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CONTENTS • INHOUD

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*Page
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GENERAL NOTICE

Trade and Industry, Department of

General Notice

583	Broad-Based Black Economic Empowerment Act (53/2003): Codes of Good Practice on Broad Based Black Economic Empowerment	3	32259
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GENERAL NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

No. 583

22 May 2009

Issued in terms of Section 91) of the BBBEE Act 53, 2003

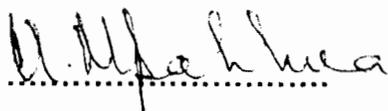
(DEPARTMENT OF TRADE AND INDUSTRY)

CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

Whereas I, **Mandisi Mphahlele**, Minister of Trade and Industry:

- (a) Having issued a DRAFT TOURISM SECTOR CHARTER for public comments in terms of **Section 9(5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003) on the **20TH of June 2008** in terms of which ;
- (b) the public and interested persons were invited to comment on the draft Sector Charter within a period of **60 days** from the date on which the Draft Sector having been published,
- (c) Now publish the TOURISM SECTOR CHARTER (With amendments) as a SECTOR CODE on black economic empowerment in terms of **Section 9(1)** of the BBBEE Act, 53 of 2003.

This notice is effective from the date of publishing and means that the TOURISM SECTOR CODE is binding on all stakeholders operating in the Sector.



MANDISI MPAHLWA, MP

MINISTER OF TRADE AND INDUSTRY

DATE: 04-05-2009

TOURISM SECTOR CODES

GAZETTED IN TERMS OF SECTION 9 (1) OF THE BBBEE ACT 53 OF 2003

MAY 2009

TABLE OF CONTENTS

1. PREAMBLE	3
2. OUR COMMITMENT	3
3. THE LEGACY	3
4. SUSTAINABILITY	4
5. OBJECTIVES OF THE TOURISM SECTOR CODES	4
6. DEVELOPMENT OF THE TOURISM SCORECARD	4
7. SCOPE OF APPLICATION	4
7.1 Accommodation	4
7.2 Hospitality and Related Services	5
7.3 Travel Distribution Systems	5
8. GENERIC TOURISM SCORECARD	5
9. QUALIFYING SMALL ENTERPRISES SCORECARD	8

1. PREAMBLE

1.1 We, the stakeholders of the Tourism Sector, take this opportunity to state our awareness of the need to align the Tourism BEE Charter with the dti's Codes of Good practice on B-BBEE and advance sector initiatives to empower black South Africans, and, in so doing, to make the sector more accessible, more relevant and more beneficial to all South Africans.

1.2 The Tourism Sector Codes express the commitment of all stakeholders in the Tourism Sector to the empowerment and transformation of the sector and its commitment to working collectively to ensure that the opportunities and benefits of the Tourism Sector are extended to black South Africans as well. We have submitted to the Department of Trade and Industry (the dti) to gazette the tourism BEE Charter as a Final Sector Code in terms of the Broad-Based Black Economic Empowerment Act No 53 of 2003. We have ensured that the Tourism BEE Charter fulfills the requirements set out under **Section 9**, for gazetting as a Sector Code, namely that the Charter:

- (a). Has no deviations from Codes definitions and principles, and
- (b). Is sufficiently comparable to the codes in the order of elements, targets and weightings.

2. OUR COMMITMENT

2.1 Whilst we acknowledge that two main challenges face the Tourism Sector, namely:

- the need to become more globally competitive; and
- the need to include black people in the Tourism Sector.

2.2 We believe that these two challenges are fundamentally linked. For our sector to thrive and grow, we commit to both. The commitment to empowerment and transformation is therefore based not only on our moral obligations with regard to a transforming South Africa, but also upon our fiduciary obligations to our shareholders and employees, and to the growth of our sector within the broader South African economy.

2.3 The stakeholders make this commitment fully aware of the fact that empowerment and transformation of the Tourism Sector will contribute to its growth and sustainability. The key areas of focused empowerment and transformation, in the context of this Scorecard, are: Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development, Socio-Economic Development and Industry Specific Indicators, as set out in the attached Tourism Sector Codes.

3. THE LEGACY

3.1 We recognize that our industry, like the rest of South African society, remains characterized by large disparities in access to opportunities and benefits, and in particular, to opportunities and benefits for black people.

3.2 We also recognize that our sector is largely white-owned and we are aware of the residual impact of this legacy of inequality and its continuing impact on efforts to ensure that a tourism- and tourist-friendly culture takes root in our country. Furthermore, we recognize that the legacy of Apartheid remains apparent in some of the Tourism Sector's associations and bodies and we therefore acknowledge the need for transformation within these associations, so that they may become truly representative and reflective of our society.

3.3 In addition, we recognise that our sector remains largely inaccessible to the majority of black South African tourists. Since South Africa has so much to offer in terms of tourism, we recognise the need to reverse this legacy and to make tourism in South Africa more adaptable and accessible to black South African tourists.

