



A Users' Guide to the Amended Forest Sector Code and Scorecard

Forest Sector Charter Council
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Abbreviations

BBE	Black Economic Empowerment
B-BBEE	Broad Based Black Economic Empowerment
EE	Employment Equity
EME	Exempted Micro Enterprises
ESD	Enterprise and Supplier Development
ESOP	Employee Share Ownership Program
FSCC	Forest Sector Charter Council
FSC	Forest Sector Code
MLE	Medium and Large Enterprises
NPAT	Net profit after tax
QSE	Qualifying Small Enterprises
SAFCA	South African Forestry Contractors Association
SETA	Sector Education and Training Authority

Part 1

Introduction and Background

1.1 What is Broad-Based Black Economic Empowerment and why do we need it?

"No political democracy can survive and flourish if the mass of our people remain in poverty, without land, without tangible prospects for a better life. Attacking poverty and deprivation must therefore be the first priority of a democratic government." (The Reconstruction and Development Programme, 1994).

South Africa remains one of the most unequal societies in the world, with very high unemployment, widespread poverty, and a shortage of skills and quality education. Ownership of the economy remains racially skewed. Broad-Based Black Economic Empowerment (B-BBEE) is a central element of the South African Government's economic transformation strategy. A multi-faceted approach to B-BBEE has been adopted aimed at increasing the numbers of black South Africans that manage, own and control the country's economy, as well as to eradicate poverty, reduce unemployment and decrease racially based income inequalities. The Amended B-BBEE Act 46 of 2013 and the Amended Codes of Good Practice promote black economic transformation and empowerment across five elements:

Ownership

- Increasing the number of black people with ownership interests (both voting rights and economic interests) in businesses
- Providing opportunities for communities, workers and other collective enterprises to own interests in businesses.

Management Control

- Increasing the number of black people including black women on company boards.
- Increasing the number of black people including black women at all levels of management in companies

Skills Development

- Promoting and supporting investment in skills development for black people, employees, including black women, youth and people with disabilities.
- Promoting investment in learnerships, apprenticeships and internships for black people, black women and black disabled persons

Enterprise and Supplier Development

- Preferential Procurement: Promoting the purchase of goods and services from companies that have a strong B-BBEE profile. Providing a secure market is an important element of Enterprise Development.

- Supplier Development: Businesses are encouraged to support black owned enterprises and buy from them, through a focus on support to develop businesses within the supply chain.
- Enterprise Development: Encouraging investment in enterprises that are black-owned and managed. It makes sense to start with supporting the development of enterprises within the company's supply chain.

Socio-economic Development

- Encouraging businesses to increase their contributions, monetary and non-monetary to Socio-Economic Development initiatives.

The emphasis on all five elements is to broaden opportunities and bring about widespread transformation of the economy and of the private sector. Businesses are encouraged to provide opportunities for previously disadvantaged and marginalised groups to participate in the formal economy, gain skills, and access employment.

Who is Black?

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

What B-BBEE is NOT: a note on fronting

Fronting is pretending to be BEE compliant when, in fact, the empowerment is just for show. Examples of fronting include the following:

- 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 of a business are diverted away from the black shareholders
- Opportunism: when a joint venture with black partners who are suppliers is set up, but most of the work is still outsourced to a company with poor BEE ratings

In terms of the B-BBEE Amendment Act of 2013, fronting is now a criminal offence. If found guilty, businesses could face a fine of up to 10% of their annual turnover or up to 10 years in prison. Another penalty provided for in the Act is a ten-year ban on doing business with government.

The regulatory framework for B-BBEE	
The Constitution	The concept of B-BBEE is enshrined in the South African Constitution. The Bill of Rights makes provision for B-BBEE: S 9(2) To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination, may be taken.
The Amended Broad-Based BEE Act	The Broad-Based Black Economic Empowerment Act, No. 53 of 2003 as amended by Act 46 of 2013. The Acts provide the legal basis for the B-BBEE programme. It includes: 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 Establishes a B-BBEE Commission and its functions
Broad-Based BEE Strategy	The Strategy for Broad-Based Black Economic Empowerment outlines the government's ten-year BEE plan.
Amended Broad-Based BEE Codes of Good Practice	The Codes are also referred to as the Section 9(1) Codes of Good Practice as they are formulated in terms of s9(1) of the B-BBEE Act, as amended by Act 46 of 2013. The Codes explain in detail how B-BBEE is to be implemented and measured. The Codes include the scorecard known as the Generic Scorecard. The Generic Scorecard applies to all entities except those in sectors that have developed their own Sector-specific Codes.
Transformation Charters	The Act allows for sectors to formulate their own transformation Charters. The draft Charter is then published in the government gazette for public comment under Section 9(5) of the B-BBEE Act as Amended. After a period of 60 days, the draft Charter is revised and re-published as the final Charter for that Sector.
Sector Codes	A sector Transformation Charter that has been finalised and published in the government gazette is known as the Sector Code. A Sector Code is legally binding on all business in that sector and replaces the generic codes for that particular sector.

1.2 To whom does B-BBEE apply?

The main focus of government's BEE policies is the business sector - BEE applies to all enterprises that conduct a business, trade or profession in South Africa, whether they are local companies, sole proprietors, cooperatives, multi-national companies, enterprises owned by the government or public entities. BEE also applies to NGOs and higher education institutions. 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, non-profit organisations and public entities is given in section 7 below.

1.3 How is B-BBEE implemented?

The basic method of implementing BEE is through procurement (procurement is buying services and inputs for a business). 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 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/s 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 incentives, grants, licences, 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. An enterprise will be rated against the Generic Scorecard outlined in the Codes of Good Practice as published by the Department of Trade and Industry, or the Sector Scorecard, if this has been gazetted as a Sector Code. The Amended Forest Sector Code was gazetted in April 2017 and since that date, all forestry enterprises are to be rated using the Amended Sector Scorecard.

The scorecard sets targets and sub-targets for each of the five transformation elements of B-BBEE and allocates points for achieving these targets. Meeting the target scores all the points. Half way to the target scores half the points. Points scored under each element are then added up to work out B-BBEE recognition level. status. When an enterprise buys from supplier, the amount they claim as B-BBEE 'spend' must be adjusted according to the B-BBEE level of that supplier. If the supplier has a low rating, then only a small proportion of the spend can be claimed as B-BBEE procurement. The table below shows the relationship between points scored, B-BBEE Status, and B-BBEE procurement recognition level.

B-BBEE contributor status	Points scored	B-BBEE procurement recognition level
Level 1 contributor	100 and above	135%
Level 2 contributor	95 to less than 100	125%
Level 3 contributor	90 to less than 95	110%
Level 4 contributor	80 to less than 90	100%
Level 5 contributor	75 to less than 80	80%
Level 6 contributor	70 to less than 75	60%
Level 7 contributor	55 to less than 70	50%
Level 8 contributor	40 to less than 55	10%
Non-compliant	Less than 40 points	0

Example: Fast Fencing scores 76 points on its B-BBEE scorecard, and qualifies as a level 5 contributor. If a company buys R10 000 worth of fencing from this supplier, then 80%, or R8000 of that amount will count towards the company's Preferential Procurement target. More detail on how scores for Preferential Procurement are calculated is provided in Part 2 of this guide.

1.4 What is the Forest Sector Charter and how was it developed?

Section 12 of the Amended 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 business to implement measures to fast-track transformation in the sector.
- Develop a sector scorecard. This enables the sector to 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.



Development of the Forest Sector Charter

Forest Sector Code 2009

The process to develop a Forest Sector Transformation Charter was launched in 2005 at an Indaba in Midrand. The initial Sector Charter was developed through a multi-stakeholder process managed by a steering committee and led by six sub-sector working groups. Sub-sector working groups (growers, forestry Contractors, saw-millers, charcoal producers, pole producers, and fibre -paper and composite board producers) 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 examine cross cutting challenges including Skills Development and training, financial instruments needed to promote BEE the sector, and government’s undertakings in support of transformation in the sector. Sub-sector scorecards were amalgamated into a single scorecard for the sector, and a draft Charter document drawn up combining the inputs from all the working groups and tasks teams.

