spend. When planning the additional 3%, take account of the rules regarding allowable spend, direct and indirect expenses, and make sure you keep good records of your expenditure for verification purposes.

Industry training providers

A list of accredited training providers can be obtained from the Forestry Seta - FIETA

Forest Industries Education and Training Authority
Phone 011 7120600 fax 011 3391166
Email : info@fieta.org.za

The list of accredited training providers can also be found on the FIETA website : www.fieta.org.za

Counts 20 points, 25 points for QSE

The Preferential procurement element of the scorecard measures to extent to which a business is sourcing goods and services from suppliers with a good BEE rating. Businesses that buy from suppliers with a high BEE rating score more for preferential procurement (the table on page 5 shows how BEE status is

linked to points scored on the scorecard). By scoring more, their overall BEE rating will increase. This is good for business, as customers and clients need to source from suppliers and service providers with a high rating in order to score points under preferential procurement themselves. Preferential procurement points provide an incentive for businesses to source from black owned companies, or other suppliers that have a high BEE rating. This element also provides opportunities for new suppliers to come onto the scene and compete favourably with existing suppliers that are not black owned, or have a low BEE rating.

Preferential Procurement Scorecard (medium to large businesses)

Total possible points: 20

Indicator description	Weighting Points	Compliance target		Your
		Yr 0-5	Yr 6-10	
5.1 B-BBEE Procurement Spend from all Supplies based on their B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	10* 12	50%	70%	
5.2 B-BBEE Procurement Spend from Qualifying Small Enterprises or Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	10%	15%	
5.3 B-BBEE procurement spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend ☉ Suppliers that are 50% black owned (3 out of 5 points); and ☉ Suppliers that are 30% black women owned (2 out of 5 points).	4* 5	15%	20%	
5.4 Compliance with Industry Codes of Conduct on contracting of the Forest Sector	3*	Yes	Yes	

*Weightings that apply to enterprises engaged in contracting schemes

Preferential Procurement Scorecard (QSEs)

Total possible points: 25

Sub-indicator description	Weighting Points	Compliance target		Your score
		Yr 0-5	Yr 6-10	
5.1 BEE Procurement Spend from all suppliers based on their BEE Procurement Recognition Levels as percentage of Total Measured Procurement Spend	20* 25	40%	60%	
5.2 Compliance with Industry Codes of Conduct for the forestry contracting industry/charcoal industry	5*	Yes	Yes	

*Weightings that apply to enterprises engaged in contracting schemes

How does the scorecard measure preferential procurement?

The key measure is BEE procurement spend as a percentage of total procurement spend. If all suppliers were either empowered or not empowered it would be simple. You could claim 100% of your spend on BEE suppliers and 0% of your spend on non-empowered companies. In reality, suppliers are empowered to different degrees. Their degree of empowerment is measured by the scorecard. The

table below shows how much of your expenditure you can claim as BEE procurement spend depending on the BEE contributor status of your supplier.

Table 9.1 Links BEE score of supplier with the benefit its customers will gain

BEE contributor status	Qualification (points scored)	BEE procurement recognition level	Amount claimable on a R10 000 spend
Level 1 contributor	100 and above	135%	R 13 500
Level 2 contributor	85-99	125%	R12 500
Level 3 contributor	75-84	110%	R11 000
Level 4 contributor	65-74	100%	R10 000
Level 5 contributor	55-64	80%	R8 000
Level 6 contributor	45-54	60%	R6 000
Level 7 contributor	40-44	50%	R5 000
Level 8 contributor	30-39	10%	R1 000
Non-compliant	Less than 30	0	0

How to calculate a score for BEE procurement spend:

Step 1. You will first need to get a complete list of your suppliers and their BEE contributor status. The amount spent on each supplier will have to be calculated, taking into account the rules for measurable spend (Table 9.3 below gives an overview of these rules, but the full details can be found in Code 500).