4. SUSTAINABILITY

- 4.1 We acknowledge that, for our initiatives to be sustainable and meaningfully empowering, they must be based on the identification of strategic opportunities for our enterprises and for our industry. These initiatives must be underpinned by sound commercial logic, and must be well structured and focused, with deliverable growth objectives. We further acknowledge that the sustainability, competitiveness and growth of our industry require the empowerment and transformation of the sector.
- 4.2 Empowerment and transformation make good business sense as they will introduce innovation into the sector through new players entering the sector. This will attract new markets and stimulate new product development.

5. OBJECTIVES OF THE TOURISM SECTOR CODES

The Codes:

- 5.1 have been developed to advance the objectives of the Broad-based Black Economic Empowerment Act no. 53 of 2003 (B-BBEE Act);
- 5.2 constitute a framework and establish the principles upon which B-BBEE will be implemented in the Tourism Sector;
- 5.3 represents a partnership programme as outlined in government's Strategy for Broad-based BEE;
- 5.4 provides the basis for the sector's engagement with other stakeholders including government and labour

6. DEVELOPMENT OF THE TOURISM SCORECARD

- 6.1 The Tourism Empowerment Council of South Africa (TECSA) was formally established by the Minister of the Environmental Affairs and Tourism to further the objectives of transformation within the Tourism Sector. To this end, TECSA was mandated to align the Tourism BEE Charter to the Generic Codes of Good Practice on B-BBEE. As a result, TECSA embarked on a nationwide consultative process to solicit views and inputs from various stakeholders in the sector which culminated in the development of this final Tourism Sector Codes. The Tourism Sector Codes will be the only basis for the application and recognition of B-BBEE initiatives undertaken by the tourism sector.
- 6.2 The participation of all major stakeholders was encouraged and obtained in the form of submissions from various constituencies, which formed the basis for the drafting of the preliminary and final draft Scorecards.
- 6.3 The final draft is based on the definitions, principles and methodologies of transformation outlined in the BBEE Act of 2003 and the Codes of Good Practice. Where there is any conflict the Codes of Good Practice take precedence.

7. SCOPE OF APPLICATION

The Tourism Sector Codes apply to all privately owned enterprises within the Tourism Sector, and to all parts of the value chain in that sector, inter alia:

7.1 Accommodation

7.1.1 Hotels (Small and Big)

- 7.1.2 Resort properties and timeshare
- 7.1.3 Bed and breakfasts (B&Bs)
- 7.1.4 Guesthouses
- 7.1.5 Game lodges
- 7.1.6 Backpackers and hostels

7.2 Hospitality and Related Services

- 7.2.1 Restaurants (not attached to hotels)
- 7.2.2 Conference venues (not attached to hotels)
- 7.2.3 Professional catering
- 7.2.4 Attractions
- 7.2.5 Consulting and professional services companies

7.3 Travel Distribution Systems

- 7.3.1 Tour wholesalers
- 7.3.2 Tour operators
- 7.3.3 Travel agents
- 7.3.4 Tourist guides
- 7.3.5 Car rental companies
- 7.3.6 Coach operators

In addition, this Charter are binding to all organs of state and public entities, organised labour, and communities involved with or interested in the Tourism Sector.

8. GENERIC TOURISM SCORECARD

Generic Tourism Scorecard (applicable to all tourism businesses with a turnover of > R35 million (or other threshold as determined by the sector))								
Element	2012 Weighting	2012 Weighting Points	2017 Weighting	2017 Weighting Points	Indicators to Measure BEE Achievement	Milestone Target		
						2012	2017	
Ownership¹	15		20		Voting Rights:			
		7		3	Exercisable voting rights in the enterprise in the hands of black people	21% + 1 vote	30% + 1 vote	
				2	Exercisable voting rights in the enterprise in the hands of black women	10%		
					Economic Interest:			
		8		4	Economic interest of black people in the enterprise	21%	30%	
				2	Economic interest of black women in the enterprise	10%		
					Economic interest of the following black natural people in the enterprise:			
				1	- black designated groups			
					- black participants in employee ownership schemes	2.5%		
					- black beneficiaries of Broad-based Ownership Schemes			
					- black participants in co-operatives			

¹ The Tourism Sector Codes have aligned to Statement 103 of the Generic Codes of Good Practice on Broad-Based Black Economic Empowerment on the Recognition of Equity Equivalents for Multinationals.

