



"Creating BUSINESS sense out of BEE"

The Information and Communication Technology (ICT) Sector B-BBEE code

The minister of trade and industry (Rob Davies) gazetted the ICT Code in June 2012 (gazette number 35423). Paragraph 3.1.1 of code 000 states that "*This Sector CODE applies to all persons, organisations and entities operating in the ICT Sector in South Africa*". The code is applicable until April 2026.

The ICT code deviates from the DTI's generic codes in a few areas but the most significant area is that of ownership. Here the target has been raised to 30% (in order to "*accelerate the pace of transformation in the sector*"). Other than that the code largely regurgitates the DTI's codes of good practice.

- **Exempt Micro Enterprises (EMEs)** – enterprises whose annual turnover falls below R5 million per year. These enterprises are exempt from any form of B-BBEE and are automatically level 4 contributors. 50% black owned EMEs are automatic level 3 contributors.
- **Qualifying Small Enterprises (QSEs)** – enterprises whose annual turnover falls between R5 million and R35 million.
- **Start-up Enterprises** – a recently formed or incorporated enterprise that has existed for less than one year. These enterprises are measured as EMEs for the first year following their formation or incorporation.
- **ARFG** - adjusted recognition for gender

Weightings under the ICT Code are somewhat different to the DTI's generic codes of good practice.

Contribution Level	Weighting (excl bonus points)
Ownership	20
Management	10
Employment Equity	10
Skills Development	17
Preferential Procurement	20
Enterprise Development	11
Socio-economic Development Initiatives	12
TOTAL	100

Contributors are measured using the table below.

Contribution Level	BBBEE score range	Recognition level
Level One Contributor	100 points	R1.35/R1 spent
Level Two Contributor	85 points but < 100 points	R1.25/R1 spent
Level Three Contributor	75 points but < 85 points	R1.10/R1 spent
Level Four Contributor	65 points but < 75 points	R1/R1 spent
Level Five Contributor	55 points but < 65 points	R0.80/R1 spent
Level Six Contributor	45 points but < 55 points	R0.60/R1 spent
Level Seven Contributor	40 points but < 45 points	R0.50/R1 spent
Level Eight Contributor	30 points but < 40 points	R0.10/R1 spent
Non-Compliant Contributor	< 30 points	R0/R1 spent

Generic BBEE scorecard (turnover more than R35million)

Equity element – Generic Scorecard

Ownership. Total points - 23 (including 3 bonus points)		
Description	Weighting points	Compliance Target
Voting rights		
Exercisable voting rights in the enterprise in the hands of black people.	3	30%
Exercisable voting rights in the enterprise in the hands of black women.	2	10%
Economic interest		
Economic interest in the enterprise to which black people are entitled	4	30%
Economic interest in the enterprise to which black women are entitled	2	10%
Economic interest of the following black natural people in the enterprise <ul style="list-style-type: none"> o black designated groups o black participants in employee ownership schemes o black beneficiaries of broad-based ownership schemes; or o black participants in co-operatives are entitled	1	2.5%
Realisation points		
Ownership fulfilment	1	No restrictions
Net value	7	30%
Bonus points		
Involvement in the ownership of the Enterprise of black new entrants	2	10%
Involvement in the ownership of the enterprise of black participants <ul style="list-style-type: none"> o in employee ownership schemes o broad-based ownership schemes; or o co-operatives 	1	10%

Note:

If the rand value of the total BEE stake is in excess of R7.5billion, the company will be considered to be compliant with the equity target in the scorecard.

This requirement only applies to voting rights and economic interest for black people. The calculation of black women voting rights and economic is done on the actual percentage.