Step 2: These figures will give you the information you need to work out total procurement spend and total BEE procurement spend as shown in the example in Table 9.2 below. You will also need to refer to the table above to convert BEE contributor status to BEE procurement level

Table 9.2: Example of how to calculate total procurement spend and total BEE procurement spend

Supplier	Procurement Spend	BEE procurement recognition level	BEE procurement spend
1	R10 000	50%	R5 000
2	R 25 000	100%	R25 000
3	R120 000	10%	R12 000
All other suppliers			
	Sum of the above = Total procurement spend		Sum of the above= Total BEE procurement spend

Note that the BEE Procurement spend on a supplier that has benefited from contributions made by the same company to enterprise development can be multiplied by a factor of 1.2

Step 3: Convert your total BEE procurement spend into a % of the total procurement spend:
total BEE procurement spend/ total procurement spend X 100%

Step 4: Apply the usually formula to work out how many points you score
% BEE procurement spend/ target % BEE procurement spend X total number of points X weighting

What is measurable procurement spend?

There are rules about what can be counted as **measurable** procurement spend, and what is excluded. Table 9.3 below is a simple guide to what is measurable and what is excluded. You will need to consult Code 500 for more detail.

Verification of suppliers BEE contributor status

⊙ BEE contributor status of medium and large enterprises and QSEs must be substantiated by a

verification certificate. In cases where such certificates are not provided, you may rely on other credible forms of evidence of BEE compliance. Without a certificate or evidence, the spend cannot count towards your BEE procurement spend.

- ⊙ Public entities are not excluded from having to supply verification certificates. There is a specific scorecard that applies to public entities, and this is what will be used to measure the BEE contributor status of these entities (see Code 004).
- ⊙ Exempted micro-enterprises automatically enjoy a BEE Procurement Recognition Level 4, which increases to Level 3 if they have over 50% black ownership or 30% black women ownership status. They must however submit proof that they qualify as exempt, and a signed undertaking that they are compliant with the Industry Codes of Good Conduct (see page 8).

Table 9.3 Rules for measurable procurement spend and exclusions.

Measurable spend	Excluded
Procurement from public entities listed in Schedule 2 & 3 of the Public Finances Management Act. Schedule 2 are public enterprises and suppliers.	Schedule 1 organs of state and public entities (do not generally sell services) Taxes and levies, including VAT Spend on any goods or services from a public entity that has a monopoly (so this excluded those in Schedule 2 that have a monopoly like ESKOM)
All goods and services procured that are operational expenditure	
All goods and services procured that make up the costs of sales .	
Imported goods and services or components for value added production except those on right	Imported goods: <ul style="list-style-type: none"> ⊙ Not produced locally ⊙ That promote value adding in South Africa ⊙ That have a different brand name to those locally produced ⊙ With different technical specifications to locally produced goods
All capital expenditure incurred (cost of loans)	Investment or loans in an associated enterprise
B BEE related procurement spend	Investments or loans to associated enterprises Investment, loans or donations given that qualify for recognition under enterprise development or socio-economic development indicators in the scorecard.
Payment to independent contractors and labour brokers Contributions made to employee pension funds or provident funds	Salaries and benefits paid to employees Directors payments

Begin by carrying out an analysis of your procurement expenditure. This task will be made much simpler if you have already worked out your score as described above. If you compare procurement spend with BEE procurement spend for each of your suppliers in turn, you will be able to identify where the problems lie. The bigger the gap between these two amounts, the more this supplier contributes to lowering your PP score. You should then target these suppliers. You can either take steps to ensure they increase their BEE status, or switch to suppliers who already have a higher BEE contributor status.

Remember that you can multiply BEE procurement spend from enterprises that you have assisted under your enterprise development programme by 1.25. So it is worth considering providing assistance to an enterprise that could become one of your suppliers.