The draft Charter was published for public comment in 2008. It was then finalised and published as the Forest Sector Code on 12th June 2009. Thereafter it served as the basis for scoring all businesses in the forestry sector and for guiding transformation in the sector.

A Sector Transformation Charter is referred to as a Sector Code after it has been published in the Government Gazette. From here on this guide refers to the Charter as the Forest Sector Code

Amended Forest Sector Code 2017

The Department of Trade and Industry embarked on a process to review and amend the 2003 B-BBEE Act and Generic Codes on which the 2009 *Forest Sector Code* was based. The Amended B-BBEE Act and associated amended Codes of Good Practice was published in 2013. The Forest Sector Charter Council (see section 6) then embarked on a process to review the 2009 Forest Sector Code. One of the main objectives of the review was to re-align the

Forest Code with the Amended B-BBEE Codes of 2013. The process to amend the Forest Sector Code began in 2014 and the Amended Forest Sector Code was published in April 2017.

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.

1.5 What does the Amended Forest Sector Code contain?

The Amended Forest Sector Code contains the following sections:

- 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 a series of actions to enable the forest sector and individual businesses, to achieve their B-BBEE targets (included in Schedule 2 & 3 of the Code)
- 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.

Sector specific principles of the Amended Forest Sector Code

Broad-Based <i>Beneficiaries</i> (including women, those in rural areas and the disabled) <i>Approach</i> –transformation across all 5 elements of the scorecard	Good governance Business quality and transparency Legal compliance Fair labour practices Social & environmental sustainability
Inclusive Participation and commitment of all players in the sector: business, labour, community, government	Shared vision Inclusive and equitable Sustainability Eradication of poverty
Sector Growth Transformation and growth of the sector depend on each other	Rural Development Focus on women and the poor Small business support & growth Rural beneficiation
Partnerships Between: subsectors; large and small businesses; industry and Government; Industry and community	Accountability Government, industry and labour undertakings and commitments shall be honoured Incentivised through the scorecard

1.6 What is the Forest Sector Charter Council?

The Forest Sector Charter Council was established to oversee and facilitate the implementation of the Charter. The role of the Council is to monitor the implementation of the Code, see to it that the scorecard and undertakings made by business and government are implemented, and make sure that the Code is widely publicised. The Council includes representatives from industry, labour, Government and forestry communities.

1.7 Does the Code apply to me?

Sub-sectors: The Forest Sector Code 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 Code 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.

Exempted micro-enterprises (EME)

A business is an exempted micro-enterprise if the annual turnover (also referred to as revenue) is R10 million or less. The majority of owner-manager enterprises in the sector fall into this category, including all growers that have less than approximately 2000 ha of plantations, small sawmills and charcoal and pole producing operations. Start-up enterprises are measured as EMEs for the first year, regardless of expected total revenue. Exempted micro-enterprises are not measured using a scorecard, but can automatically claim a BEE recognition level as follows:

- 100% black-owned: Level 1
- 51% or more black owned: Level 2
- Less than 51% black owned: Level 4.

Exempted Micro Enterprises can elect to be measured in terms of the QSE scorecard if they want to maximise their points and move to the next BEE recognition level.



Qualifying Small Enterprises (QSE)

Business with a turnover of over R10 million but under R50 million are measured under the QSE scorecard. The QSE scorecard is simpler than the scorecard for medium and large companies and is explained further in section 8 below. However, as with EMEs, majority black-owned QSEs can claim automatic BEE recognition Level 1 (100% black owned) and Level 2 (51%+ black owned). Such black-owned QSEs do not need to be scored against the QSE scorecard unless they choose to.

Evidence required to claim automatic enhanced BEE recognition level

To claim an automatic recognition level, EMEs and majority black owned QSEs must produce either an affidavit (a sworn written statement) or a Companies and Intellectual Property Commission (CIPC) certificate confirming the level of black ownership and their total annual revenue. In future, QSEs will also need to confirm their *empowering supplier status*. QSE that qualify for enhanced BEE status can choose to be scored under the QSE scorecard. False claims made about turnover or black ownership are a criminal offence in terms of the amended B-BBEE Act.

Medium and Large Enterprises (MLEs)

Companies with a turnover larger than R50 million are measured under the MLE scorecard. The MLE scorecard has a greater number of indicators and a higher weighting of points than the QSE scorecard.

What is an empowering supplier?

The amended Codes introduced a new concept of empowering supplier. To qualify, a business must comply with the Employment Equity Act, Skills Development Act and the Skills Development Levies Act. The Amended Codes lists six criteria that entities are required to comply with in relation to the regulations listed above. A MLE is required to comply with any four of the listed conditions while a QSE may choose any two of these conditions. EMEs and start-ups are automatically regarded as empowering suppliers.

The Department of Trade and Industry has put this provision on hold for now, and until further notice, all enterprises regardless of size are automatically empowering suppliers.

Measurement of BEE for various sizes of business

	Type of business	Scorecard type and enhancement status
Medium and Large Enterprises Turnover >R50 m	Large corporate businesses	Medium and Large Enterprise scorecard No enhancement provisions
Qualifying Small Enterprises - QSE Turnover R10 –50 m	Medium sized commercial operations	QSE scorecard Enhancement provisions: 50% or more black owned: Level 2 100% black owned: Level 1
Exempted Micro Enterprises - EME Turnover: < R10 m	Owner-manager or family businesses Informal and part time operations Start-up enterprises, for first year.	Exempted Micro Enterprises: Automatic level 4 BEE status Enhancement provisions: 50% or more black owned: Level 2 100% black owned: Level 1
Exempted Micro Enterprises - EME Turnover: < R10 m	Owner-manager or family businesses Informal and part time operations Start-up enterprises, for first year.	Exempted Micro Enterprises: Automatic level 4 BEE status Enhancement provisions: 50% or more black owned: Level 2 100% black owned: Level 1

Risk of circumvention

The combined turnover of all “related enterprises” of a measured entity will be taken into account when determining the compliance requirements of EMEs and QSEs. This is to prevent owners from breaking their business up into smaller units in order to become micro-exempt, or a QSE.

What are the Industry Codes of Conduct?

The forest industry through its representative associations and in consultation with labour, undertook to develop four Industry Codes of Conduct for the Forest Sector.

Industry Code	Status
Codes for <i>forestry contracting</i> : these codes control and direct the relationship between contracting companies and contractors.	In place
Codes for emergent <i>forest grower schemes</i> : these Codes will control and direct relationship between contract growers and companies	In place
Codes for <i>charcoal contracting</i> : control and direct the relationship between small black producers and large brand name producers and industrial users	Still to be developed
The proposed Codes for <i>employment practices</i> : 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	Dropped on grounds that legislation provides sufficient protection

Don't be confused by the different Codes!

The B-BBEE Codes of Good Practice

Also known as s9(1) Codes of Good Practice or The Generic Codes
The Amended B-BBEE Codes of Good Practice is the B-BBEE implementation “bible”. The Codes were published in Government Gazette no. 36928 of 11 October 2013 and comprise the official legal statements on how B-BBEE is to be implemented across all sectors of the economy.

The Amended Forest Sector Code

this is another name for the Forest Sector Charter. A Charter qualifies as a Code when it has been published in the government gazette in terms of s 9(1) of the Amended B-BBEE Act, and it becomes binding on all businesses in the Sector.

The Industry (forest industry) Codes of Conduct

these codes control and regulate the relationship between players in different sub-sectors of the industry, in cases where there is an inherent power imbalance between the parties, for example, between forestry contractors and forestry companies, or small charcoal producers and the large scale industrial players. The industry has developed Codes of Good Conduct on Contracting Practices as well as Emerging Grower Schemes.

What if my business cuts across two or more sectors?

