

# weSGRO

cape town & western cape  
tourism, trade & investment

# DENTONS

Cape Town

# Black Economic Empowerment and Employment Equity October 2025



Western Cape  
Government  
FOR YOU



CITY OF CAPE TOWN  
ISIIXEKO SASEKAPA  
STAD KAAPSTAD

investSA  
ONE STOP SHOP  
WESTERN CAPE

INVEST IN  
CAPE TOWN  
& THE WESTERN CAPE  
CITY OF CAPE TOWN

weSGRO  
cape town & western cape  
tourism, trade & investment

# Introduction

This Guide is developed in partnership between Dentons and Wesgro, the official tourism, trade and investment promotion agency for Cape Town and the Western Cape. Dentons is a global law firm with a strong presence in South Africa, providing comprehensive legal services across multiple practice areas, including employment law, corporate compliance and transformation legislation. Wesgro works to promote investment and trade in the Western Cape, supporting businesses in navigating South Africa's regulatory landscape and fostering economic growth in the region.

- 1.1. Broad-Based Black Economic Empowerment (“**BBBEE**”) forms a cornerstone of South Africa's transformation framework. The state implemented the Broad-Based Black Economic Empowerment Act 53 of 2003 (“**BBBEE Act**”) as an affirmative action measure to redress the economic disparities arising from institutionalised racial inequality caused by South Africa's apartheid and colonial legacy, by promoting the economic participation of those who were subject to the disparities which arose.
- 1.2. The scope of BBBEE extends to various elements such as ownership and management in addition to employment, procurement and supplier development with the aim of fostering a more inclusive, equitable, and sustainable environment.

## 2. The BBBEE Act

- 2.1. The BBBEE Act is the primary legislation through which the Black Economic Empowerment (“**BEE**”) process is implemented and managed. It seeks to create a consistent approach to BEE in the South African economy, together with the Codes of Good Practice on Black Economic Empowerment (the “**Codes**”), which provides a guide as to how to measure compliance with the BBBEE Act.
- 2.2. While the BBBEE Act does not prescribe direct penalties on private sector entities for non-compliance, those that achieve higher levels of compliance with the BBBEE Act are better positioned to access broader opportunities and to transact more competitively with the State, as well as with other public and private entities. Both public and private entities that seek to do business with the state are evaluated based on the number of BBBEE points allocated to them, as determined by their respective BBBEE scorecard. Organs of state and public entities are required to comply with the provisions of the BBBEE Act and must apply any relevant Codes issued in terms of the BBBEE Act when engaging in certain economic activities.
- 2.3. The BBBEE Act's approach is to emphasise “broad-based” as a method to empowerment and economic transformation, as opposed to the past approach to empowerment which focused largely on ownership of an entity and not on “empowerment” of the entity. Due to this approach, some unintended consequences followed, some of which include “fronting” (discussed in paragraph 6 below).

### 3. The Objectives of the BBEE Act

- 3.1.1. promoting economic transformation in order to enable meaningful participation of Black People in the economy;
- 3.1.2. achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupations of existing and new enterprises;
- 3.1.3. increasing the extent to which communities, workers, cooperatives, Black women and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training;
- 3.1.4. promoting investment programmes that lead to broad-based and meaningful participation in the economy by Black people in order to achieve sustainable development and general prosperity;
- 3.1.5. empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and
- 3.1.6. promoting access to finance and increasing effective economic participation for Black owned and managed enterprises, including start-ups, small, medium and micro enterprises, co-operatives and black entrepreneurs, including those in the informal business sector whilst enhancing access to non-financial support.

### 4. The Codes of Good Practice on Black Economic Empowerment

- 4.1. The Codes of Good Practice on Black Economic Empowerment (**“Old Codes”**), issued by the Department of Trade, Industry and Competition (**“DTIC”**), established a standard framework for measuring BBEE compliance and performance across all sectors of the economy, better known as the scorecard. The Old Codes have since evolved as South Africa's economy has matured.
- 4.2. The DTIC revised the Old Codes in October 2013 (**“Revised Codes”**), aligning the Old Codes and the Revised Codes with the objectives of the National Development Plan of South Africa. The Revised Codes now enjoy exclusive application, providing a uniform framework for measuring BBEE compliance across all sectors of the South African economy.
- 4.3. The key objectives of the Revised Codes are to:
  - 4.3.1. drive the growth of small, medium, and micro black owned enterprises (**“SMME”**);
  - 4.3.2. encourage job creation;
  - 4.3.3. drive local manufacturing and processing;
  - 4.3.4. accelerate the participation of Black women, rural communities and youth in economic activities; and

4.3.5. encourage SMME's to be pro-active, not re-active.

