

DEPARTMENT OF TRADE AND INDUSTRY

NO. 403

29 MARCH 2018

**DRAFT STATEMENT 300, CODE SERIES 300 OF 2018 FOR 60 DAY PUBLIC
COMMENTARY**

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC
EMPOWERMENT**

I, **Dr Rob Davies**, Minister of Trade and Industry:

- (a) Amend the following **Draft Statement 300, Code Series 300 of 2018** for public commentary in terms of **section 9 (5)** of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013; and
- (b) Invite interested persons and the public to submit inputs and comments on the **Draft Statement 300, Code Series 300 of 2018** within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of the B-BBEE Policy Unit to the following address (es):

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Dr Rob Davies, MP
Minister of Trade and Industry

23/3/2018

KEY AMENDMENTS

1. Introduction of Point Indicator 2.1.1.2 – Spend on Bursaries for Black Students attending Higher Education Institutions
2. Splitting of the 6% Leivable Amount Target for Overall Skills Development Expenditure and Bursaries
3. Increasing the Recognition for Category F & G Training Programmes from 15% to 25%

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate deletions from existing enactments

_____ Words underlined with a solid line indicate insertions into existing enactments

AMENDED CODE SERIES 300: FRAMEWORK FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT

STATEMENT 300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT

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

Arrangement of this statement

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OBJECTIVES OF THIS STATEMENT

- 1.1 Specify the scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 Define the key measurement principles associated with the Skills Development Element; and
- 1.3 Indicate the formula for measuring the Skills Development Element.

2. THE SKILLS DEVELOPMENT ELEMENT SCORECARD

- 2.1 The following table represents the criteria used for deriving a score for Skills Development under this statement:

Category	Skills Development Element	Weighting points	Compliance Target
2.1.1	Skills Development Expenditure on any programme specified in the Learning Programme Matrix for black people as a percentage of the Leivable Amount		
2.1.1.1	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black people as a percentage of Leivable Amount.	[8] 6	[6%] <u>3.5 %</u>
2.1.1.2	<u>Skills Development Expenditure on Bursaries for Black Students at Higher Education Institutions.</u>	<u>4</u>	<u>2.5%</u>
2.1.1.3	Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leivable Amount.	4	0.3%
2.1.2	Learnerships, Apprenticeships, and Internships		
2.1.2.1	Number of black people participating in Learnerships, Apprenticeships and internships as a percentage of total employees.	[4] <u>3</u>	2.5%
2.1.2.2	Number of black unemployed people participating in Learnerships, Apprenticeships and Internships as a percentage of number of employees.	[4] <u>3</u>	2.5%
Bonus points:			
2.1.3	Number of black people absorbed by the Measured and Industry Entity at the end of the [Learnerships Programme]	5	100%

<u>Internship, Learnership and Apprenticeship programme under Paragraph 2.1.2.1 and 2.1.2.2</u>		
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- 2.2 The compliance targets for 2.1.1.1, **[2.1.1.2,]** 2.1.2.1, and 2.1.2.2 of the Skills Development scorecard are based on the overall demographic representation of black people as defined in the Regulations of the Employment Equity Act and Commission of Employment Equity Report as amended from time to time.
- 2.3 In determining a Measured Entity's score, the targets should be further broken down into specific criteria according to the different race sub-groups within the definition of black in accordance with the Regulations of Employment Equity Act and Commission of Employment Equity Report requirements on equitable representation and weighted accordingly.

3. **KEY MEASUREMENT PRINCIPLES**

- 3.1 The following criteria must be fulfilled in order for the Measured Entity to receive points on the Skills Development Element scorecard:
- 3.1.1 Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and
- 3.1.2 Implementation of Priority Skills programme generally, and more specifically for black people.
- 3.2 The **[6%]** 3.5 % compliance target under paragraph 2.1.1.1 includes external training expenditure for unemployed black people.
- 3.3 Initiatives implemented under paragraph 2.1.1.1 cannot be counted under paragraph 2.1.1.2 and vice versa.
- 3.4 Initiatives implemented under paragraph 2.1.2.1 cannot be counted under paragraph 2.1.2.2 and vice versa.
- 3.5 A trainee tracking tool has to be developed in order for the Measured Entity to score under paragraph 2.1.3.

3.6 If less than 100% of the trainees are absorbed under paragraph 2.1.3, the percentage achieved or absorbed will be recognised.

4. **SUBMINIMUM AND DISCOUNTING PRINCIPLE**

4.1 A Measured Entity must achieve a minimum of 40% of the **[targets] total weighting points excluding bonus points (40% of the 20 points)** set out in the Skills Development Element.

4.2 Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance in paragraph 3.4 of statement 000.

5. **GENERAL PRINCIPLES**

5.1.1 Skills Development must contribute to the achievement of the country's economic growth and social development goals that will enrich the creation of decent work and sustainable livelihoods.