Compliance with the relevant industry code of conduct can earn M&L enterprises in the Growers,

Charcoal and Fibre sub sectors an extra 3 points, and QSEs an extra 5 (see page 8 for more detail on Industry codes of conduct). To ensure compliance, carry out an audit of existing practices in relation to the relevant code, and put in place a plan of action to remedy non-compliances. Thereafter, regular in-house audits may be needed to make sure non-compliances are identified and remedied. In this way you are less likely to be caught out when an independent verification is carried out or non-compliance is reported to the Charter Council.

Counts 15 points, 25 for QSE

The enterprise development element of the scorecard aims to promote the emergence and growth of new enterprises able to contribute towards broad-based BEE. The primary beneficiaries of enterprise development are small and medium enterprises owned and controlled by black people. To score points under this indicator, you need to make contributions towards the development of a beneficiary enterprise (or enterprises). Points are scored in relation to the target spend of 3 % of net profit after tax. If a business has not made a profit the previous year, or on average over the last 5-years, or if the profit margin is less than a quarter of the norm in the industry, then a different target applies (see Statement 600 of the DTI Codes of Good Practice).

There is a severe shortage of log and sawtimber supplies in the country. For this reason, points are assigned to growers and sawmilling enterprises that sell logs and sawtimber to BEE compliant and black owned enterprises. Where no sales are recorded for that year, companies cannot be measured using this indicator and will be measured on the indicators that apply to other forest enterprises.

Enterprise Development Scorecard (medium to large businesses)

Total possible points: 15

Indicator description	Weighting Points	Compliance target	Your score
6.1 Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	15 12*	3% of NPAT	
6.2 Annual sales of logs and saw timber (as a percentage of total sales in terms of tonnage) to enterprises based on their BEE Procurement Recognition Levels	2*	20%	
6.3 Annual sale of logs and saw timber (as a percentage of total sales in terms of tonnage) to enterprises (regardless of their BEE Procurement Recognition Level) that are: <ul style="list-style-type: none"> ⊙ more than 50% black owned; or ⊙ more that 30% black women owned 	1*	5%	

* Weighting for Growers and sawmillers

Enterprise Development Scorecard (QSEs)

Total possible points: 25

Indicator description	Weighting Points	Compliance target	Your score
6.1 Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	25 20*	2% of NPAT	
6.2 Annual sales of logs and saw timber (as a percentage of total sales in terms of tonnage) to enterprises based on their BEE Procurement Recognition Levels	3*	20%	

6.3 Annual sale of logs and saw timber (as a percentage of total sales in terms of tonnage) to enterprises (regardless of their BEE Procurement Recognition Level) that are: <input type="radio"/> more than 50% black owned; or <input type="radio"/> more that 30% black women owned	2*	5%	
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* Weighting for Growers and saw millers

How is an enterprise development score calculated?

Scoring for Indicator 6.1

Step 1: Identify and quantify qualifying enterprise development contributions (see below for an overview of qualification rules, see Code 600 for details) and sector specific programmes.

Note that:

Average annual enterprise development contributions can be calculated starting from the date of commencement of the codes, or from an earlier date, up to 5 years previous to the commencement of the codes.

There are two categories of contributions depending on the status of the beneficiary:

- Category A contributions: Exempted Micro-enterprises or QSE's which are 50% black owned. Contributions are valued at 1.5 times the actual amount spent.
- Category B contributions: Any other entity that is 50% black owned, or 25% black owned with a BEE status of between Level One and Level Six. The full value of the contribution is taken.

You cannot claim points under both enterprise development and socio-economic development indicator for the same contribution.

Step 2: Calculate total contributions using the Benefit Factor Matrix (Annex 600A in code 600).

Step 3: Work out Enterprise development contributions as a percentage of your after tax profit

Step 4: Calculate your score according to the standard formula:

Points scored = total possible points X actual percentage / target percentage

What enterprise development contributions qualify?