4.4. Further changes under the Revised Codes are as follows:

4.4.1. Qualifying Small Enterprises ("QSE")

4.4.1.1. Under the Revised Codes, an entity with an annual total revenue of between ZAR10,000,000 and ZAR50,000,000 qualifies as a QSE and must be measured against all five elements of the generic scorecard meeting the minimum threshold for ownership and for either enterprise and supplier development or skills development. QSE's are required to present an affidavit confirming that the QSE's annual total revenue is between ZAR10,000,000 and ZAR50,000,000. Should the QSE be owned by Black people, the affidavit must further confirm the level of ownership by Black People.

4.4.2. Exempt Micro-Enterprises ("EME")

4.4.2.1. Under the Revised Codes, any entity with an annual turnover of under ZAR10,000,000 qualify as an EME. EME's are allocated a BBBEE recognition level automatically (based on the percentage ownership by Black people) if it can be proved that their annual turnover is below ZAR10,000,000. To qualify as an EME an affidavit attesting the level of ownership by Black people and the annual total revenue of the EME would have to be produced claiming their EME status to exempt the enterprise from a BEE certificate issued by an agency of verification.

4.4.3. Priority elements

4.4.3.1. The Revised Codes have also introduced the concept of priority elements to strengthen the impact of empowerment

initiatives. The priority elements consist of three pillars, namely, ownership, skills development, and enterprise and supplier development, which all have a 40% sub-minimum requirement as measured in terms of the components provided in the Revised Codes.

4.4.3.2. Entities with an annual total revenue of more than ZAR50,000,000 which fails to satisfy the sub-minimum requirements for any of the priority elements will have their BBBEE status discounted by one level.

4.4.3.3. QSE's are required to comply with the ownership priority element and one other element. Should the QSE enterprise fail to satisfy the sub-minimum requirement for the ownership element and another element, the QSE will have its BBBEE status discounted by one level.

4.5. The generic scorecard in the Revised Codes contains only five elements as certain elements that were previously contained in the Old Codes are now merged. The total weighting of the scorecard has increased from 100 points to 109 points reinforcing the emphasis on genuine transformation.

## 5. The Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 ("Amendment Act")



- 5.1. The Amendment Act brought about significant changes. It strengthened and refined the original BBBEE Act by addressing persistent challenges in the implementation and enforcement of BBBEE.
- 5.2. The Amendment Act requires all spheres of government, public entities and organs of state to report on their compliance with BBBEE in their audited annual financial statements and annual reports. Additionally, all public companies listed on the Johannesburg Stock Exchange are required to provide a report on their compliance with BBBEE to the Broad-Based Black Economic Empowerment Commission (the “**Commission**”).
- 5.3. In terms of the Amendment Act, every organ of state and public entity, unless exempted, must apply any relevant code of good practice issued in terms of the Amendment Act in:
  - 5.3.1. determining qualification criteria for the issuing of licences, concessions or other authorisations for conducting business activities;
  - 5.3.2. developing and implementing a preferential procurement policy;
  - 5.3.3. determining qualification criteria for the sale of state-owned enterprises;
  - 5.3.4. developing criteria for entering into partnerships with the private sector; and
  - 5.3.5. determining criteria for the awarding of incentives, grants and investment schemes in support of BBBEE.

## 6. Other Regulatory Changes

- 6.1. BBBEE fronting is now a criminal offence in terms of the Amendment Act and criminal sanctions (including a fine, imprisonment or both) are imposed on those found guilty of fronting. The term “fronting” means any act or conduct, transaction or arrangement that directly undermines or frustrates the achievement of the objectives of the BBBEE Act or the implementation of the BBBEE Act or any of its practices.
- 6.2. The Commission was also established to oversee, supervise and promote adherence with the BBBEE Act in the interest of the public. The Commission can initiate investigations regarding any matter concerning BEE (including fronting) and institute court proceedings to restrain such breaches of the BBBEE Act.

## 7. Employment Equity

- 7.1. The Employment Equity Act 55 of 1998, as amended (“**EEA**”), compliments the BBBEE Act and the Amendment Act by addressing equality, diversity, and unfair discrimination in the workplace. While the BBBEE framework, as previously discussed, promotes the inclusion of Black People through ownership and economic participation, the EEA ensures that transformation extends to human capital and workplace participation.
- 7.2. The objectives of the EEA are to:
  - 7.2.1. achieve equity in the workplace;

