

The BEE Answer

WHAT IS BEE?

BEE stands for Black Economic Empowerment and refers to the South African Government initiative of promoting economic transformation to enable Black people to participate meaningfully in the economy.

Importantly, Black people include Black, Indian, Coloured and now also Chinese people who are citizens of South Africa.

There exists a common misconception that BEE refers only to Black ownership and nothing else. This is wrong, as Government's approach is a broad-based one aimed at addressing not only aspects of ownership and management, but also other areas of transformation and empowerment such as employment equity; skills development; preferential procurement; enterprise development; and socio-economic development.

WHERE DOES IT COME FROM?

BEE has been established in terms of the Broad-Based Black Economic Empowerment Act of 2003, which Act requires Government to issue BEE Codes of Good Practice that regulate how businesses must become BEE compliant and demonstrate their compliance. These Codes of Good Practice, published in February 2007, provide a scorecard approach to determining BEE compliance by measuring compliance in relation to seven BEE scorecard elements.

In September 2008, the BEE Codes became broad-based requiring businesses to comply with the full BEE scorecard and obtain independent verification of their score as proof of their BEE compliance. This implies that a business, to be recognized as BEE compliant, must now obtain an independently verified BEE Certificate from a BEE verification agency.

Becoming BEE compliant can provide your business with a real competitive edge and business advantage

To find out more about how your business can become BEE compliant and receive BEE support and assistance, please contact the Phatshoane Henney BEE Support Centre at:

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WHAT DOES BEE MEAN FOR MY BUSINESS?

BEE is an economic reality and is here to stay with the BEE Codes applying to all South African businesses, irrespective of size, sector or ownership for at least the next 10 years. BEE is fast also becoming a requirement for doing business with businesses having a BEE Certificate potentially being favoured ahead of competitors that don't have a scorecard.

Each business that undertakes to become BEE compliant promotes BEE by also requiring its suppliers to participate and become BEE compliant, thereby creating a cascade effect whereby businesses are compelled to transform by their clients or risk losing their business.

Additionally, having a BEE scorecard is fast becoming a requirement in most sectors for businesses to obtain or renew licences, concessions, consents, permits or other regulatory approvals. If you don't have a BEE scorecard, irrespective of the score you may have achieved, you may not be able to obtain or renew any of these items.

Businesses obtaining work from government and public entities are increasingly coming under pressure to verify their BEE compliance through the production of a BEE scorecard. Reformation of public sector procurement procedures is underway and will align public tendering procedures with the BEE Codes requiring a BEE Certificate from tenderers and effectively ensuring that Government only deals with suppliers that are BEE compliant.

The higher the BEE Level of a business, the higher the BEE recognition level of that business for entities dealing with that business.

WHAT DOES IT MEAN TO BE 'BEE COMPLIANT'?

BEE compliance, is a wide concept indicating that a business has undertaken the process of obtaining a BEE scorecard and has achieved a score of more than 30 out of 100 points on the BEE scorecard.

The BEE Codes further attach levels of compliance to the points scored by a business on its BEE scorecard, with a higher level achieved for higher points scored and vice versa.

Importantly, the higher the BEE level of a business the higher the BEE recognition level of that business for entities dealing with that business.

Providing a BEE Certificate to your customers and suppliers also demonstrates your commitment to BEE.

However, BEE compliance is more than just 'the right thing to do' and can provide a business with a real competitive advantage over competitors in an environment that increasingly requires suppliers to produce BEE Certificates.

BEE Recognition levels

BEE level	Qualification points	BEE Recognition level
Level 1	≥ 100	135%
Level 2	≥ 85 < 100	125%
Level 3	≥ 75 < 85	110%
Level 4	≥ 65 < 75	100%
Level 5	≥ 55 < 65	80%
Level 6	≥ 45 < 55	60%
Level 7	≥ 40 < 45	50%
Level 8	≥ 30 < 40	10%
Non-compliance	< 30	0%

If company A procures services to the value of R100 from company B, a Level 5 contributor, company A will only be able to claim R80 BEE spend in relation to company B. However, if company B is a Level 3 contributor, company A would be able to claim R110 BEE spend in relation to company B, increasing the value of spending with company B due to its higher BEE level and assisting it in turn to achieve higher compliance points for preferential procurement.



HOW DO I DETERMINE MY BEE SCORE?

To determine your BEE score depends on the size of your business. The BEE Codes differentiate between 3 sizes and attach different requirements for achieving BEE compliance to each of the categories.

EXEMPT MICRO ENTERPRISES

The first category is Exempt Micro Enterprises (EME). These are entities with an annual turnover of less than R5 million. These entities need not be measured under a BEE scorecard and are automatically seen as Level 4 contributors. Obtaining a BEE certificate for an EME is thus a relatively simple process. EME entities may however choose to be measured if they believe they can obtain a higher BEE level by doing so.