Management element – Generic Scorecard

Management Control. Total points –11 (including 1 bonus point)		
Description	Weighting points	Compliance Target
Board participation		
Exercisable voting rights of black board members using the adjusted recognition for gender (ARFG)	3	50%
Black executive directors using the adjusted recognition for gender (ARFG)	2	50%
Top management participation		
Black senior top management using the adjusted recognition for gender (ARFG)	3	40%
Black other top management using the adjusted recognition for gender (ARFG)	2	40%
Bonus points		
Black independent non-executive board members	1	40%

Employment Equity – Generic Scorecard

Employment Equity. Total points – 13 (including 3 bonus points)		
Description	Weighting points	Compliance Target (Years 6-10)
Black disabled employees as a percentage of <u>ALL</u> employees using the ARFG	1	3%
Black employees in <i>senior management</i> as a percentage of all such employees using the ARFG	4	60%
Black employees in <i>middle management</i> as a percentage of all such employees using the ARFG	3	75%
Black employees in <i>junior management</i> as a percentage of all such employees using the ARFG	2	80%
Bonus Point for meeting or exceeding the Economically Active Population (EAP) targets in each category above	3	

Skills Development – Generic Scorecard

Skills Development. Total points – 17		
Description	Weighting points	Compliance Target
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix		
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees as a percentage of leviable amount using the ARFG	7	3% ¹
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees with disabilities as a percentage of leviable amount using the ARFG	3	0.3%
Learnerships		
Number of black employees participating in learnerships, or category B, C and D programmes as a percentage of total employees using the ARFG	7	5%

¹ This figure is 3 times the annual Skills Development Levy (SDL)

Preferential Procurement – Generic Scorecard

Preferential Procurement. Total points – 26 (including 6 bonus points)		
Description	Weighting points	Compliance Target (Years 6-10)
B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	12	70%
B-BBEE procurement spend from all <i>Qualifying Small Enterprises</i> (QSEs) or from <i>Exempted Micro-Enterprises</i> (EMEs) based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	3	15%
B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: <ul style="list-style-type: none"> • suppliers that are <i>50% black owned</i> (BO) - 3 out of 5 points; or • suppliers that are <i>30 % black women owned</i> (BWO) - 2 out of 5 points 	5	20%
BONUS POINTS		
Publish and implement favourable payment terms for black-owned, black-empowered and black engendered SMMEs of less than or equal to 15 days	3	
Bonus points allocated up to a maximum of 2 points for B-BBEE spend from BO or BWO enterprises (above) that include people with disabilities who have minimum of 5% equity participation	2	
A bonus point shall be awarded for every 5% of the 70% target spent with BWO and BO entities ²	1	

² This is most certainly a mistake. The 70% target is for all companies based on their BEE score (12 points).

Enterprise Development – Generic Scorecard

Enterprise Development. Total points – 11		
Description	Weighting points	Compliance Target
Average annual value of all Enterprise Development contributions and Sector Specific Programmes as a percentage of the target	11	5 % of NPAT ³

Note:

The code lists a wide variety of activities that could be regarded as ED initiatives, but it does seem to limit contributions as:⁴

Enterprise Development Contributions consist of support and fostering of new and existing black-owned, black-empowered and black-engendered SMME's through the following initiatives:

- *Using incubation with the assistance of institutions of higher learning in order to develop sustainable enterprises in the sector;*
- *Introducing formal and informal entrepreneurship programmes particularly using available resources in order to support education campaigns;*
- *Providing skills development, training and men to ring in order to develop management skills through partnerships and skills transfer.*

It's not clear as to whether this is a limitation.

³ This target is greater than the standard 3% of NPAT which the DTI's generic codes prescribe. Also the points' value is lower than the standard 15 points.

⁴ Paragraph 3.2.6

Socio-Economic Development – Generic Scorecard

Socio-Economic Development. Total points – 12		
Description	Weighting points	Compliance Target)
Average annual value of all Socio-Economic Development contributions as a percentage of the target	12	1.5% of NPAT

Note:

There appears to be a greater emphasis on ICT education, as per paragraph 2.5

The ICT sector recognizes that bridging the digital divide requires enterprises to undertake certain obligations in terms of access to ICTs so as to improve the lives of the people. Such programmes could be in the form of providing ICT's in education, health and programmes aimed at enhancing the lives of black communities or people. Consideration will also be (given?)⁵ to enterprises operating within the regulated sub-sector, to the existing license obligations placed on these enterprises.

