



---

## THE BEE REALITY

Broad-Based Black Economic Empowerment (B-BBEE or BEE) is a reality and a business imperative.

With the implementation of the amended BEE Codes, BEE has entered a new phase of diversity, requirements, dimensions and facets and is not limited to ownership and management considerations as some individuals may believe.

Companies that have failed until now to react need to do so very soon or face the gloomy prospect of not being in business within a relatively short period of time.

### **DO YOU KNOW YOUR A-Z OF BEE LEGISLATION?**


You don't have to become a BEE expert. The challenge in understanding the complexity of the

how, who, when and what of BEE is the main cause of concern and perceived risk for many owners of large corporates, family businesses, small and medium-sized businesses and professional practitioners.

We at **SERR SYNERGY** are proud of our qualified team of legal professionals and their collective expertise and skills that will ensure that your business is aligned to BEE legislation and best practice while you focus on your core business.

Being one of the most significant pieces of legislation impacting South African businesses today, we understand that companies need to take transformation far more seriously and do more to implement unique BEE strategies in their businesses.

**As industry leaders our variety of ownership solutions differentiates us from the rest.**



*A service to many leads to greatness*

## **THE AMENDED CODES OF GOOD PRACTICE**

The amended Codes of Good Practice are far reaching and BEE impacts, in one form or another, almost every participant in the South African economy. *More than 84% of all registered businesses in South Africa are family businesses.*

The emphasis in the amended Codes on ownership, particularly the 51% black ownership criteria, has a significant influence on the future competitiveness of family businesses in South Africa.

## **THE CURRENT BEE ELEMENTS**

- 1. Ownership:** measures black ownership of the entity.
- 2. Management:** measures participation of black people in the Board and management control structure.
- 3. Skills Development:** measures skills development spend on black employees and unemployed

individuals, as well learnerships, apprenticeships/ internships and SETA-accredited training programmes.

- 4. Enterprise and Supplier Development:** measures procurement spend from empowering suppliers, together with Supplier Development and Enterprise Development contributions to beneficiary entities that are at least 51% black owned, in respect of their development, sustainability, financial and operational liberation.

- 5. Socio-Economic Development:** measures contributions for socio-economic development.  
*\*Please note that these comprised seven elements on the old BEE scorecard.*

In the amended Codes there is greater emphasis on majority black ownership, particularly in relation to the sub-element of Procurement



as well as Enterprise and Supplier Development. There is a retrospective shift in direction towards ownership, which now comprises 57% of the scorecard points.

### IMPACT ON BUSINESS CATEGORIES

The amended Codes of Good Practice are far reaching and BEE impacts, in one form or another, almost every participant in the South African economy.

#### EXEMPT MICRO ENTERPRISES (EME)

- An entity with an annual turnover of R10 million or below automatically achieves a Level 4 (100%) contributor status.
- Enhanced recognition of Level 1 (135%) if 100% black owned or Level 2 (125%) if 51% or more black owned.


#### QUALIFYING SMALL ENTERPRISE (QSE)

- An entity with an annual turnover of between R10 and R50 million will need to score on all 5 elements.
- Enhanced recognition of Level 1 (135%) if 100% black owned or Level 2 (125%) if 51% or more black owned.

#### GENERIC ENTERPRISES

- An entity with an annual turnover of above R50 million will be scored on all 5 elements.

**\* Please note:** The above turnover limits are only applicable to general sector codes. Your SERR SYNERGY consultant will discuss turnover cut-off points for your relevant industry sector code.



*A service to many leads to greatness*

## **WHY CHOOSE SERR SYNERGY AS YOUR BEE SERVICE PROVIDER?**

Our leadership team has been involved with B-BEEE in South Africa since 2004.

Our comprehensive BEE services include tailor-made solutions that meet existing BEE challenges by implementing effective and value-adding strategies.

We follow a systematic approach to BEE by categorising our services into several phases:

### **FIRST PHASE**

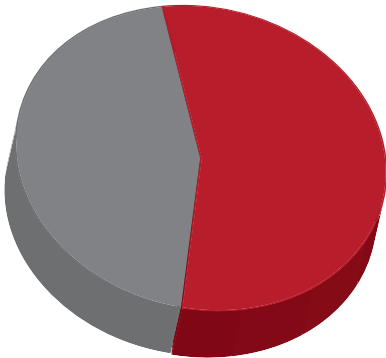
- Gathering of customer information
- Preliminary BEE assessment
- Preparation for BEE verification
- Drafting of a provisional BEE strategy to enhance BEE levels for our customer

### **SECOND PHASE**

- Verification by an accredited verification agent when required
- Managing all aspects of the verification process
- Dealing with all queries pertaining to the verification process
- Acceptance of a final BEE strategy from our customer
- If more than one BEE certificate is required additional verification fees will be incurred
- EME categories only - will exclude all cost relating to legal representation and restructuring.

### **THIRD PHASE**


- Implementation of the BEE Strategy and provision of mandates, with feedback and evaluation reports to our client on a regular basis



### Working of a BEE Trust

- Shareholding in the BEE Trust
- Existing shareholders

MEMORANDUM OF INCORPORATION	SHAREHOLDERS AGREEMENT	TRUST DEED
<ul style="list-style-type: none"> <li>• Comply with new Companies Act</li> <li>• Make provision for specific instances or special resolutions</li> <li>• Cater for outside shareholders</li> <li>• Protect existing directors / shareholders</li> </ul>	<ul style="list-style-type: none"> <li>• Economic interest</li> <li>• Voting rights</li> <li>• Pre-emptive rights</li> </ul>	<ul style="list-style-type: none"> <li>• Name trustees</li> <li>• Name beneficiaries</li> <li>• Determine benefits</li> </ul>



*A service to many leads to greatness*

## **OUR VALUE-ADDING BEE SERVICE**

**All services and legal work relating to the implementation of your customised BEE strategy are included in our fees.**

### **The following is included:**

- Issuing of an accredited BEE verification certificate by an accredited verification agent.
  - Developing of strategies and compiling of a strategic report to enhance BEE levels.
  - Setting up BEE ownership structures i.e. trusts, employee- or broad-based programmes, community beneficiaries, programmes etc.
  - All agreements relating to such structures, i.e. shareholder agreements, subscription agreements, etc.
  - All BEE joint venture, partnership and association agreements.
- All amendments in this regard as required by the Companies and Intellectual Property Commission of South Africa (CIPC).
    - All resolutions and special resolutions to give effect to the above.
    - Access to unique Empowerment Development structures for purposes of Enterprise, Supplier and Social Development.
  - Continuous professional consultation and advice.

**Legal representation at the BEE Commission in respect of any dispute or inquiry relating to any BEE aspect emerging as a result of work done by SERR SYNERGY as per your contractual agreement and conditions.**