If a business cuts across two or more sectors, the scorecard for the sector that generates the largest revenue applies. If a business is divided into separate trading entities or operating units, each unit will be measured against the relevant scorecard.

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 government. These are known as ‘specialist enterprises’ and are measured using the specialised scorecard (Statement 004) that excludes the Ownership element.

1.8 How will the aims of B-BBEE be met through the Amended Forest Sector Code? Introducing the sector scorecards

The scorecard is the main tool for setting standards for transformation, and against which businesses will be measured. In addition to setting out sector specific scorecards, the Amended Code commits government, industry and labour to certain actions, or undertakings, that will enable businesses to achieve their BEE targets. The Forest Sector scorecard is based on the Generic Scorecard as set out in the Amended Codes of Good Practice issued by Department of Trade and Industry (the dti). The Amended Codes of Good Practice make provision for two scorecards: one for small businesses, called Qualifying Small Enterprises (QSE) and another for Medium and Large-scale Enterprises (MLE). The Amended Forest Code likewise includes scorecards for both QSEs and MLEs.

The table shows the allocation of *weighting points* across the five elements, or business areas, for both MLEs and QSEs. The allocation of points is a reflection of the relative importance of this element to achieving B-BBEE.



Amended Forest Sector scorecards – relative weighting points of the elements and allocation of bonus points

	Medium & Large Enterprises	Qualifying Small Enterprises
1. Ownership	25	25
Bonus points	12	-
2. Management Control	19	15
Bonus points	0	
3. Skills Development	20	25
Bonus points	5	5
4. Enterprise and Supplier Development	43	30
Bonus points	6	3
5. Socio-economic Development	5	5
Bonus points	3	
Total possible points	138	108

Priority Elements

The elements shaded in yellow above are *priority elements* in terms of the Amended Codes: Ownership, Skills Development and Enterprise & Supplier Development. For these elements, there is a *sub-minimum requirement* to score at least 40% of the target points. For the Ownership element, this requirement is linked to one indicator only: net equity value points. For both Skills Development and Enterprise and Supplier Development elements, the sub-minimum requirement is to score 40% of the total points across all indicators, excluding bonus points.

But what if an entity does not meet the 40% threshold for priority elements? This is where the discounting principle introduced in the Amended Codes comes in.

Discounting Principle

MLE or a QSE will have their B-BBEE level discounted by one if they do not meet the 40% threshold for priority elements. For example, if a MLE or a QSE has a level 4 B-BBEE Status and does not meet the target score for priority elements, the enterprise will be discounted by a level down to Level 5. To avoid discounting, MLEs must achieve the target for all three priority elements. QSEs must meet the target for Ownership and for one of the other two priority elements.

Part 2

How can B-BBEE work for me? An implementation guide to the Forest Sector Scorecard

Introduction

The aim of Part 2 of the Guide is to introduce each of the elements of the scorecard, outline sector targets, and provide information and practical advice about how to implement BEE. It is important to remember that businesses should aim to derive their own benefit from efforts to promote black empowerment and transformation. Rather than a narrow focus on compliance with the scorecard, businesses are encouraged to create BEE programmes that promote equity and inclusion and at the same time promote productivity and growth of their businesses.

“Transformation, I argue, is not something that can be achieved by obeying a set of rules. It requires special effort- an explicit commitment within society – underpinned by sound values and ethics”.

“Transformation requires a special kind of commitment and persistence. The result cannot simply be achieved by applying a set of rules with which people are expected to comply. Commitment generates positive energy and innovative thinking, whereas compliance dulls it.” Jenny Cargill

Element 1: Ownership

The Forest Sector made a commitment to a target of 30% black ownership by 2019. It is expected that this target will be met by a combination of sale of shares in existing businesses, transfer of state owned plantations and promotion of new black owned enterprises. Sale of shares in existing businesses, and start-up support for new businesses are promoted through the scorecard.

Ownership is a priority element for both QSE's and Large Enterprises. MLE and QSE scorecards set a target of 25% black ownership in existing and new businesses. Additional points can be scored for exceeding this target, plus there are additional targets and points for including women, Broad-Based ownership groups and new entrants in ownership transactions (see Part 3 for scorecard details). To avoid being discounted by one level, the Measured Entity must score at least 40% of the required target for realisation points. MLE and QSE will need to achieve 3.2 points of the total 8 points in order to avoid dropping their B-BBEE status by one level.

There are a variety of different ways to go about BEE ownership transactions, and an outline of the different options is given below. The codes provide for two models of black ownership: sale of equity in an existing business, or the sale of assets to black people to start up a new business. When selling assets for the start-up of a new business, shares may or may not be held in the new enterprise.

1. Sale of equity

The sale of shares in existing business is an important means of BEE and of business growth. Much of the focus of BEE during the 1990s was on ownership transactions. The most successful of these transactions are those where buyers had access to capital to purchase shares and/or investments were made in very high growth businesses (such as cell-phone companies). Many others have failed to live up to expectations, with the central problem being the need to borrow money to purchase the shares, combined with inadequate returns on investment to service the loans.

To whom can an equity share be sold?

Finding suitable partners can be difficult. The reverse is also true, it can be difficult for black investors to find investment opportunities that will generate sufficient returns to pay off loans used to buy shares. Both parties need to exercise caution when entering into an equity sale agreement and should seek professional advice. There are a number of options for sale of ownership, each has its merits and limitations.

i) Direct ownership

Shares can be sold directly to individuals. The person should ideally know the business, or be able to get to know it quickly, and be able to add value at a management level. A high-profile individual may bring influence to the business but may not have sufficient time to dedicate to the business due to other commitments. Other options include senior staff in the business, or the owner or staff of a supplier or competitor. Business people with experience in the same line of work bring technical expertise and possibly access to capital, and management experience. Own staff will bring good knowledge of the business, technical expertise and employee-ownership benefits to the business.

ii) Established black investment companies

Shares can also be sold to black investment companies or to individuals who could bring significant influence and capital to the business. These types of shareholders may however not become involved in the running of the business or contribute technical or managerial expertise. Another limitation is these shareholders are likely to be interested in investing only in large companies where there is potential for significant return. When selling shares to a company, the flow through principle applies (see below).

iii) Broad-Based investment

Broad-Based investment is a South African success story that has grown very rapidly and has become favoured by many over narrow-based ownership transactions. There are three main types of Broad-Based scheme: employee share ownership schemes; Broad-Based investment companies and trusts; and retail offering of shares to the black public. Although the target for Broad-Based ownership in the sector scorecard is only 7.5%, there is nothing preventing the entire 25% share being Broad-Based owned, provided there is compliance with the requirement in the Codes that the scheme or group can show a “track record” of commercial



operations, or can show evidence of full operational capacity. To comply with this, the shares of start-up Broad-Based entities can be increased above 7.5 % after a year in operation.

Employee share ownership schemes. ESOPs have been growing in popularity as a BEE investment option. To qualify under the Codes, the scheme must involve more than 90% of all employees of a business, or 90% of employees in a particular employment category. There are various ways to structure employee ownership schemes, but of these Trusts are usually advised. Trusts enable the employees to act collectively and increase their influence within the company. Training and information can also be better provided to shareholders through a Trust. The main advantage of employee ownership schemes is that they motivate employees and can substantially increase productivity. ESOPs are practiced worldwide, and there are a number of success stories from South Africa and the rest of the world to draw on.

Broad-based investment companies and trusts. There are many different models and approaches to Broad-Based investment, and a wide range of different investors. What they have in common is that all, or part, of the shares belong to a Broad-Based grouping, comprising black South Africans, who are not employees. Broad-Based investment companies may be set up by representative organisations such as Trade

Unions, or by NGOs working in various needy communities, as a means to generate income for their members or to fund development activities. Some investment companies have both Broad-Based shareholders and individual shareholders. They are structured so that companies looking for BEE ownership can transact with one party instead of a number. Companies in need of BEE ownership may also set up their own social trusts that provide funds for development activities. Social Trusts can fund a particular cause, or group, such as HIV/AIDs or education, or be more general in nature. If the trust deeds are drawn up to satisfy the Codes requirements for Broad-Based schemes the company has a tailor-made solution to broadening their investment profile, whilst at the same time providing a very valuable source of social investment.