5.1.2 Promote the development of an industrial skills base in critical sectors of production and value-added manufacturing, which are largely labour-intensive industries.

5.1.3 Support 'Professional, Vocational, Technical and Academic Learning programmes, achieved by means of professional placements, work-integrated learning, apprenticeships, learnerships and internships, that meet the critical needs for economic growth and development.

5.1.4 Strengthen the skills and human resource base by encouraging the support of skills development initiatives with an emphasis on skills development and career pathing for all working people in order to support employment creation.

5.2 Skills Development Expenditure includes any legitimate expenses incurred for any Learning Programme offered by a Measured Entity to black people evidenced by an invoice or appropriate internal accounting record.

5.3 Skills Development Expenditure arising from Informal and workplace Learning Programmes, or from Category F and G Learning Programmes

- under the Learning Programmes Matrix cannot represent more than **[15%]** 25% of the total value of Skills Development Expenditure.
- 5.4 Legitimate training costs such as accommodation, catering, travelling and the cost to the Measured Entity of employing a Skills Development facilitator or a training manager (non-exhaustive) cannot exceed more than 15% of the total value of Skills Development Expenditure. This does not apply to Skills Development Expenditure recognised in paragraph 2.1.1.2.
- 5.5 Salaries or wages paid to an employee participating as a learner in any Learning Programme only constitute Skills Development Expenditure if the Learning Programme is a Learnership, Internship and Apprenticeship (Category B, C and D) of the Learning Programme Matrix or a stipend linked to a bursary programme in terms of paragraph 2.1.1.2.
- 5.6 Expenses on scholarships and bursaries for black people do not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the employee or if the grant of the scholarship or bursary is conditional. A bursary or scholarship scheme is a grant made to or for students who are registered at educational institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training. Examples of legitimate training costs for a bursary or scholarship includes: payment of school, college or university fees, or a portion thereof; funding for textbooks or other learning materials; funding for subsistence or accommodation during the period of study. Despite the afore going, if the right of recovery or the condition involves either of the following obligations of the employee, the expenses are recognisable:
- 5.6.1 the obligation of successful completion in their studies within the time period allocated; or
- 5.6.2 the obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.

- 5.7 Mandatory sectoral training does not qualify as skills development contribution i.e. health and safety in construction sector (non-exhaustive list)
- 5.8 Training outside the country in line with the Learning Programme Matrix under annexure 300 (A) is measurable if it meets the South African Qualification Authority requirement for recognition.

6. LEGITIMATE RECOGNISABLE TRAINING EXPENSES

- 6.1.1 costs of training materials;
- 6.1.2 costs of trainers;
- 6.1.3 costs of training facilities including costs of catering;
- 6.1.4 scholarships and bursaries;
- 6.1.5 course fees;
- 6.1.6 accommodation and travel; and
- 6.1.7 Administration costs such as the organization of training including, where appropriate, the cost to the Measured Entity of employing a Skills Development facilitator or a training manager.

7. MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS

The formula that explains the method of measurement of the criteria in the skills development scorecard is set out in formula "A" in Annexe 300(B).

8. ANNEXE 300 (A)

Learning Programme Matrix

Cat	Programme	Narrative Description	Delivery Mode	Learning Site	Learning Achievement
A	<u>Bursaries or scholarships</u>	Institution-based theoretical instruction alone – formally assessed by [the institution] <u>educational institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training.</u>	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning
B	Internships	Institution-based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning

C	Learnerships	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
D	Learnerships or Apprenticeships	Occupationally-directed instructional and work-based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning

E	Work-integrated learning	Occupationally-directed instructional and work-based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace, institutional as well as ABET providers	Credits awarded for registered unit standards, continued professional development, improved performance or skills (e.g. evidence of outputs based on Performance Development Programme)
F	Informal training	Occupationally-directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
G	Informal training	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills

ANNEXE 300 (B)

Formula 1

The skills development criteria provided for in paragraphs 2.1.1.1 is calculated by following the sub calculations below.

The measurement criteria targets for 2.1.1.1 are broken down according to the

relevant EAP statistics i.e. splitting the compliance target and points in proportion to the EAP statistics.

