



**REPABOLIKI YA AFERIKA BORWA**

**REPUBLIEK VAN SUID AFRIKA**

# **BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT**

## **Section 9(1): Codes of Good Practice**

It is hereby notified that the Minister of Trade and Industry intends gazetting the following Code of Good Practice under section 9(1) of the Broad-Based Black Economic Empowerment Act 53 of 2003 in due course. This document is published for general information.

**CODE 000: FRAMEWORK FOR THE MEASUREMENT OF BROAD BASED BLACK  
ECONOMIC EMPOWERMENT**

**STATEMENT 020: THE APPROVAL, ACCREDITATION AND REGULATION OF BEE  
VERIFICATION AGENCIES**

Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003

**Arrangement of this Statement**

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**1 DEFINITIONS**

In this statement, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

1.1 **"Accreditation Body"** means:

1.1.1 the South African National Accreditation System, a company registered under section 21 of the Companies Act of 1973 and affiliated to the Department of Trade and Industry; or

1.1.2 any other body authorised by the Minister to undertake accreditation of Verification Agencies;

1.2 **"BEE Status"** has the meaning assigned in Code 000 Statement 000;

1.3 **"BEE"** means black economic empowerment;

1.4 **"Enterprise"** has the meaning assigned in Code 100 Statement 100;

1.5 **"Industry Body"** means a private sector based Verification Agency recognised by the

Minister in accordance with paragraph 6.2 of this statement;

- 1.6 **"Qualifying Small Enterprise"** means an Enterprise that qualifies for measurement under the Qualifying Small Enterprise scorecard, in accordance with Statement 1000;
- 1.7 **"Superior Contributor to BEE"** is a Level One to Level Four Contributor to BEE as defined in Code 000 Statement 000;
- 1.8 **"the Act"** means the Broad-Based Black Economic Empowerment Act of 2003;
- 1.9 **"the Codes"** means all Codes of Good Practice issued in terms of section 9 of the Act, and includes this statement;
- 1.10 **"Verification Agency"** means a BEE Verification Agency accredited in terms of this statement;
- 1.11 **"Verification Certificate"** means a BEE certificate issued by a Verification Agency in compliance with the Codes; and
- 1.12 **"Verification Standards"** means:
  - 1.12.1 the minimum standards required from Verification Agencies to be accredited; and
  - 1.12.2 the Verification Standards gazetted by the Minister from time to time.

## **2 INTERPRETATION OF THIS STATEMENT**

This statement must be interpreted in a manner that is consistent with the objectives of the Act and those set forth in paragraph 4.

## **3 APPLICATION OF THIS STATEMENT**

This statement applies to:

- 3.1 all organs of state and public entities exercising powers in terms of section 10 of the Act;
- 3.2 all applicants seeking to be accredited as a Verification Agency; and
- 3.3 any person seeking to exercise any right under this statement.

## **4 OBJECTIVES OF THIS STATEMENT**

The objectives of this statement are to:

- 4.1 specify Verification Standards;
- 4.2 specify the accreditation requirements for Verification Agencies and the associated processes;

- 4.3 provide information and specify the nature and types of Verification Certificates;
- 4.4 provide duties of the Industry Body;
- 4.5 specify requirements for Verification Agencies; and
- 4.6 specify terms and withdrawal of Accredited Status.

## **5 VERIFICATION STANDARDS AND CERTIFICATES**

- 5.1 The Minister, through the Accreditation Body, must ensure the development and implementation of Verification Standards in consultation with the Industry Body.
- 5.2 There are two categories of Verification Certificate:
  - 5.2.1 a Broad-Based Verification Certificate based upon a balanced BEE scorecard provided for in the Codes; and
  - 5.2.2 a Narrow-Based Verification Certificate based upon the requirements applicable during the Transitional Period referred to in Code 000 Statement 000.
- 5.3 A Verification Certificate:
  - 5.3.1 must record the individual Element score, where applicable, and overall BEE Status of an Enterprise and other relevant information regarding the identity of the measured Enterprise; and
  - 5.3.2 is valid for a period of 12 months from its date of issue.
- 5.4 The Minister must establish a publicly accessible central database containing the information underlying each Verification Certificate.
- 5.5 All Verification Certificates must comply with the requirements set out in the Verification Standards.
- 5.6 The Minister, together with the Accreditation Body, must implement such mechanisms as may be necessary to ensure that Verification Certificates are accurate and reliable.

## **6 INDUSTRY BODIES**

The Minister may recognize an entity as an Industry Body if that entity:

- 6.1 allows for participation by persons who represent:
  - 6.1.1 the Minister; and
  - 6.1.2 the Accreditation Body; and
- 6.2 promotes the development and maintenance of high quality and reliable BEE

verification services through:

- 6.2.1 continuing professional education and training;
- 6.2.2 the recommendation of best practice business process methodologies;
- 6.2.3 the promotion of an industry code of conduct;
- 6.2.4 the implementation of effective industry-wide complaints processing and professional conduct disciplinary mechanisms;
- 6.2.5 continuing engagement on an industry-wide basis around the implementation and ongoing development of the Verification Standards; and
- 6.2.6 constructive ongoing interaction with government.