Requirements for the establishment of Broad-Based schemes

- The Chair of the scheme must be independent of the beneficiaries, and
- At least 50% of fiduciaries (trustees, or board members) must be independent of the beneficiaries.
- At least 50% of the fiduciaries must be black, and at least half of these black women.
- Beneficiaries of the scheme must be at least 85% black. (Ref: Code 100, annex 100(B)).

In addition to these minimum requirements, beneficiary shareholding can be structured in line with the sector code, to score additional points.

Retail Schemes. A retail vehicle is established to enable members of the public or particular groups of people to buy shares. Shares are usually available at a discounted price, and there is a limit to the number of shares any individual can purchase. Investors may or may not be required to put down a deposit and will be required to hold the shares for a

fixed period. Where the shares are funded by debt, the company selling the shares, or the financial institution that grants the loan, holds the risk. Retail schemes provide investment opportunities to individuals who would otherwise not be able to afford to invest. On the downside, depending on the performance of their shares, they may not realise profits, or may have to wait a long time before they can realise profits. From the point of view of the company selling the shares, retail schemes are relatively simple to manage, and provide a vehicle for Broad-Based investment. They may also provide increased customer loyalty- if shares are made available to customers, for example, the SAB retail scheme that sells shares to tavern owners.

The Flow Through Principle

The scorecard measures ownership by actual black people. If shares are held by a juristic person, such as a company or a Trust, then only those shares held by black people in these structures will count towards black ownership. If shares are sold to a company that is partly black owned, then the black equity 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 a business, the black equity will be 50% of 25%, i.e. 12%. This is known as the *flow-through principle*. If the company purchasing shares is majority black owned (over 50%) then the full value of the stake is recognised. This is known as the *modified flow-through principle*. The flow through principle also applies to scoring voting rights

Lock-in clause

Black shareholders can sell their shares, just like any other shareholders. If they do, however, they take the black equity points with them, unless there is compliance with a set of criteria as set out in Code FSC100 para 3.8. 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 BEE profile is not affected if black shareholders sell out.

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 close corporation (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.

2. Sale of assets

It is possible to score all 25 Ownership points by selling off a part of a business or asset or using assets to establish a new business with black shareholders. To qualify, the new business, business B, must be sustainable and not unduly depend on inputs from the business providing the support and claiming the points, business A. If business B does contract work for business A, this should be a normal business transaction as it would with any other supplier. The value of business B is compared to the value of business A on a yearly basis, if it grows in line with business A, business A can score all the ownership points. If it declines relative to business A then the score will decline also. This is a way of making sure that the new businesses being supported are viable and to prevent offloading of unproductive assets.

Note that if sale of assets is claimed under the Ownership element of the scorecard, additional points cannot be claimed under the Enterprise Development element of the scorecard for the same support provided.

Element 2: Management Control

This element measures involvement of black people in management of the business. The aim is to encourage business owners to employ and promote black people at all levels of management (junior, middle, senior) as well as executive management level and, for MLE, on the company board. Management Control is measured separately from ownership to encourage both; shareholders who are also in management score points for both elements, but it is not necessary for all managers to be shareholders or for all shareholders to be involved in the management. The important thing is to make appointments that benefit the business and help it to grow. Appointing black people into management just to score points, without them playing a meaningful role, is a form of fronting and could be prosecuted as a criminal offence.

All businesses with 50 or more employees are required in terms of the Employment Equity Act to prepare employment equity plans and reports. Employment equity training and promotion plans make good business sense, as they will ensure a flow of black staff up through the ranks of the business.

Most small and medium sized businesses have very few management positions, and the turnover in these positions is low. This makes it all the more important to invest in leadership development amongst black employees to ensure a suitable black candidate is available when a vacancy arises. Training and mentorship provided to managers will also earn the business additional points under the Skills Development element, as we will see below.

Element 3: Skills Development

Skills Development is fundamental to achieving targets set for most of the other elements of the scorecard. It is also very important for the growth and transformation of the economy as a whole, given the severe skills shortage in South Africa. Investment in training will also improve competitiveness of a business and have spin offs for increased staff morale and loyalty. The Sector Code sets targets for additional expenditure (5% of payroll) to be spent by businesses on training, over and above the existing 1% statutory Skills Development levy. This includes both internal and external training. Targets are also set and points awarded for black participation in learnerships, apprenticeships and internships. To claim points, all training must fall within the Learning Programme Matrix contained in Annexure FSC300(A) of the Amended FS Code.

Skills Development is one of the three priority elements in the Amended Code. Being a priority element, there is a sub-minimum requirement to score at least 40% of the total points compliance target: least 8 points out of the total possible 20 points allocated (bonus points excluded) must be achieved to avoid discounting. QSEs must meet the threshold target for either Skills Development or Enterprise and Supplier Development (see Element 4 below).

Additional funds spent on Skills Development are to be managed directly by businesses, and do not flow through government as does the statutory Skills Development levy. It is advisable for businesses to prepare a single training plan that covers both the 1% Skills Development levy funds and the additional 5%. When planning training using the additional 5%, the rules regarding allowable spend, direct and indirect expenses must be taken into account (see Part 2 of this guide for details). Good records of expenditure as well as training

needs analyses, training schedules, attendance registers must be kept for verification purposes.

More information:

The Forestry sector SETA is the *Fibre Processing and Manufacturing (FP&M) SETA*.

For assistance with planning, managing or running of training:

Forest Industries Training Provider Association (FITPA) Secretary 082 826 2015,

email: info@fitpa.co.za

South African Forestry Contractors Association SAFCA Capacity Development Manager.

Pamela Naidoo 033 346 0329 / 082 739 0948 pamzmail@vodamail.co.za

Forestry joins hands for training provision in the contracting field

The forestry sub-sector has launched a combined training programme mainly targeting forestry contractors, known as the Contractors Capacity Development Program (CCDP). CCDP is being implemented by The South African Forestry Contractors Association, SAFCA. The Program assists forestry contracting businesses with planning, implementation and management of employee training programmes. The following services are available:

- Preparation of training needs assessments, and training plans
- Planning, arranging and monitoring of training courses provided by accredited training providers
- Training administration including records to verify expenditure on training provision for BEE verification

At present, the CCDP is being used mainly by forestry contractors working for the big corporate growers. The programme is however open to any grower or forestry contractor.

Element 4: Enterprise and Supplier Development

Enterprise and Supplier Development lies at the heart of the amended codes and carries the highest score (49 points including bonus points). Being a priority element, MLE must meet a 40% threshold compliance target, or have their B-BBEE scorecard rating drop by one level. QSEs must meet the threshold target for ESD OR for Skills Development (see Element 3 above).

ESD element encourages established businesses to focus their support on developing enterprises in their own supply chains first. An integrated approach to ESD is encouraged across three sub-elements:

Preferential Procurement - buying from black owned companies, or other suppliers that have a high BEE rating.

Supplier Development - providing support to develop black owned business in the supply chain.

Enterprise Development - providing support for future black owned suppliers, as well as support for other black-owned businesses outside of the supply chain.