				Realisation Points:	
			1	Ownership fulfilment (<i>black participants are free from 3rd party rights</i>)	Yes
			7	Net value	refer to CoGP for details
				Bonus Points:	
			2	<i>Involvement in the ownership of the Enterprise of black new entrants</i>	10%
				<i>Involvement in the ownership of the enterprise of black participants:</i>	
			1	- <i>in employee ownership schemes</i>	10%
				- <i>of broad-based ownership schemes</i>	
				- <i>of co-operatives</i>	
				Board Participation:	
		4	3	Exercisable voting rights of black board members using the Adjusted Recognition for Gender	50%
		4	3	Black executive directors using the Adjusted Recognition for Gender	50%
Management Control	14			Top Management:	
		4	3	Black senior top management using the Adjusted Recognition for Gender	40%
		4	3	Black other top management using the Adjusted Recognition for Gender	40%
		1	1	Bonus Points: Black independent Non-Executive Board Members	40%

Employment equity	14	2	1.5	Black Disabled Employees as a percentage of all employees using the Adjusted Recognition for Gender	2 0%	3%
		4	3.5	Black employees in <u>Senior Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	43%	60%
		4	3.5	Black employees in <u>Middle Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	63%	75%
		4	3.5	Black employees in <u>Junior Management</u> as a percentage of all such employees using the Adjusted Recognition for Gender	68%	80%
		3	3	Bonus Points: Bonus Point for meeting or exceeding the EAP targets in each category above		
Skills development	20	8	7.5	Skills Development Expenditure on any Programme specified in the Learning Programmes Matrix: Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black employees as a percentage of leviabile amount using the Adjusted Recognition for Gender	3.0%	
		2	1.5	Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black employees with <u>disabilities</u> as a percentage of leviabile amount using the Adjusted Recognition for Gender	0.3%	
		10	9	Leamerships: Number of black employees participating in Leamerships or Category B, C and D programmes as a percentage of total employees using the Adjusted Recognition for Gender	5.0%	
Preferential procurement	15	10	12	B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	50%	70%
		2	3	B-BBEE procurement spend from <u>Qualifying Small Enterprises</u> or from <u>Exempted Micro Enterprises</u> based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	10%	15%
		3	5	B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: - suppliers that are more than 50% black owned (60% of points); or - suppliers that are more than 30% black women owned (40% of points)	15%	20%
Enterprise development	14	14	10	Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of target	3% of NPAT	
		10	10	Enhanced recognition provided for: - enterprise development spend on black, tourism SMMEs: 1,25 - contributions made towards B-BBEE verification of tourism SMMEs: 1,25		
Socio-Economic development and Industry Specific	8	3	6	Average annual value of Socio-Economic Contributions by the measured entity as a percentage of target	1% of NPAT	
		2	10	% of <u>black</u> new recruits with no prior work experience as a percentage of all new recruits, adjusted using the recognition factor for gender	10%	
		3	3	Status of TOMSA levy collector	Yes	
Total	100	106	102	109		

9. QUALIFYING SMALL ENTERPRISES SCORECARD

QSE Tourism Scorecard is applicable to all tourism businesses with a turnover of R2.5 million to R35 million

Measured entities are to select 4 of the 7 elements for inclusion in the Scorecard

Element	2012 Weighting	2012 Weighting Points	2017 Weighting	2017 Weighting Points	Indicators to Measure BEE Achievement	Milestone Target				
						2012	2017			
Ownership	25	12	25	6	Voting Rights:					
					Exercisable voting rights in the enterprise in the hands of black people	21% + 1 vote	30% + 1 vote			
					Economic Interest:					
					Economic interest of black people in the enterprise	21%	30%			
					Realisation Points:					
					Ownership fulfilment		Yes			
					Net equity interest		refer to CoGP for details			
Management Control	25	25	25	25	Bonus Points:					
					2	Involvement in the ownership of the Enterprise by black women		10%		
					1	Involvement in the ownership of enterprise: - by black participants in Employee Ownership Schemes, Co-operatives or Broad-based Ownership Schemes		10%		
					2	Black representation at Top Management level		50.1%		
					2	Black women representation as top-management		25%		
Employment equity	25	15	25	15	Black employees in management as a percentage of all managers adjusted using the Gender Recognition Factor	40%	60%			
					10	25	10	Black people as a percentage of total staff adjusted using the Gender Recognition Factor	60%	70%
								2	2	Bonus point for meeting or exceeding the EAP targets for each category above
Skills development	25	25	25	25	Adjusted Skills Development Spend on Learning Programmes for Black employees as a percentage of leviable amount		2%			
Preferential procurement	25	25	25	25	B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition levels as a percentage of total measured procurement spend	40%	50%			
Enterprise development	25	25	25	25	Average annual value of all Qualifying Contributions made by the Measured Entity as a percentage of target		2% of NPAT			
					Enhanced recognition provided for:					

				- enterprise development spend on black, tourism SMMEs: 1,25		
				- contributions made towards B-BBEE verification of tourism SMMEs: 1,25		
Socio-Economic development and Industry Specific	25	9.5	25	15	Average annual value of all Approved Socio-Economic Development Contributions made by the measured entity as a percentage of target	1% of NPAT
		6		2.5	% of black new recruits with no prior work experience as a percentage of all new recruits, adjusted using the recognition factor for gender	10%
		9.5		7.5	Status of TOMSA levy collector	Yes
Total	175	179	175	182		