## **7 ACCREDITATION OF VERIFICATION AGENCIES**

- 7.1 In order to obtain accreditation as a Verification Agency, a person or entity must
  - 7.1.1 apply in writing to the Minister; and
  - 7.1.2 provide evidence of compliance with the requirements of this statement.
- 7.2 Upon receiving an application contemplated in paragraph 7.1.2, the Minister must:
  - 7.2.1 accredit the applicant as a Verification Agency if the applicant has complied with the requirements of this statement and has been accredited by the Accreditation Body; or
  - 7.2.2 otherwise refuse to accredit the applicant if the applicant has not complied with the requirements of this statement and has not been accredited by the Accreditation Body;
- 7.3 If the Minister grants an application as contemplated in paragraph 7.2.1, the Minister must:
  - 7.3.1 confirm that decision in writing as soon as is practicable; and
  - 7.3.2 provide the agency with an Accreditation Certificate.
- 7.4 If the Minister refuses to grant accreditation as contemplated in paragraph 7.2.2, the Minister must notify the applicant of the decision in writing within two months of the decision.
- 7.5 To qualify for accreditation as a Verification Agency, an applicant must:
  - 7.5.1 be a Superior Contributor to BEE;

- 7.5.2 be a member of an Industry Body;
  - 7.5.3 ensure that its personnel are sufficiently qualified and competent to undertake the preparation of Verification Certificates;
  - 7.5.4 ensure that it complies with the Verification Standards;
  - 7.5.5 have implemented sufficiently robust internal controls:
    - 7.5.5.1 to ensure that it operates on an independent and impartial basis;
    - 7.5.5.2 to identify and manage potential conflicts of interest; and
    - 7.5.5.3 to protect the confidential and proprietary information of its clients;
  - 7.5.6 ensure that none of its personnel involved in preparing a Verification Certificate for any client has provided any other services to that client for a period of at least 24 months preceding the date upon which such Verification Certificate is issued;
  - 7.5.7 maintain appropriate levels of professional indemnity and other applicable insurance;
  - 7.5.8 have implemented a standard form of verification agreement for use with its clients that meets the minimum requirements set out in the Verification Standards;
  - 7.5.9 demonstrate that it has substantial operational capacity to undertake the provision of Verification Certificates without undue reliance on any other Enterprise in relation to the subject matter of this statement;
  - 7.5.10 provide the Minister with the required statistical information concerning the progress of BEE compliance efforts of clients in accordance with the Verification Standards;
  - 7.5.11 apply to the Minister provided it meets the requirements set out in this statement; and
  - 7.5.12 may provide verification services to Qualifying Small Enterprises on a low or no cost basis, and then claim recognition for such initiatives as a contribution towards the enterprise development element of its Generic Scorecard under Code 600.
  - 7.6 Nothing in this statement precludes any Enterprise, organ of state or public entity from applying for accreditation as a Verification Agency as contemplated in this paragraph
7. Organs of state and public entities as well as private sector Enterprises undertaking significant volumes of procurement are strongly encouraged to seek accreditation.

## **8 TERM AND WITHDRAWAL OF ACCREDITED STATUS**

- 8.1 Accreditation as a Verification Agency is for an indefinite period, subject to paragraphs 8.3 to 8.6.
- 8.2 The Minister may reconsider accreditation of a Verification Agency at any time:
- 8.2.1 for good cause; or
  - 8.2.2 if there appears to be a substantial and material discrepancy in the accuracy or reliability being identified in terms of paragraph 7.5.4.
- 8.3 Once a year, or more frequently as the need arises and for good cause, the Minister may require a Verification Agency, at its own cost, to undergo an audit of its compliance with the requirements of paragraph 7 to be undertaken by qualified persons nominated by the Minister.
- 8.4 An accredited Verification Agency must report to the Minister and the Accreditation Body any material change in its compliance with the requirements of paragraph 7.
- 8.5 The Minister may revoke a Verification Body's accreditation:
- 8.5.1 for good cause, on the recommendation from the Accreditation Body after considering a report contemplated in paragraph 8.3; or
  - 8.5.2 for good cause, on the recommendation from the relevant Industry Body after considering a report contemplated in paragraph 8.3; or
  - 8.5.3 if the Verification Agency has failed to comply with the provisions of this statement.
- 8.6 When all remedies provided by the Industry Body have been exhausted, a person or Enterprise may lodge a written complaint with the Minister with respect to:
- 8.6.1 the conduct of an Accredited Verification Agency; or
  - 8.6.2 the content of an issued Verification Certificate,
- 8.7 Such complaints to the Minister as contemplated in paragraph 8.6 must set out clearly the facts on which the complaint is based.