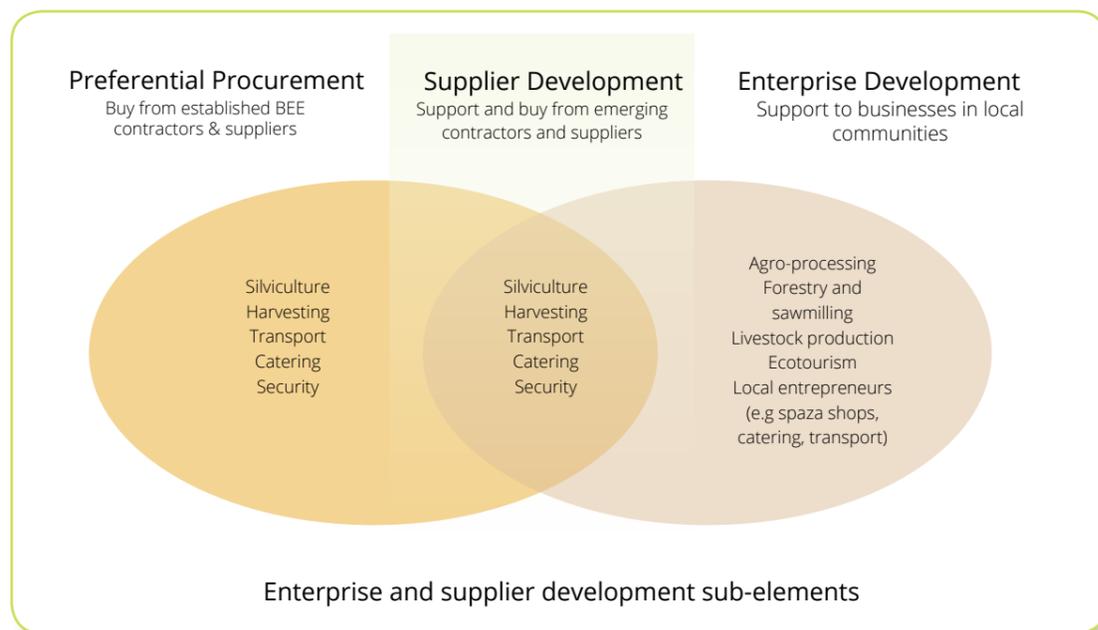
The first sub-element, Preferential Procurement, encourages established businesses to buy from empowered suppliers and is the engine of the B-BBEE programme. The scorecard measures the amount spent on suppliers with a high BEE rating as a percentage of total procurement expenditure. The table on *page 4* shows how BEE status is linked to points scored on the scorecard. By scoring more for preferential procurement, a business's overall BEE rating will increase. This is good for business, as customers need to source from suppliers and service providers with a high rating in order to score points under Preferential Procurement themselves. This sub-element also provides opportunities for new

black owned suppliers to compete favourably with established suppliers with lower BEE rating. Additional targets and points are allocated for buying from suppliers with at least 30% ownership in the hands of black women and a majority share held by black designated groups.

Two bonus points are allocated for compliance with Industry Codes of Contracting (see page 9). An MLE entity can only earn these points if they score at least 9.2 points for the PP sub-element. More details on scoring are provided in Part 3 of the guide.

By developing majority black owned suppliers in value chains, established businesses can increase their points for Supplier Development *and* preferential procurement. Businesses can also increase their Preferential Procurement score by putting pressure on existing suppliers to improve their B-BBEE rating, and/ or by substituting existing suppliers with a low B-BBEE rating with alternative suppliers with a higher rating.

The second sub-element, *Supplier Development* is the core of the new Enterprise and Supplier Development element in the amended Codes. Businesses are encouraged to support black owned enterprises and buy from them, through a focus on support



to businesses within the supply chain. A whopping 10 points are allocated to Supplier Development, based on a target expenditure of 2% net profit after tax (NPAT).

The *Enterprise Development* sub-element measures support provided to other black owned enterprises that are not currently suppliers. These could include future suppliers, as well as other enterprises not within the supply chain (see the diagram above for examples).

Additional points are allocated under Enterprise Development for growers and sawmillers who sell logs and saw-timber to BEE compliant and black owned QSEs, EMEs in the timber value chain. The aim of this is to improve timber supplies to small and medium timber processing enterprises that lack their own plantations and do not have secure supply agreements in place.



Tips for an effective Enterprise and Supplier Development Programme

The goal of an ESD programme should be to develop sustainable and successful partner enterprises. Key to this is an integrated package of long term support rather than once off handouts. Start-ups require not only financial support, but ongoing mentorship and access to secure markets.

There are many opportunities and many ways to structure deals with suppliers and other emerging black-owned enterprises. Established companies may invest in majority black owned businesses, providing capital and expertise in exchange for minority shares. Or they can choose to provide non-recoverable contributions that will count for more on their scorecard. Emerging black-owned businesses can seek financial and/or technical and managerial support from established businesses, in exchange for a supply agreement. The purpose of the scorecard is to encourage such deals and provide an extra incentive for established businesses to enter into supportive partnerships with emerging enterprises, focusing in the first instance on their own supply chain.

Supplier and Enterprise Development contributions can be financial and non-financial, recoverable and non-recoverable, and should aim to support the “development, sustainability and ultimate financial and operational independence” of the beneficiary enterprises. Bonus points are awarded for support to enterprises with 30% or more ownership by black women and that lead to job creation. The Amended Codes make provision for a very wide range of contributions, and it is best to consult FSC400 when designing supplier and Enterprise Development support programmes (see page 41 of Part 3 for a summary).

To have an effective ESD programme, it may be advisable to seek specialist assistance, or, if the size of the contributing business warrants it, set up a specialised unit. Alternatively, businesses can contribute to a supplier and Enterprise Development fund or provide financial or other support to third parties to provide support services on their behalf. Many ESD intermediaries have been set up in South Africa over the past few years. Established businesses should take care to select an ESD partner that can show good evidence of effective Enterprise Development support.



Element 5: Socio-Economic Development

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. It covers a range corporate social investment programmes and initiatives. Contributions can be made to, or sought by, appropriate beneficiaries, and these contributions may be in cash or kind. Unlike Enterprise Development, they must be grants. Loans do not qualify under socio-economic development.

The target set by the Sector scorecard is an expenditure of 1% of NPAT on Socio-Economic Development programmes. This can amount to a considerable amount of money and the challenge is having the capacity to spend the funds effectively. There are two basic approaches that can be taken: an in-house social programme or making contributions to programmes implemented by other parties such as government, private sector or NGOs.

Tips for 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 in the Amended Forest Sector Code.
- Community development work requires specialist knowledge and skills seldom found in businesses. 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 the local area and the agencies responsible for implementing these. The municipal officer dealing with the Local Economic Development Programme in an area is one useful contact.
- Bonus points can be earned for additional spend (one bonus for every 0.25% NPAT or 0,33% revenue) and on sector specific initiatives in Socio-Economic Development (see sector priorities below).

Tips for making BEE grants

- It is the responsibility of funders to hold the implementing agency accountable for financial management and delivery. If the funds are misused and benefits cannot be shown, the business providing the funds will not be able to claim this expenditure. It is advisable therefore to provide annual grants that are paid against financial and progress reports.
- Businesses should aim to build sustainable socio-economic programmes through responsible partnerships with implementing agencies. It is often better to fund one or a few agencies or initiatives and provide long-term support to them. A four to five-year funding cycle with performance conditions attached will provide both parties with security. Short-term interventions rarely have long-term, lasting impact.
- According to most experts, lack of access to good education is the single biggest limitation to BEE. Funding educational programmes and providing bursaries benefits individuals, promotes BEE, and can be used to develop a cadre of prospective employees for the business. Bear in mind that the same training expenses cannot be claimed under more than one element.

Socio-Economic Development priorities for the Forest Sector

The Forest Sector, through the Code has made a commitment to 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. Forestry enterprises have an opportunity to support Socio-Economic Development by providing local communities with access to forest products including timber, firewood, building poles, medicinal plants and edible fruits.

Is an official B-BBEE rating necessary and how is it obtained?

Part 3 of this guide gives businesses owners the information they need to calculate their own BEE score, and Part 2 above provides information about how to implement BEE initiatives under each of the elements. Businesses can use their scorecards to review progress and plan improvement on an on-going basis. Businesses also need to be able to show evidence to support claims they make about B-BBEE compliance, for scores to be recognised. Businesses are not required by law to use an accredited BEE verification professional to verify their BEE compliance, but it is advisable to do so. The role of the Verification Professional is to ensure that a measured entity's BEE contributions are verified, and that the entity's reported BEE status is valid and accurate. Verification Professionals need to be accredited by the South African National Accreditation System (SANAS).