Qualifying enterprise development contributions can be monetary or non-monetary, recoverable or non recoverable, aimed at assisting the beneficiary to become more operationally and financially sustainable. Qualifying enterprise development contributions include:

- Direct enterprise development assistance as defined and designed by each contributing enterprise (e.g. direct investments, grants, loans, seed capital, training, mentoring etc)
- Enterprise development contributions to government approved enterprise development projects (e.g. infrastructure development, rural development, urban renewal etc)
- Contributions to sector specific initiatives. These include contributions that support, encourage and nurture emerging black enterprises. The Charter Council will issue guidelines for sector-specific enterprise development and socio-economic development contributions under the Scorecard.

Scoring for Indicators 6.2- 6.3

Note that scoring for Growers and Sawmilling sub-sectors differs to that for the rest of the sector. 3 points have been deducted from indicator 6.1 and allocated to 2 additional indicators that measure sales of logs and saw timber to enterprises based on their BEE procurement recognition level and to enterprises that are black owned. The aim of this is to measure the extent to which these sub-sectors are supporting enterprise development through making scarce material available to black owned businesses.

How to score more for enterprise development

The codes make provision for a very wide range of contributions (see above). The benefit factor that can be claimed for this spend is reduced if it is a recoverable spend, as opposed to a grant (refer to the benefit factor matrix in Codes 600 Annex 600A). You can score full marks for expenditure that is not recoverable, but only a percentage for loans.

In the next element of the scorecard, socio-economic development, 3 bonus points are allocated for additional spend on sector specific enterprise development initiatives. You cannot claim the same spend under enterprise development and again under socio-economic development. The additional spend must be divided between both these elements if you want to score points for both.

What type of businesses should I support?

Start with your existing suppliers and other black owned enterprises you already have relationships with. Analyse your current programmes of support, if any, and plan how you could assist these businesses further. Support to forestry contracting enterprises, small grower contracting schemes and small charcoal producers should take into account.

To identify additional opportunities for enterprise development, a useful guideline is to think of business opportunities that arise from the input and output streams of your business. Examine the goods and services you require, and look for opportunities to support new black owned supply enterprises. You can use this to also boost your preferential procurement score. Some services currently provided in house could be outsourced. Next, examine all the products and by-products of your operations. Are there any value adding opportunities, or opportunities to utilise by-products currently going to waste?

Alternatively, you can contribute to an enterprise development fund or provide financial or other support to 3rd parties to carry out developmental activities on your behalf

Element 7: Socio-economic Development

Counts 5 points, 25 for QSE

This is the last element of the scorecard and it measures contribution towards social investment programmes. This element is specifically aimed at supporting poor and uneducated black people to access the mainstream economy. To score points under this element, you need to contribute, either in cash or kind, towards an appropriate beneficiary.

Socio-economic Development Scorecard (medium to large enterprises)

Total possible points: 5 plus 3 bonus

Indicator description	Weighting Points	Compliance target	Your score
7.1 Average annual value of all Socio-Economic Contributions made by the Measured Entity as a percentage of the target	5	1% of NPAT	
7.2 Bonus points for additional Qualifying Contributions made by the Measured Entity to Industry Specific Initiatives on Enterprise Development (indicator 6.1) or Socio-economic Development (indicator 7.1) (1 bonus for every 0.25% NPAT)	3	0.75% of NPAT	

Socio-economic Development Scorecard (QSE)

Total possible points: 25 plus 3 bonus

Indicator description	Weighting Points	Compliance target	Your score
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7.1 Average annual value of all Qualifying Contributions made by the Measured Entity as a percentage of Net Profit After Tax (NPAT) or Revenue	25 22*	1% NPAT	
7.2 Bonus point for additional Qualifying Contributions to Industry Specific Initiatives on Enterprise Development (indicator 6.1) <u>or</u> Socio-economic Development (indicator 7.1) (1 bonus for every 0.25% NPAT or 0.33% revenue)	3*	0.75% NPAT	

How is a socio-economic development score calculated?