The EAP Statistics are reported on the following race groups:

<u>Statistic</u>	<u>African Male</u>	<u>African Female</u>	<u>Coloured Male</u>	<u>Coloured Female</u>	<u>Indian Male</u>	<u>Indian Female</u>	<u>White Male</u>	<u>White Female</u>
<u>Abbreviation</u>	<u>AM</u>	<u>AF</u>	<u>CM</u>	<u>CF</u>	<u>IM</u>	<u>IF</u>	<u>WM</u>	<u>WF</u>

The maximum points per race group needs to be adhered to in order to achieve the outcomes of the code. These calculations will need to be repeated for every race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of spend on black employees in the measured entity as a percentage of the Leviable Amount. The formula to calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

$$\% \text{ Spend AM} = \frac{\text{Spend on AM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend AF} = \frac{\text{Spend on AF Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend CM} = \frac{\text{Spend on CM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend CF} = \frac{\text{Spend on CF Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend IM} = \frac{\text{Spend on IM Employees}}{\text{Leviable Amount}}$$

$$\% \text{ Spend IF} = \frac{\text{Spend on IF Employees}}{\text{Leviable Amount}}$$

Where:

RG: Race Group

%SpendRG: Percentage of spend on black employees in the measured entity for the specific race group

Spend on RG Employees: Rand value of Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for the specified Race Group for 2.1.1.1

Leviable Amount: As defined in Code Series 300

Due to the codes not awarding points for meeting the EAP statistics for the white

race groups, the EAP statistics need to be adjusted to exclude the white categories. The following formula shows how this is accomplished:

Let

$$\underline{ADJ\ EAP\ AM = \frac{EAP(AM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ AF = \frac{EAP(AF)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ CM = \frac{EAP(CM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ CF = \frac{EAP(CF)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ IM = \frac{EAP(IM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ IF = \frac{EAP(IF)}{EAP(Sum)}}$$

Where:

ADJ EAP RG: Adjusted EAP for a specific race group

EAP (RG): EAP statistic for the calculated race group

EAP (Sum): Sum of published EAP statistics for all black race groups
(AM+AF+CM+CF+IM+IF)

Since the calculation for each of the race groups need to be done individually, the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

Let

$$\underline{SCT\ AM = ADJ\ EAPAM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ AF = ADJ\ EAPAF \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ CM = ADJ\ EAPCM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ CF = ADJ\ EAPCF \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ IM = ADJ\ EAPIM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ IF = ADJ\ EAPIF \times \frac{Compliance\ target}{100}}$$

Where:

SCT RG: Split Compliance Target for race group

ADJ EAP RG: Adjusted EAP for the race group as calculated

above

Compliance target: Compliance Target as specified for 2.1.1.1

The points allocated for the measurement criteria will also be split in proportion to the EAP statistics. The split points for the measurement criteria represent the maximum allowable points for the race groups, and must be enforced as such.

The formula for calculating the maximum allowable points is shown below:

$$\underline{MAP AM = ADJ EAPAM \times Points}$$

$$\underline{MAP AF = ADJ EAPAF \times Points}$$

$$\underline{MAP CM = ADJ EAPCM \times Points}$$

$$\underline{MAP CF = ADJ EAPCF \times Points}$$

$$\underline{MAP IM = ADJ EAPIM \times Points}$$

$$\underline{MAP IF = ADJ EAPIF \times Points}$$

Where:

MAP: Maximum allowable points for a race group

Points: Weighting points as specified for 2.1.1.1

The achieved score per race group (ScoreRG) will be calculated using the above four equations. The formula must be completed for each race group using the four results from above for each race group. This formula is shown below:

$$\underline{ScoreAM = \left(\frac{\%Spend AM}{SCT AM} \right) \times MAP AM}$$

$$\underline{ScoreAF = \left(\frac{\%Spend AF}{SCT AF} \right) \times MAP AF}$$

$$\underline{ScoreCM = \left(\frac{\%Spend CM}{SCT CM} \right) \times MAP CM}$$

$$\underline{ScoreCF = \left(\frac{\%Spend CF}{SCT CF} \right) \times MAP CF}$$

$$\underline{ScoreIM = \left(\frac{\%Spend IM}{SCT IM} \right) \times MAP IM}$$

$$\underline{ScoreIF = \left(\frac{\%Spend IF}{SCT IF} \right) \times MAP IF}$$

Note that the score per race group may not exceed the maximum allowable points for that race group. The following shows how the total score for 2.1.1.1 is calculated:

$$\underline{\underline{Total\ Score = ScoreAM + ScoreAF + ScoreCM + ScoreCF + ScoreIM + ScoreIF}}$$

Formula 2

The Skills Development criteria provided for in paragraphs 2.1.2.1 and 2.1.2.2, is calculated by following the sub calculations below.

The measurement criteria targets for 2.1.2.1 and 2.1.2.2 are broken down according to the relevant EAP statistics i.e. splitting the compliance target and points in proportion to the EAP statistics.