⁵ Sic

Specialised Enterprises B-BBEE scorecard

Code 000, statement 004 states that the following organisations have been deemed as being incapable of any form of black ownership.

- companies limited by guarantee;
- Higher Education Institutions;
- Non-profit Organisations;
- public entities and other Enterprises wholly owned by organs of state;
- Public Benefit Schemes; and
- section 21 companies:

These entities have been provided with a specialised scorecard that eliminates ownership. The weighting points certain elements have been adjusted to make up a scorecard of 100 points. The statement is not clear as to how to reallocate points within each element, we have made assumptions in this regard.

<i>Element</i>	<i>Generic weighting points</i>	<i>Specialised Enterprise weighting points</i>
Ownership	20	Exempt
Management	10	15
Employment Equity	10	10
Skills development	17	22
Preferential Procurement	20	20
Enterprise Development	11	11
Socio-Economic Development	12	22
Total	100	100

Management element – specialised enterprises scorecard

Management Control. Total points –16 (including 1 bonus point)		
Description	Weighting points	Compliance Target
Board participation		
Exercisable voting rights of black board members using the adjusted recognition for gender (ARFG)	4.5	50%
Black executive directors using the adjusted recognition for gender (ARFG)	3	50%
Top management participation		
Black senior top management using the adjusted recognition for gender (ARFG)	4.5	40%
Black other top management using the adjusted recognition for gender (ARFG)	3	40%
Bonus points		
Black independent non-executive board members	1	40%

Employment Equity – specialised enterprises scorecard

Employment Equity. Total points – 13 (including 3 bonus points)		
Description	Weighting points	Compliance Target (Years 6-10)
Black disabled employees as a percentage of <u>ALL</u> employees using the ARFG	1	3%
Black employees in <i>senior management</i> as a percentage of all such employees using the ARFG	4	60%
Black employees in <i>middle management</i> as a percentage of all such employees using the ARFG	3	75%
Black employees in <i>junior management</i> as a percentage of all such employees using the ARFG	2	80%
Bonus Point for meeting or exceeding the Economically Active Population (EAP) targets in each category above	3	

Skills Development – specialised enterprises scorecard

Skills Development. Total points – 22		
Description	Weighting points	Compliance Target
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix		
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees as a percentage of leviable amount using the ARFG	9	3%
Skills development expenditure on learning programmes specified in the Learning Programmes Matrix for black employees with disabilities as a percentage of leviable amount using the ARFG	4	0.3%
Learnerships		
Number of black employees participating in learnerships, or category B, C and D programmes as a percentage of total employees using the ARFG	9	5%

Preferential Procurement – specialised enterprises scorecard

Preferential Procurement. Total points – 26 (including 6 bonus points)		
Description	Weighting points	Compliance Target (Years 6-10)
B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	12	70%
B-BBEE procurement spend from all <i>Qualifying Small Enterprises</i> (QSEs) or from <i>Exempted Micro-Enterprises</i> (EMEs) based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	3	15%
B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: <ul style="list-style-type: none"> suppliers that are <i>50% black owned</i> (BO) - 3 out of 5 points; or suppliers that are <i>30 % black women owned</i> (BWO) - 2 out of 5 points 	5	20%
BONUS POINTS		
Publish and implement favourable payment terms for black-owned, black-empowered and black engendered SMMEs of less than or equal to 15 days	3	
Bonus points allocated up to a maximum of 2 points for B-BBEE spend from BO or BWO enterprises (above) that include people with disabilities who have minimum of 5% equity participation	2	
A bonus point shall be awarded for every 5% of the 70% target spent with BWO and BO entities ⁶	1	

⁶ This is most certainly a mistake. The 70% target is for all companies based on their BEE score (12 points).

Enterprise Development – specialised enterprises scorecard

Enterprise Development. Total points – 11		
Description	Weighting points	Compliance Target
Average annual value of all Enterprise Development contributions and Sector Specific Programmes as a percentage of the target	11	5 % of NPAT ⁷

Note:

The code lists a wide variety of activities that could be regarded as ED initiatives, but it does seem to limit contributions as:⁸

Enterprise Development Contributions consist of support and fostering of new and existing black-owned, black-empowered and black-engendered SMME's through the following initiatives:

- *Using incubation with the assistance of institutions of higher learning in order to develop sustainable enterprises in the sector;*
- *Introducing formal and informal entrepreneurship programmes particularly using available resources in order to support education campaigns;*
- *Providing skills development, training and men to ring in order to develop management skills through partnerships and skills transfer.*

It's not clear as to whether this is a limitation.