Points are scored in relation to the target spend of 1 % of net profit after tax. This applies except under circumstances where the company has not made a profit the previous year or on average over the last 5-years, or where the profit margin is less than a quarter of the norm in the industry. In this case the enterprise development spend is based on turnover according to the formula provided in Statement 600 of the Codes of Good Practice. Investments made prior to the commencement of the codes will be recognised.

Socio-economic development contributions are monetary or non-monetary contributions made to beneficiaries with the aim of assisting them to access the economy. Contributions may be:

- ⊙ Direct socio-economic development (e.g. direct investments, grants, loans, seed capital, training, mentoring etc)
- ⊙ Sector specific initiatives, including contributions that improve the living conditions and livelihood opportunities for the rural poor in forestry areas, including workers and their families.

The Charter Council will issue guidelines for sector-specific enterprise development and socio-economic development contributions under the Scorecard.

A range of costs can be included:

- ⊙ Direct overhead costs of running an in-house socio-economic development programme
- ⊙ Enterprise development contributions to 3rd parties engaged in socio-economic development initiatives

The Benefit Factor Matrix (code 700, Annex 700A) is used to calculate the amount of allowable spend made on a variety of different contribution types.

If the beneficiaries of the contribution are a mixed group, at least 75% of the benefits must accrue to black members. If the proportion of black people in the group is below 75% the expenditure is adjusted proportionately.

Contributions must be “extraneous to regular business activities “ So you cannot count spend that is actually part of your day to day business, normal responsibilities as an employer, or that benefits your business directly or indirectly.

How to score more for socio-economic development

There are two basic approaches that can be taken to achieving the target of spending 1% of NPAT: through an in-house social programme OR through contributing to programmes implemented by 3rd parties. These could be government, private sector or or NGOs initiatives.

Tips for in-house socio-economic development programmes

- ⊙ It is often best to work within the community in which the business is located, with a greater emphasis on those who are in closest proximity, as well as those in greatest need. The forest industry is well placed to target the rural poor, being mainly a rural-based industry. See below for key socio-economic development opportunities and needs identified during the development of the Forest Charter.

- ⊙ Community development work requires specialist knowledge and skills. It is important to either employ a full time socio-economic development facilitator, or contract in the services of such an individual or group.
- ⊙ Obtain information about existing socio-economic development initiatives in your local area and the agencies responsible for implementing these. The municipal officer dealing with the Local Economic Development Programme for your area would be one useful contact. Use this information to identify opportunities for making donations to 3rd parties.
- ⊙ Bonus points can be earned for additional spend (one bonus for every 0.25% NPAT or 0.33% revenue) on sector specific initiatives in socio-economic development.

Socio-economic development priorities for the Forest Sector

The provision of services and amenities to the rural poor, such as housing provision for workers and their families, support to health and HIV/AIDS programmes, provision of community education facilities, community training in fire prevention and resource management, and support with rural road maintenance that has an economic spin-off are some of the areas worth investigating. For forestry enterprise there is an opportunity to support socio-economic development by providing regulated access to non-timber forest products such as firewood, building poles, medicinal plants and edible fruits by local communities.

10. Is an official B-B BEE rating necessary and how is it obtained?

As explained in the section above, it is advisable to calculate and monitor your own B-BBEE score as part of managing your business and improving your level of compliance on an on-going basis. Any claim you make about your B-BBEE compliance must be supported by evidence. If you are unable to provide evidence for any indicator, your score under that indicator will not be recognised. Businesses are not required by law to use an accredited BEE verification agency to verify their BEE compliance, but it is advisable to do so. The role of the Verification Agency is to ensure that a measured entity's BEE contributions are verified, and that the entity's reported BEE status is valid and accurate. The agency needs to be accredited by SANAS (South African National Accreditation System).