- 7.2.2. promote equal opportunity and fair treatment in the workplace;
- 7.2.3. eliminate unfair discrimination in the workplace; and
- 7.2.4. implement affirmative measures in the workplace to redress the disadvantages experienced by black people, women and people with disabilities (**“Designated Groups”**), ensuring equitable representation in all occupational levels in the workforce.
- 7.3. In terms of the EEA, all employers who employ 50 or more employees, municipalities, organs of state, excluding the South African National Defence Force, the National Intelligence Agency, and the National Secret Service (**“Designated Employers”**), are required to adhere to the provisions of chapter 3 of the EEA.
- 7.4. In terms of chapter 3 of the EEA, Designated Employers are required to:
  - 7.4.1. Conduct an analysis of its employment policies, practices, procedures and the working environment, to identify any employment barriers which has an adverse effect on Designated Groups;
  - 7.4.2. develop and implement an Employment Equity Plan which achieves reasonable progress towards employment equity;
  - 7.4.3. submit a report, in the form of EEA2 and EEA4, to the Director-General of the Department of Labour; and
  - 7.4.4. consult with its employees and their representatives on the preparation, implementation, and monitoring of the Employment Equity Plan, including the analysis, barriers identified, affirmative action measures, and numerical goals and targets, ensuring transparency and participation in achieving equitable representation across all occupational

levels.

- 7.5. The objectives and reporting requirements in terms of the EEA supports the BBBEE’s generic scorecard in terms of BBBEE, specifically, in the management control and skills development elements. Employment equity compliance promotes the participation and representation of Black people, women, and persons with disabilities in executive, senior, and middle management roles, thereby improving performance under the management control element of the generic scorecard. Similarly, the development of Designated Groups in the workforce act in favour of the skills development element of the generic scorecard.
- 7.6. Considering the aforementioned, compliance with the EEA enhances the sustainability of BBBEE initiatives. Entities that demonstrate fair representation, inclusive leadership, and targeted employee development typically achieve stronger outcomes across key scorecard elements.
- 7.7. Collectively, the BBBEE Act, the Codes of Good Practice, and the EEA form an integrated transformation framework, linking ownership and enterprise participation with workplace equality, skills development, and inclusive economic growth.

## 8. Ensuring Compliance

- 8.1. Further advice on ensuring compliance with the BBBEE Act. The Codes of Good Practice, and the EEA may be obtained from professional legal

service providers, specialised BBBEE consultants, and human resource advisors. These professionals can provide tailored guidance, advice and structures, ensuring that company policy, ownership structures, and employment practices are best aligned with legal requirements and national transformation objectives.

- 8.2. By ensuring compliance with BBBEE objectives, and the EEA, companies will, in turn, promote the social and governance aspects of their environmental, social and governance practices through its focus on inclusive ownership, skill development,

commitment to diversity, and community investment. This alignment demonstrates commitment to ethical business conduct, inclusivity, equity, and sustainable development.

## 9. How to get assistance

- 9.1. Investors seeking further information or support regarding BBBEE or employment equity in South Africa can obtain guidance from the DTIC, Wesgro, Dentons, or your trusted legal advisor.

## About the Partners

### Wesgro

Wesgro is the official tourism, trade and investment promotion agency for Cape Town and the Western Cape. The investment team assists Western Cape companies seeking expansion, South African companies investing in the region and foreign companies entering the market for the first time. Wesgro offers a comprehensive range of services to investors, including providing market intelligence, navigating South Africa's policy and regulatory landscape, assisting with site location identification, addressing regulatory challenges and facilitating referrals to specialist advisory services such as legal firms, recruitment agencies and property professionals.

### Dentons

Dentons is the world's largest global law firm, connecting talent to opportunity across more than 80 countries. As a trusted legal partner to investors, Dentons South Africa combines local insight with global reach to help clients navigate complex legal and regulatory environments. The firm advises across key sectors such as finance, energy, infrastructure, real estate, technology and private equity, offering expertise in corporate and commercial law, mergers and acquisitions, employment, competition and regulatory compliance. With a strong track record in supporting businesses entering or expanding in Africa, Dentons helps investors establish operations, secure project financing and achieve sustainable growth.



## WESGRO

cape town & western cape  
tourism, trade & investment

For further information on setting up or expanding your business in Cape Town & the Western Cape, please contact Wesgro's Investment Team



[wesgro.co.za](https://wesgro.co.za)



+27 (0)21 487 8600



[hello@wesgro.co.za](mailto:hello@wesgro.co.za)



7th Floor, Media24 Building,  
40 Heerengracht Street, Cape Town, 8000

## DENTONS

For further information regarding local regulations, markets and investment landscapes, please contact Dentons Law Firm.



[dentons.com/south-africa](https://dentons.com/south-africa)



Johannesburg: +27 11 326 6257

Cape Town: +27 21 686 0740



[noor.kapdi@dentons.com](mailto:noor.kapdi@dentons.com)



Great Westerford, 240 Main Road,  
Rondebosch, Western Cape, 7700,  
Cape Town

### Disclaimer

Wesgro has made every effort to ensure that the information in this publication is accurate. We provide said information without representation or warranty whatsoever, whether expressed or implied. It is the responsibility of users of this publication to satisfy themselves of the accuracy of the information contained herein. Wesgro cannot be held responsible for the contents of the publication in any way. © Wesgro, 2025