To view a list of accredited B-BBEE Verification Agencies visit South African National Accreditation System (SANAS). <http://home.sanas.co.za>

Evidence of B-BBEE rating, or a verification certificate, must be provided 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.

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 element of the scorecard. Contact SANAS for a list of verification professionals.

When will the sector scorecard apply?

The scorecards provided for in the amended Code have been applicable since 21 April 2017 when Gazette 40803 was published.

Verification of status of EMEs and QSEs

EME claiming automatic BEE level by virtue of their annual revenue and ownership status must provide a sworn affidavit or Certificate from the Companies and Intellectual Property Commission (CIPC) on annual basis confirming:

- Total annual revenue
- Level of Black Ownership

QSEs that are 100% and 51% black owned and are claiming automatic or enhanced BEE status must also provide a CIPC certificate or sworn affidavit confirming their annual revenue and ownership status. In addition, they will in future be required to provide evidence of their Empowering Supplier Status (see *page 8*). This additional requirement does not apply to EME.

Qualification thresholds for Automatic and Enhanced B-BBEE Status

Status / Revenue	% Black Ownership	Automatic BBEE Level
EME <R 10m	100	1
	51	2
	50 and less	4
QSE R10-50m	100	1
	51	2
	50 and less	No automatic status

B-BBEE Registration and Reporting

The Forest Sector Charter Council (FSCC) encourages all business entities in the sector to report annually on their B-BBEE status and submit their detailed scorecards. This requirement is supported by Section 10(3 & 4) of the B-BBEE Act as Amended. The information is used to monitor and report on transformation in the sector. The FSCC produces an annual report on the transformation status of the forestry sector. Presently the FSCC secretariat contacts businesses directly by email to request detailed scorecard information. In future, there will be a portal on the FSCC website for businesses to register with the FSCC and submit their scorecard results on an annual basis.



Where can I get more information?

Forest Sector Charter Council

The FSCC is responsible for encouraging, supporting, monitoring and facilitating the implementing of the Amended Forest Sector Code. There are a number of resources on their website, as well as their contact details:

<http://www.forestsectorchartercouncil.co.za>

Amended Forest Sector Code and Scorecards

The Amended Forest Sector Code (FSC) was published in April 2017 in Government Gazette 40803. It can be downloaded from the dti (see link in Part 3 or FSCC website). Paper copies and further information can be obtained from the Forest Sector Charter Council. The Amended FSC provides detailed information on each of the scorecard elements and how they are measured. If there is any doubt or confusion, consult the Code. A paper copy of the Gazette with the Codes can also be obtained from the Government Printer or from the Forest Sector Charter Council.

The DTI B-BBEE Website

The DTI has set up a very informative and comprehensive website on B-BBEE that is easy to navigate. Go to www.dti.gov.za and click on the link to Economic Empowerment in the left margin of the homepage, and then on the link to B-BBEE. There is a menu in the left margin of the B-BBEE page with sub topics providing overview and links to policy and legislation, support partners, publications and so on.

Scoring and rating resources

On-line rating services enable businesses to establish and manage their BEE profile for an affordable fee.

PART 3

How to calculate a B-BBEE Score

Introduction

The aim of Part 3 of the Guide is to give business owners the tools to assess their current Broad-Based BEE rating. It is also an introduction to the scorecard for employees, suppliers and others engaged in the sector who would like to know more about the scorecard and how it works.

Each of the five scorecard elements is presented below. The following is covered for each element:

- The detailed *scorecard* is presented, showing targets and weightings. Both the MLE scorecard (applicable to businesses with a turnover of above R50 million) and the QSE scorecard (applicable to enterprises with turnover of above R10 million) are presented. Where there are differences between sub-sectors, these are shown.
- The *scoring method* and terms used in the scorecard are explained, and examples showing how to calculate scores are given.

The information contained in this part of the guide is drawn mainly from the Amended FSC, published in Government Gazette No. 40803 on 21 April 2017. For further details or clarification, readers should refer directly to the Amended FSC: It can be downloaded from the following link: <https://www.thedti.gov.za/gazettes/40803.pdf>



Index of the Amended Forest Sector Black Economic Empowerment Codes

CODE #	Heading	Topic
000	Framework for measuring 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	Skills Development	Measures initiatives intended to develop the competencies of black employees
400	Enterprise and Supplier Development	Measures contribution to effective enterprise & Supplier Development, including commitment to purchasing from black owned suppliers.
500	Socio-economic Development	Measures contribution to Socio-Economic Development
600	Qualifying Small Enterprises	This Code includes all five Qualifying Small Enterprises scorecards and measurement principles.
Schedule1	Interpretations and definitions	Provides interpretation and definitions of all terms used in the Codes
Schedule 2 &3	Additional Instruments Undertakings	Business, training, financial and regulatory and institutional support instruments agreed to under the framework of the Code. These are the undertakings made by Government, Industry and labour.

Element 1: Ownership

Counts 25 + 12 bonus points for MLEs; 25 for QSEs



The scorecards below show how the Ownership element allocates points. The first scorecard gives the targets and allocation of points for medium to large enterprises (MLE), and the second gives those for Qualifying Small Enterprises (QSE). Ownership points are allocated not only for the 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 (MLE) Statement 100

Total possible points: 25 points + 12 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	4	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	4	25%	
1.4 Economic interest of black women in the enterprise	2	10%	
1.5 Economic interest to which the following are entitled: Black designated groups; Black Participants in Employee Ownership Schemes; Black beneficiaries of Broad-Based Ownership Schemes; or Black Participants in Cooperatives	3	7,5%	

Indicator description	Weighting Points	Compliance target	Your score
Realisation Points			
1.6 Net value	8	Annex FSC100E	
Bonus points			
1.7 Economic interest held by communities in areas of operation of the Measured Entity	5	2.5%(over and above 7.5 % target in 1.5)	
1.8 Economic interest held by black employees of the Measured Entity	2	2.5%(over and above 7.5 % target in 1.5)	
1.9 Bonus point for achieving a higher target for indicator 1.3 (interests in the hands of black people)	1	30%	
1.10 Bonus point for achieving a higher target for indicator 1.4 (interests in the hands of black women)	1	15%	

Ownership Scorecard (QSE) Statement 601

Total possible points: 25 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	5	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	5	25%	
1.4 Economic interest of black women in the enterprise	2	10%	
1.5 Economic Interest of new entrants and designated groups in the Enterprise	3	2%	
Realisation Points			
1.6 Net Value	8	Yes	



How is an ownership score calculated?

Scores are worked out one 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 indicator and lose two possible points.

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

Measurement rules

This is a summary of some of the key rules - refer to Amended Code Series FSC 100 for details. For an explanation of the flow through principle (see *Page 16 in Part 2*)

Shareholding options: Black people may hold ownership directly, or through an entity such as a company, closed corporation, trust, co-operative or other juristic person (see Part 2 for further detail on shareholder options).

Special recognition provision: All MLE and QSE in the sector can claim 5% black women ownership for indicators 1.1 to 1.4 until the FSCC publishes a notice that this no longer applies*. This provision was introduced because industry stakeholders felt they are constrained by factors outside of their control that need to be addressed by Government. When Government has implemented certain commitments, the provision will fall away. These commitments relate to speeding up authorisations for afforestation, provision of finance and financial services for black entrepreneurs, and leveraging of State forest assets.

*To make this claim for 5% black women ownership an entity must a) be a timber grower b) provide evidence that they have made an application for an afforestation authorisation license. The automatic recognition shall fall away when the application has been processed and a license awarded.

