

What is an Automatic or Enhanced Recognition Level for the 'Built Environment Professional'?



Professional entities within the Construction industry often pose questions about the inner workings and/or calculations for 'Built Environment Professionals' (BEPs) within the Construction Sector and, specifically, how it applies in terms of Broad-Based Black Economic Empowerment (B-BBEE).

In December 2017, the Construction Sector Codes (CSC) were published. Within the CSC, there are sub-sectors, namely:

- Contractors
- Built Environment Professionals
- Construction material suppliers.

In a previous blog, we discussed the 2017 Codes and the *'Impact of the new Construction Sector Codes on QSEs and EMEs'*. The purpose of this blog is to provide some clarification in respect of Built Environment Professionals or BEP's.

What are the sub-sectors for the Construction industry?

For ease of understanding, let's look at the definitions for the sub-sectors as defined below:

- **Contractors** – enterprises that conduct construction project activities, which include civil engineering, electrical engineering, power transmission, general building and specialist construction works as per the CIBD grading tables.
- **Built Environment Professional (BEP)** – enterprises that conduct activities such as the planning, design and costing of construction projects in the built environment, as well as project management and design of a construction value chain, including environment, energy, industrial, property, transport and infrastructure. Enterprises typically classified as BEPs include, but are not limited to, consulting engineering practitioners, architects, quantity surveyors and town planners.
- **Construction material suppliers** – enterprises that conduct activities such as the manufacture, creation or supply of building materials and equipment used in construction, for example cement, concrete, bricks, electrical equipment, and steel. It also includes enterprises that provide plant hire services for construction-related activities.

Each of the above categories will then have their own targets and B-BBEE scorecards to follow; however, for the purpose of this blog, we focus only on the Enhanced Recognition Level or often referred to as "Automatic Recognition Level (ARL)" requirements for **Built Environment Professionals** (BEPs).

What are the Built Environment Professionals' thresholds?

The thresholds for BEPs are as follows:

- Exempted Micro Enterprises (EMEs) – turnover below R6 million;
- Qualifying Small Enterprise (QSEs) – turnover between R6 million – R25 million;
- Generic entities – turnover greater than R25 million.

A BEP with a turnover of less than R1,8 million may use a DTI affidavit or CIPC certificate only and does not have to obtain a SANAS certificate. This means that they will not be subjected to the discounting principle in respect of the Skills Development element to be adhered to. If a SANAS certificate had been obtained previously to make use of enhancement, these entities will not be allowed to make use of an affidavit in upcoming years, irrespective of their turnover, and will also be required to obtain a SANAS certificate.

A BEP with a turnover below R25 million may make use of ARLs if their Black Ownership allows for it.

What are the Automatic Recognition Levels?

EMEs with a turnover below R1,8 million

- | | | |
|----------------------------------|---|----------------|
| ◦ 100% black owned | - | Level 1 B-BBEE |
| ◦ 51% black owned | - | Level 2 B-BBEE |
| ◦ At least 30% but less than 51% | - | Level 3 B-BBEE |
| ◦ >30% black owned | - | Level 5 B-BBEE |

QSEs with a turnover below R25 million

- | | | |
|--------------------|---|----------------|
| ◦ 100% black owned | - | Level 1 B-BBEE |
| ◦ 51% black owned | - | Level 2 B-BBEE |

Any EME/QSE that does not have the abovementioned Black Ownership percentages, will be required to complete a full scorecard as is the case with Generic Companies.

What are the additional requirements for BEPs?

For BEPs there are extra requirements when it comes to their Ownership. These are as follows:

- More than 50% of the total ownership held in a Measured Entity as a BEP must be held by individuals who are–
- professionally registered with any of the statutory professional councils in the BEP environment in South Africa, and at the same time,
- members of the Executive Management of the measured entity.

Therefore, when measuring the black ownership of any BEP, where the measured entity does not meet the above requirements, only 50% of the black ownership of such owners may be included in the total measurement of black ownership in the measured entity.

To avoid any doubt, 'Executive Management' in this context is defined as 'Top Management' in terms of the *Employment Equity Regulations* and includes the 'Executive Directors' and 'Other Executive Management' of the Measured Entity.

For entities that want to incorporate collective groups, such as employee programmes, as part of their ownership component, such programmes will not be able to hold more than 49% due to the Executive Management requirement of at least 50%.

The Construction Sector Charter Council professional registration

The Construction Sector Charter Council has issued a list of what will be allowed for purposes of professional registration.

The main councils listed are as follows:

- Architects** – South African Council for the Architectural Profession (SACAP)
- Engineers** – Engineering Council of South Africa
- Quantity Surveyors** – South African Council for the Quantity Surveying Profession (SACQSP)
- Landscape Architects** – South African Council for the Landscape Architectural Profession (SACLAP)
- Project and Construction Managers** – South African Council for the Project and Construction Management Professions (SACPCMP)
- Property Valuers** – South African Council for the Property Valuers Profession (SACPVP).

In conclusion

The primary element of any Construction ARL verification is ownership. The ownership element forms the basis of your BEE status; thereafter the measured entity will be enhanced or discounted.

Should the measured entity not comply with the additional ownership requirements set out for BEP companies, they will only be able to claim 50% of their Ownership. This will mean, for instance, that a QSE with 51% Black Ownership will only be awarded 25,5% Black Ownership. This, in turn, will mean that they no longer qualify for ARLs and will receive either a non-compliant certificate or will have to do a full scorecard verification.

*SERR Synergy, in association with various SANAS-accredited agencies, provides a complete range of **B-BBEE Verification Services**. We have developed a sound and comprehensive verification methodology in order to simplify and rationalise the BEE audit process.*

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