QUALIFYING SMALL ENTERPRISES

The second category is Qualifying Small Enterprises (QSE). These are entities with an annual turnover above R5 million but less than R35 million. These entities are measured according to the QSE scorecard which allows the entity to choose to be measured against the best 4 of its 7 scorecard elements, allowing a QSE to choose not to be measured on three of the scorecard elements such as for example, the ownership, management and employment equity elements.

GENERIC ENTERPRISES

The third category is Generic Enterprises. These are entities with an annual turnover above R35 million and are measured according to the Generic scorecard which requires that such entities be measured against all 7 of the scorecard elements.

HOW DO I OBTAIN A BEE CERTIFICATE?

For any entity to obtain a BEE Certificate, requires that the business be formally verified by an accredited BEE Verification Agency. These agencies are regulated and must form part of ABVA (Association of BEE Verification Agencies). It is therefore important that you not just use any agency as it could affect the validity of your BEE Certificate.

A BEE Verification Agency will for a verification fee, conduct an audit of your business, calculate your BEE score and award a BEE Certificate to your business valid for one year as proof of your BEE level. To conduct the verification, the agency will require a broad range of documentation and information in support of your scorecard, to be evaluated by the agency to confirm your score. Without the correct documentation a business may obtain a low BEE score whereas collating and producing the documentation correctly may provide a better BEE score, emphasizing the importance for a business of understanding what is required and collating such information correctly. Often a business is more BEE compliant than it realizes!

To prove your BEE compliance requires that your business be formally verified by an accredited BEE verification agency

A final 'category' that should be noted is that of Start-up Enterprises. This category allows for new businesses to be evaluated as an EME for the first year following its establishment, unless it is tendering for tenders valued at more than R5 million, in which event it will have to be verified under either the QSE or Generic scorecard (based on tender value).

Three Categories of enterprises:

1. EME: Entities with annual turnover of less than R 5 million
2. QSE: Entities with annual turnover of more than R 5 million and less than R 35 million
3. Generic: Entities with annual turnover of more than R 35 million



HOW CAN I OBTAIN BEE SUPPORT?

For many businesses, the process of obtaining a BEE Certificate seems daunting, complex and unclear. Overloaded with information and faced with many misperceptions regarding BEE, a business falls into a state of apathy where it seems easier to not do anything and 'face the music' when necessary. Unfortunately, once the need to obtain a BEE Certificate arises, there is no quick-fix for obtaining a good BEE score unless your business is already prepared and has well documented strategies in place. The result is many businesses fail to obtain as good a score as they may have achieved with the necessary preparation, support and assistance.

The phatshoane henney group of law firms have firm offices across South Africa with BEE consultants available to assist businesses with advice and guidance on BEE and support them through the process of identifying a BEE Verification Agency and undertaking formal BEE verification.

We aim to make the difficult process of undergoing BEE verification simple and understandable and provide clients with the necessary guidance and support needed.

HOW DO I GET STARTED?

To get started is easy. Contact our BEE Support Centre at the numbers below and request BEE support for your business. Our operators will take down your particulars and immediately arrange for a group BEE consultant in your region to contact you and provide a detailed quotation matching your business needs and size together with an indication of the process and supporting information necessary for you to get started.

Upon accepting the quotation, the consultant will guide you through the information requirements and then arrange a first consultation to discuss the BEE profile of your business and the roadmap for obtaining a BEE Certificate.

OUR BEE SUPPORT SERVICES:

BEE Consulting Advice:

We assist you to understand BEE and the implications thereof for your business and provide professional advice as to the relevant BEE scorecard you will be measured against, any BEE sector charter implications for your business, identification of your best scorecard elements, advice as to the information and documentation requirements for verification, guidance on identifying and undertaking the process of verification with a BEE Verification Agency, and assistance with implementing sustainable BEE strategies for your business.

Verification Preparation:

We assist you to compile a complete verification file to be submitted to a Verification Agency when conducting your BEE verification audit. We provide advice as to the required documentation, assist with obtaining necessary third party information, provide template documents and formats for capturing data, assist you to complete compulsory documentation, and help you to put everything together in a neat pre-verification file that can be submitted for verification assessment.

Supplier Verification:

Where necessary, we assist your business with conducting an assessment of the BEE compliance of your suppliers through the call operators of our Group Support Centre taking the tedious task of supplier analysis out of your hands.

Legal Support:

Where necessary, our consultants (all legal professionals), can assist you in the preparation of any legal documentation or agreements required for purposes of your BEE verification.

There is no quick-fix for obtaining a good BEE score unless your business is already prepared and has well documented strategies in place



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