Sub-minimum requirements and B-BBEE level discounting: To avoid being discounted by 1 level, the Measured Entity must score at least 40% of the required target for realisation points. Realisation points are awarded on the basis of Net Value of black owned shares



in the business. Net Value measures the extent to which shares are encumbered by debt. Targets are set for the percentage of shares that should be debt-free over a 10-year period from when shares are allocated to black shareholders. Annexe FSC 100 (E) of the Forest Sector Code provides formulae for the calculation of Net Value.

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 and military veterans.

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: black people who do not already have ownership in any business, or if they do, their shares are worth less than R20 million in total.

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

Net equity interest: this is the term used for the amount of debt that each shareholder has. In order to claim the eight 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.

Element 2: Management Control

Counts 19 points for MLEs; 15 for QSEs

The scorecards below show how the Management Control 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.

Management Control scorecard (MLE) Statement 200

Total possible points 19

Indicator description		Compliance target	Your score
Board Participation			
2.1 Exercisable Voting Rights held by black board members as a percentage of all board members	2	50%	
2.2 Exercisable Voting Rights held by black female board members as a percentage of all board members	1	25%	
2.3 Black Executive Directors as a percentage of all Executive Directors	2	25%	
2.4 Black female Executive Directors as a percentage of all Executive Directors	1	50%	
Other Executive Management			
2.5 Black other Executive Management as a percentage of all other Executive Directors	5	40%	
2.6 Black female other Executive Directors as a percentage of all other Executive Directors	2	40%	
Senior Management			
2.7 Black employees in Senior Management as a percentage of all Senior Management	2	60%	
2.8 Black female employees in Senior Management as a percentage of all Senior Management	1	30%	
Middle Management			
2.9 Black employees in Middle Management as a percentage of all Middle Management	2	75%	
2.10 Black female employees in Middle Management as a percentage of all Middle Management	1	38%	
Junior Management			
2.11 Black employees in Junior Management as a percentage of all Junior Management	1	88%	

Indicator description		Compliance target	Your score
2.12 Black female employees in Junior Management as a percentage of all Senior Management	1	44%	
Employees with disabilities			
2.13 Black employees with disabilities as percentage of all office based employees	2	2%	

Management Control Scorecard (QSE) Statement 602

As QSEs may not have a board, the scorecard is simplified to measure black representation at all levels of management and gives additional points for representation of black women.

Total possible points: 15 points

Indicator description		Compliance target	Your score
Executive Management			
2.1 Black representation at Executive Management level	5	50%	
2.2 Black female representation at Executive Management level	2	25%	
Senior, Middle & Junior Management			
2.3 Black representation at Senior, Middle & Junior Management level	6	60%	
2.4 Black female representation Senior, Middle & Junior Management level	2	30%	

How is a Management Control score calculated?

Representivity: The first thing you will need is accurate information about the racial and gender breakdown of company staff. This information should have been compiled for the purpose of drafting an employment equity (EE) 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 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*

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.

Element 3: Skills Development

Counts 20 +5 bonus points for MLE, 25 +5 bonus points QSEs



Skills Development scorecard (MLE) Statement 300

Total possible points: 20 plus 5 bonus points

Indicator description	Weighting Points	Compliance target	Your score
Skills Development spend on any programme specified in the learning programme matrix for black people as a percentage of Leivable Amount			
3.1 Skills Development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees as a percentage of leivable amount	8	3%	
3.2 Skills Development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees with disabilities as a percentage of leivable amount	4	0.3%	
Learnerships, Apprenticeships and Internships			
3.3 Number of black employees participating in learnerships, apprenticeships and internships paid for by the measured entity as a percentage of total employees	4	2,5%	
3.4 Number of unemployed black learners participating in learnerships, apprenticeships and internships paid for by the measured entity as a percentage of total employees	4	2,5%	
Bonus Points			
3.5 Number of black people absorbed by the measured entity at the end of the learnerships programme	5	100%	

Skills Development scorecard (QSE) Statement 603

Total possible points: 25 + 5 bonus points

Indicator description	Weighting Points	Compliance target	Your score
Skills Development spend on any programme specified in the learning programme matrix for black people as a percentage of Leivable Amount			
3.1 Skills Development spend on any programme specified in the learning programme matrix for black people as a percentage of Leivable Amount	15	3%	
3.2 Skills Development spend on any programme specified in the learning programme matrix for black women as a percentage of Leivable Amount	7	1%	
3.3 Skills Development spend on any programme specified in the learning programme matrix for disabled black people as a percentage of Leivable Amount	3	0,15%	
Bonus Points			
3.4 Percentage of black people absorbed by the measured entity and industry at the end of the learning program	5	100%	

How is a Skills Development score calculated?

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

- SETA approved annual Workplace Skills Plan, Training Report and Pivotal Report
- Implementation of Priority Skills programme generally, and specifically for black people

These requirements also apply to registered QSEs to pay a Skills Development Levy (SDL). (Employers with a total annual salary bill of R500 000 or more are required by law to register and pay a SDL and to submit these reports).

The MLE 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 percentage of black employees participating in *learning programmes* specified in the *Learning Programmes Matrix*. The QSE scorecard measures only the first aspect: *Skills Development spend* over and above the statutory 1% Skills Development levy (broken down into different categories of employees).

Both MLE and QSE scorecards allocate 5 bonus points for absorbing learners into the workplace





after completion of learnership or learning programmes.
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 its salary bill on Skills Development for black people, over and above the Skills Development levy, it would score the full 15 points. If the company only spent an extra 1% it would score one third (1/3) of 15, and score 5 points. If that 1% was spent only on training for black women, they would score all 7 points allocated.

Measurement Rules

This is a summary of some of the key rules - refer to Amended Code Series FSC 300 for details.

What qualifies for Skills Development spend?

- Training materials
- Trainers fees or 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 (FSC Annexe 300 A).

Learners' travel, accommodation and catering costs cannot exceed 15% of the total expenditure.

Expenditure on scholarships or bursaries cannot be claimed 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 complete the studies within the allocated timeframe.

informal work-based training cannot account for more than 15% of the total value of claimed expenditure.

Expenditure on mandatory sectoral training such as health and safety may not account for more than 60% of the total value of claimed expenditure.

Sub-minimum and discounting principle. MLE must achieve at least 8 points of the total 20 weighing points (40%) in order to circumvent discounting. If they score less than 8 points, their B-BBEE level is discounted by one level.

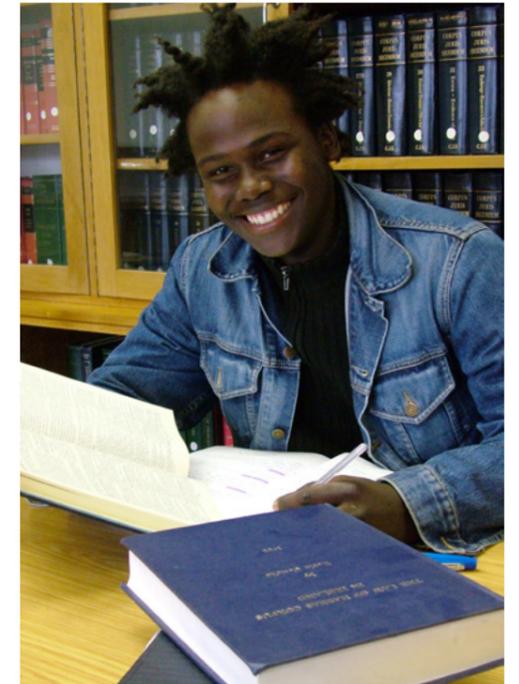
QSE can elect to comply with the 40% target for Skills Development OR Enterprise and Supplier Development. They need to achieve at least 10 points of the total 25 weighing points allocated to SD in order to circumvent discounting. These points also exclude the bonus points.

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 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 seven categories of learning programmes outlined in the learning programme matrix in Forest Sector Code Annexe 300 (A). 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.



Element 4: Enterprise and Supplier Development

Counts 43 + 6 bonus points for MLEs, 30 + 3 bonus points for QSE

Enterprise and Supplier Development Scorecard (MLE) Statement 400

To simplify the table below, repetition of certain phrases has been removed. The measured entity can only claim expenditure on suppliers that are empowering suppliers. See *page 8* for an explanation of an empowering supplier.