⁷ This target is greater than the standard 3% of NPAT which the DTI's generic codes prescribe. Also the points' value is lower than the standard 15 points.

⁸ Paragraph 3.2.6

Socio-Economic Development – specialised enterprises scorecard

Socio-Economic Development. Total points – 22		
Description	Weighting points	Compliance Target)
Average annual value of all Socio-Economic Development contributions as a percentage of the target	22	1.5% of NPAT

Note:

There appears to be a greater emphasis on ICT education as per paragraph 2.5

The ICT sector recognizes that bridging the digital divide requires enterprises to undertake certain obligations in terms of access to ICTs so as to improve the lives of the people. Such programmes could be in the form of providing ICT's in education, health and programmes aimed at enhancing the lives of black communities or people. Consideration will also be (given?)⁹ to enterprises operating within the regulated sub-sector, to the existing license obligations placed on these enterprises.

⁹ Sic

Qualifying Small Enterprises - ICT Code

QSEs turnover between R5million and R35million. The QSE scorecard is made up of the same seven elements as the generic scorecard. Each element is weighted out of 25 points (bonus points are provided in certain elements). QSEs may choose four out of the seven elements on the scorecard (making a total of 100 points). If a QSE selects more than four elements, the best four will be selected.

Specialised enterprises whose annual turnover falls below R35million also make use of the QSE scorecard. Each element is weighted out of 25 points and the ownership element is eliminated. QSE specialised enterprises must select four out of the remaining six elements.

Equity element – QSE Scorecard

Ownership. Total points - 28 (including bonus points)		
Description	Weighting points	Compliance Target
Voting rights		
Exercisable voting rights in the enterprise in the hands of black people.	6	30%
Economic interest		
Economic interest of black people in the enterprise	9	30%
Realisation points		
Ownership fulfilment	1	Yes
Net value	9	30%
Bonus points		
Involvement in the ownership of the enterprise by black women	2	10%
Involvement of black participants <ul style="list-style-type: none"> o in employee ownership schemes o in co-operatives; or o broad-based ownership schemes 	1	10%

Management element – QSE Scorecard

Management Control. Total points – 27 (including 2 bonus points)		
Description	Weighting points	Compliance Target
Black representation at <i>top management</i> level	25	50.1%
Bonus points		
Bonus points: black women representation at <i>top management</i>	2	25%

Employment Equity – QSE Scorecard

Employment Equity. Total points – 27 (including 2 bonus points)		
Description	Weighting points	Compliance Target (Years 6-10)
Black employees who are management as a percentage of all management using the ARFG	15	60%
Black employees as a percentage of all employees using the ARFG	10	70%
Bonus Point for meeting or exceeding the Economically Active Population (EAP) targets in each category above	2	

Skills Development – QSE Scorecard

Skills Development. Total points – 25		
Description	Weighting points	Compliance Target
Adjusted skills development spend on learning programmes for black employees as a percentage of leviabile amount	25	2%

Preferential Procurement – QSE Scorecard

Preferential Procurement. Total points – 25		
Description	Weighting points	Compliance Target (Years 6-10)
BEE procurement spend from all suppliers based on the BEE procurement recognition levels as a percentage of total measured procurement spend	25	50%

Enterprise Development – QSE Scorecard

Enterprise Development. Total points – 25		
Description	Weighting points	Compliance Target
Average annual value of all qualifying contributions as a percentage of the target	25	2% of NPAT

Socio-Economic Development – QSE Scorecard

Socio-Economic Development. Total points – 25		
Description	Weighting points	Compliance Target
Average annual value of all Socio-Economic Development contributions as a percentage of the target	25	1.5% of NPAT

Contact Caird

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