The maximum points per race group needs to be adhered to in order to achieve the outcomes of the code. These calculations will need to be repeated for every race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of black employees in the measured entity for the measurement criteria (Number of black people participating in Learnerships, Apprenticeships and Internships OR Number of black unemployed people participating in the learning programme matrix). The formula to calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

$$\% \text{ Black AM} = \frac{\text{Number of AM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black AF} = \frac{\text{Number of AF Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black CM} = \frac{\text{Number of CM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black CF} = \frac{\text{Number of CF Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black IM} = \frac{\text{Number of IM Learners}}{\text{Total of all employees in all race groups}}$$

$$\% \text{ Black IF} = \frac{\text{Number of IF Learners}}{\text{Total of all employees in all race groups}}$$

Where:

_____ RG: _____ Race Group

% BlackRG: _____ Percentage of black employees in the measured
_____ Entity for the specific race group

Number of RG learners: Number of people participating in Learnerships, Apprenticeships and Internships OR number of unemployed people participating in training specified in the learning programme matrix

Total of all race groups: Total of all employees in the measured entity
(AM+AF+CM+CF+IM+IF+WM+WF)

Due to the codes not awarding points for meeting the EAP statistics for the white race groups, the EAP statistics need to be adjusted to exclude the white categories. The following formula shows how this is accomplished:

Let

$$\underline{ADJ\ EAP\ AM = \frac{EAP(AM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ AF = \frac{EAP(AF)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ CM = \frac{EAP(CM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ CF = \frac{EAP(CF)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ IM = \frac{EAP(IM)}{EAP(Sum)}}$$

$$\underline{ADJ\ EAP\ IF = \frac{EAP(IF)}{EAP(Sum)}}$$

Where:

ADJ EAP RG: Adjusted EAP for a specific race group

EAP (RG): AP statistic for the calculated race group

EAP (Sum): Sum of published EAP statistics for all black race groups (AM+AF+CM+CF+IM+IF)

Since the calculation for each of the race groups need to be done individually, the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

Let

$$\underline{SCT\ AM = ADJ\ EAP\ AM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ AF = ADJ\ EAP\ AF \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ CM = ADJ\ EAP\ CM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ CF = ADJ\ EAP\ CF \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ IM = ADJ\ EAP\ IM \times \frac{Compliance\ target}{100}}$$

$$\underline{SCT\ IF = ADJ\ EAP\ IF \times \frac{Compliance\ target}{100}}$$

Where:

SCT RG: Split Compliance Target for race group

ADJ EAP RG: Adjusted EAP for the race group as
calculated

_____ above

Compliance target: Compliance Target as specified for 2.1.2.1 **OR**
_____ 2.1.2.2

The points allocated for the measurement criteria will also be split in proportion to the EAP statistics. The split points for the measurement criteria represent the maximum allowable points for the race groups, and must be enforced as such.

The formula for calculating the maximum allowable points is shown below:

$$\underline{MAP\ AM = ADJ\ EAP\ AM \times Points}$$

$$\underline{MAP\ AF = ADJ\ EAP\ AF \times Points}$$

$$\underline{MAP\ CM = ADJ\ EAP\ CM \times Points}$$

$$\underline{MAP\ CF = ADJ\ EAP\ CF \times Points}$$

$$\underline{MAP\ IM = ADJ\ EAP\ IM \times Points}$$

$$\underline{MAP\ IF = ADJ\ EAP\ IF \times Points}$$

Where:

MAP: Maximum allowable points for a race group

Points: Weighting points as specified for 2.1.2.1 OR 2.1.2.2

The achieved score per race group (Score RG) will be calculated using the above four equations. The formula must be completed for each race group using the four results from above for each race group. This formula is shown below:

$$\underline{ScoreAM = \left(\frac{\%Spend\ AM}{SCT\ AM} \right) \times MAP\ AM}$$

$$\underline{ScoreAF = \left(\frac{\%Spend\ AF}{SCT\ AF} \right) \times MAP\ AF}$$

$$\underline{ScoreCM = \left(\frac{\%Spend\ CM}{SCT\ CM} \right) \times MAP\ CM}$$

$$\underline{ScoreCF = \left(\frac{\%Spend\ CF}{SCT\ CF} \right) \times MAP\ CF}$$

$$\underline{ScoreIM = \left(\frac{\%Spend\ IM}{SCT\ IM} \right) \times MAP\ IM}$$

$$\underline{ScoreIF = \left(\frac{\%Spend\ IF}{SCT\ IF} \right) \times MAP\ IF}$$

Note that the score per race group may not exceed the maximum allowable points for that race group. The following shows how the totals score for 2.1.2.1

OR 2.1.2.2 is calculated:

$$\underline{Total\ Score = ScoreAM + ScoreAF + ScoreCM + ScoreCF + ScoreIM + ScoreIF}$$

Formula 3

This equation explains the method of measurement of the criteria under paragraph 2.1.1.2 and 2.1.3

$$A = \frac{B}{C} \times D$$

Where

A is the score for measurement category indicator

B is the percentage of spend in the measurement category that are black disabled people

B is the percentage of absorbed people in the measurement category that are black people

C is the target for the applicable criteria as referred to in the scorecard under statement 300

D is the Weighting points for the applicable criteria as referred to in the scorecard under statement 300