You will need to supply evidence of your B-BBEE rating, or a verification certificate, under the following circumstances:

- ⊙ Government: tendering for government work, purchase of a state-owned entity, application for a license or for entering into a public private partnership.
- ⊙ Private sector: Customers will require proof of BEE status in order to claim points under preferential procurement. If your company is not compliant or unable to produce an accredited B-BBEE rating, you may lose business.

No verification agencies have yet been accredited in terms of the New Codes of Good Practice by SANAS. There are many agencies already set up and awaiting accreditation (see section 11 below).

Low or no cost verification for QSEs

Verification agencies that provide low or no cost verification services to Qualifying Small Enterprises can score additional points under the Enterprise Development indicator of the scorecard.

When will the sector scorecard apply?

The scorecards provided for in the Charter will apply once the Charter has been adopted and promulgated as a Sector Code in terms of section 9 of the B-BBEE Act.

Before this, the generic scorecards under the Codes of Good Practice issued by the Department of Trade and Industry will apply. Enterprises will be given a one-year transitional period to gear up to the Codes' formal implementation after the Codes of Good Practice, containing the Generic Scorecard, have been promulgated. Enterprises may use either the generic scorecard in the Codes OR the narrow-based BEE transitional scorecard. The narrow-based BEE scorecard is based on just the ownership and management control indicators.

If an enterprise elects to be measured using the narrow-based BEE scorecard, the sum of the measured enterprise's score for ownership and management control will be multiplied by a factor of 1.92.

If the Forest Sector Charter is promulgated as a Sector Code within this transitional period, the choice is between using the scorecard in the Sector Code and using the narrow-based BEE scorecard.

Verification of status of ESME

In order to qualify for their automatic BEE status (Level 4 contributor, or Level 3 contributor for those that are 50% black or black women owned) they must be able to provide proof of their ESME status (that is, an annual turnover of R 5 million or less). When submitting proof of their ESME-status, enterprises may also be required to submit evidence of compliance with the Industry Codes of Conduct. Enterprises that don't comply stand to lose the BEE status afforded to ESME's.

11. Where can I get more information?

Codes of Good Practice on Black Economic Empowerment

The "Codes", are they are sometimes called for short, are the official source of all information about the scorecards and calculating a BEE rating. The final Codes were published in February 2007 in the Government Gazette number 29617. A number of guides to the codes have been written and are available on line or in booklet form (see below) but it is important to know that the source material for all these guides is the Codes. If there is any doubt or confusion, consult the Codes

You can obtain a copy of the codes on the DTI website: <http://www.thedti.gov.za/bee/beecodes.htm>

You can also obtain a paper copy of the Gazette with the Codes from the Government Printer

Manuals, booklets and websites

All the booklets and guides written prior to the new Codes are now out of date. Will need to add when updated versions are produced

<http://www.empowerdex.com/>

Government Support

DTI - Department of Trade and Industry.

The DTI is responsible for the implementation of the B-B BEE act, including the issuing of the Codes of Good Practice. A helpful overview of the codes is contained in the B-B BEE Codes of Good Practice Booklet, issued by the DTI. The booklet can be obtained from the DTI directly, or can be downloaded from the DTI website (see above)

FIETA Forest Industries Education and Training Authority:

Consultancy and rating resources

On-line rating services enable you to establish and manage your BEE profile for an affordable fee. MWEB Commercezone provides a comprehensive B-BBEE verification and consulting service. See <http://beeprofiler.commercezone.co.za>

The empowerdex website provided information about the services they offer, including software that enables you to calculate your BEE score, do scenario simulations for target setting, and manage your company's BEE planning. The software also generates a self-assessment report that allows the user to calculate an estimated BEE Score according to the Codes of Good Practice, as well as their estimated Empowerdex Rating. The company also offers a rating service. Unlike the MWEB service, this service has a fee. <http://www.empowerdex.com/>