Total possible points: 43 plus 6 bonus points

Indicator description	Weighting Points	Compliance targets	Your score
Preferential Procurement (as a percentage of Total Measured Procurement Spend)			
4.1 Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels	5	80%	
4.2 Procurement Spend from Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels	2	15%	
4.3 Procurement Spend from all Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels	3	15%	
4.4 Procurement Spend from 51% Black Owned Suppliers based on the applicable B-BBEE Procurement Recognition Levels	9	40%	
4.5 Procurement Spend 30%+ Black Women Owned Suppliers based on the applicable B-BBEE Procurement Recognition Levels	2	10%	
4.6 B-BBEE Procurement Spend from Suppliers that are at least 51% Black Owned and 51% owned by Black Designated Groups.	2	2%	
Sub total	23		
Bonus points			
4.7 Compliance with Industry Codes of Contracting*	2	Yes	
Supplier Development			
4.8 Annual value of all Qualifying Supplier Development Contributions made by the Measured Entity as a percentage of the Target	10	2% of NPAT	



Indicator description	Weighting Points	Compliance targets	Your score
Enterprise Development			
4.9 Annual value of all Qualifying Enterprise Development Contributions made by the Measured Entity as a percentage of the Target.	10 or 7*	1% of NPAT	
4.10 Annual sale of logs & saw timber (as a percentage of total sales in terms of tonnage) to QSE and EMEs enterprises based on their B-BBEE Procurement Recognition Levels	0 or 2*	0 or 20%*	
4.11 Annual sale of logs and sawtimber (as a percentage of total sales in terms of tonnage) to enterprises (regardless of their B-BBEE Procurement Recognition Level) that are: - 51% Black Owned; or - 30% Black Women Owned	0 or 1*	0 or 5%*	
Bonus Points			
4.12 Bonus point for graduation of one or more Qualifying Enterprise Development Beneficiaries to graduate to the Supplier Development level.	1	Yes	
4.13 Bonus point for creating one or more jobs directly as a result of Qualifying Supplier Development and Enterprise Development Contributions by the Measured Entity.	1	Yes	
4.14 Annual value of Supplier and/or Enterprise Development sector approved contributions in partnership with Government.	1	0.5% of NPAT	
4.15 Annual Value of Supplier and/or Enterprise Development Contributions to 30% Black Women Owned QSE's and EME's.	1	0.5% of NPAT #	

*These weightings and targets are only applicable where the Measured Entity is a Grower or a Sawmiller

over and above the 3% NPAT combined ESD Target

Compliance with Industry Codes of Conduct: these points can only be earned if the Measured Entity has earned 9.2 points in aggregate for indicators 2.1.1 to 2.1.6

Enterprise and Supplier Development Scorecard (QSE) Statement 604

Total possible points 30 + 3 bonus points

Indicator description	Weighting Points	Compliance targets	Your score
Preferential Procurement (as a percentage of Total Measured Procurement Spend)			
4.1 Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels	15	60%	
4.2 Procurement Spend from 51%+ Black Owned suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	15%	
Bonus points:			
4.3 B-BBEE Procurement Spend on Designated Group Suppliers that are at least 51% Black Owned based on the B-BBEE Recognition Levels	1	1%	
Supplier Development			
4.4 Annual value of all Qualifying Supplier Development Contributions made by the Measured Entity as a percentage of the Target	5	1% of NPAT	
Enterprise Development			
4.5 Annual value of all Qualifying Enterprise Development Contributions made by the Measured Entity as a percentage of the Target	5	1% of NPAT	
Bonus points:			
4.6 Bonus Point for graduation of one or more Enterprise Development beneficiaries to graduate to Supplier Development level	1		
4.7 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity	1		

How is an ESD score calculated?

Sub-minimum and discounting principle

MLE must score 40% of the total weighing points (excluding bonus points) in each of the three broad categories under this element. So, an enterprise has to score 9.2 points under Preferential Procurement, 4 points under Supplier Development and 4 points under Enterprise Development.

QSE can elect to comply with the 40% target for Skills Development OR Enterprise and Supplier Development. QSE must score at least 8 points under Preferential Procurement, 2 points under Supplier Development and 2 points under Enterprise Development to avoid discounting

Preferential Procurement scoring method and rules

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 spend on BEE suppliers and 0% of 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.

How BEE score of supplier links to 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

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 10.3 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 10.2 below. You will also need to refer to the table above to convert BEE contributor status to BEE procurement level

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 = <i>Total procurement spend</i>		Sum of the above= <i>Total BEE procurement spend</i>

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 usual formula to work out how many points you score
 $\% \text{ BEE procurement spend} / \text{target } \% \text{ BEE procurement spend} \times \text{total number of points} \times \text{weighting}$

What is measurable procurement spend?

There are rules about what must be included in the total measurable procurement spend. Table 10.3 below is a simplified guide to what must be included, and exclusions from total measurable procurement spend. Consult Amended FSC Code 400 for more detail.

Supplier B-BEE level verification

BEE contributor status of medium and large enterprises and QSEs must be substantiated by a verification certificate. If your supplier does not yet have a verification certificate, ask them to prepare their own rating, using this guide, or an on-line rating tool. Without a certificate or evidence in the form of a self-rating and the records needed to support the self-rating, 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 Statement 004).

Exempted micro-enterprises automatically enjoy a BEE Procurement Recognition Level 4, which increases to Level 2 if they have over 50% black ownership, Level 1 if they are 100% black owned. 51% and 100% black owned QSE enjoy the automatic and enhanced B-BBEE ratings as EME. These suppliers must however submit proof that they qualify as exempt. They should supply a CIPC certificate or affidavit confirming their annual revenue and black ownership status (see page 8 for details).

Rules for Total Measurable Procurement Spend

Measurable spend	Excluded
Public sector procurement: All goods and services procured from public entities, except those on right	Schedule 1 organs of state and public entities (do not generally sell services) All Public entities that have 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.	Taxes and levies, including VAT
Imported goods and services or components for value added production except those on right	Imported capital goods for value added production in SA that cannot be locally sourced
All capital expenditure incurred (cost of loans)	Investment or loans in an associated enterprise
B BBEE 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	Salaries and benefits paid to employees
Contributions made to employee pension funds or provident funds	Directors payments

Supplier & Enterprise Development scoring method and rules

Step 1: Identify and quantify qualifying supplier or Enterprise Development contributions (see below for an overview of qualification rules, see Amended FSC400 for details) and sector specific programmes.

Step 2: Calculate total contributions using the Benefit Factor Matrix (Amended FSC Annex 400 B).

Step 3: Work out SD/ED contributions as a percentage of your net after-tax profit

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

$\text{Points scored} = \text{total possible points} \times \text{actual percentage} / \text{target percentage}$

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 4.10 and 4.11

Note that scoring for Growers and Sawmilling sub-sectors differs to that for the rest of the sector. Three points have been deducted from indicator 4.9 and allocated to these 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 supplying timber to black owned processors.

Element 5: Socio-Economic Development

Counts 5 + 3 bonus points for LME, 5 for QSE

Socio-Economic Development Scorecard (MLE) Statement 500

Total possible points: 5 plus 3 bonus points

Indicator description	Weighting Points	Compliance target	Your score
Annual value of all Qualifying Socio-Economic Contributions by the Measured Entity as a percentage of the Target	5	1% of NPAT	
Bonus Points			
Bonus points for Sector Specific Contributions or Qualifying Socio-Economic Contributions in excess of the 1% Target in indicator 2.4.1	3	0.75% of NPAT	

Socio-Economic Development Scorecard (QSE) Statement 605

Total possible points: 5

Indicator description	Weighting Points	Compliance target	Your score
Annual value of all Qualifying Socio-Economic Contributions by the Measured Entity as a percentage of the Target	5	1% of 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 (Annexe FSC500 A) 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



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