



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 624

9 June 2017  
9 Junie

No. 40910

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF PUBLIC WORKS**

**NO. 560**

**09 JUNE 2017**

**AMENDED  
PROPERTY SECTOR  
CODE**

## 1. PREAMBLE

- 1.1 The property sector commits itself to the implementation of transformation within the property sector. This commitment was made noting that:
- 1.1.1 Despite significant progress since the establishment of a democratic government in 1994, South African society, including the property sector, remains characterised by racially based income and social services inequalities. This is not only unjust but inhibits South Africa's ability to achieve its full economic potential;
- 1.1.2 The property sector believes that a positive and proactive response through the implementation of the principles enshrined in the draft aligned Property sector code would address inequalities in the sector, unlock the sector's potential, and enhance growth;
- 1.1.3 The Constitution of the Republic of South Africa, 1996, in particular section 9 thereof, (relating to equality and unfair discrimination), states the imperative of redressing historical and social inequalities; and
- 1.1.4 Broad Based Black Economic Empowerment (B-BBEE) is a mechanism aimed at addressing inequalities and mobilizing the potential of all South Africans. It will contribute towards sustained economic growth, development and social transformation in South Africa.
- 1.2 This Amended Property sector code ("amended sector code") supports the commitment of all the stakeholders within the property sector that strive for transformed property relations in South Africa and to promote a vibrant and growing property sector that reflects the South African nation as a whole. It contributes towards development and the establishment of an equitable society.
- 1.3 This amended sector code:
- 1.3.1 Constitutes a framework and establishes the principles upon which B-BBEE will be implemented in the property sector;
- 1.3.2 Establishes targets and qualitative undertakings in respect of each element of B-BBEE; and
- 1.3.3 Outlines processes for implementing the commitments contained in the draft aligned sector code, as well as mechanisms to monitor and report on progress.

## 2. THE CHALLENGES FACING THE PROPERTY SECTOR

- 2.1 Immovable property (“*property*”) ownership and the complex system that has evolved around it is the foundation of wealth creation in the world today. Historically, property has been viewed as a right. In South Africa, however, black people were denied access to productive land through the Native Land Act, 27 of 1913, and subsequent discriminatory policy and legislation.
- 2.2 Black people could not own property nor could they effectively trade in the same. In many cases land was held by the Government in trust for the various tribes, which precluded people living on tribal land from obtaining title deeds. These laws affected the ability of Black people to create or accumulate wealth.
- 2.3 Consequently, significant numbers of South Africans have never in the history of their families experienced formal property ownership and its wealth creation benefits. This has had a fundamental impact on the economic potential of South Africa and Black people in particular.
- 2.4 Despite legislative and policy interventions to eradicate these inequalities, in practice skewed patterns of ownership, participation and benefit remain.
- 2.5 Black people continue to be significantly under-represented in the ownership of property, whilst administrative, and financial constraints restrict the ability of black people to participate in the property market.
- 2.6 Commercially, direct property ownership is dominated by institutional investors, large private owners, collective investment schemes, and listed property entities, with Government being the largest commercial player.
- 2.7 The ownership of commercially driven activities surrounding property, including development, management and sales, rests largely in white hands. There is insufficient financing available to address the skewed patterns of ownership. This situation is exacerbated by legal and administrative obstacles to property ownership.
- 2.8 There is limited participation of Black people, particularly women, in control that have authority and have power to influence the strategic & operational direction of the businesses in the property industry.

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- 2.9 Enterprises in the sector have not adequately addressed employment equity, with the result that the sector continues to be under-represented in terms of race and gender.
- 2.10 There is limited investment and commitment in skills development and workplace training.
- 2.11 At tertiary education level, property is inadequately supported as a profession, combined with a lack of appreciation of property as a career.
- 2.12 There has been some reasonable efforts by some companies to implement preferential procurement whilst some enterprises have not been able to demonstrate any progress in increasing spend on targeted suppliers or implementing appropriate preferential procurement policies.
- 2.13 The sector has only recorded limited progress in the growth of sustainable enterprises through enterprise development support.
- 2.14 There has been some reasonable efforts in investing in property development in under-resourced areas, with effort to address service inequalities and improve tradability of properties and consequently the wealth and capital creation potential of those properties. The investment must be defined broader than just development of retail shopping centres, and the aim is to allow the local community member to be the targeted beneficiaries of that development impacting ownership, control, management, employment equity and skill development; and
- 2.15 When investments are made especially shopping centres, local people in those areas are sometimes excluded, including those who would like to participate as tenants.

**3. GENDER TRANSFORMATION**

- 3.1 The sector continues to reflect vast inequalities in representation of women in general and Black women in particular in ownership, control, management and in skilled professions in the sector.
- 3.2 In acknowledging the cross-cutting nature of gender across all elements of B-BBEE and its integral nature to transformation of the sector, the parties to this draft sector code commit to:
- 3.2.1 Enhance gender awareness in the workplace and promote a conducive and empowering environment for women in general;
  - 3.2.2 Target skills development and employment equity for women particularly in areas that are presently male dominated;
  - 3.2.3 Design targeted enterprise and supplier development programmes which increase the participation of women as owners in business and property assets in the sector;
  - 3.2.4 Identify barriers for Black women advancement and design targeted programmes to increase the representation and the empowerment of black women in the sector as outlined in all elements of this draft aligned code; and
  - 3.2.5 Promote policies on gender that address the above objectives.



#### 4. OBJECTIVES OF THE AMENDED PROPERTY SECTOR CODE

- 4.1 This amended sector code aims to promote the objectives contained in the B-BBEE Amendment Act as these relate to the property sector and, in particular, but without limitation:
- 4.1.1 Promote economic transformation in the property sector in order to enable meaningful participation of Black people including women, the youth and people with disabilities;
  - 4.1.2 Unlock obstacles to property ownership and participation in the property market by black people;
  - 4.1.3 Promote development and investment in under-resourced areas which enhances basic infrastructure, encourages investment and supports micro and small enterprises;
  - 4.1.4 Achieve a substantial change in the racial and gender composition of ownership, control and management and enhance the participation of Black people (including Black women) and designated groups in the property sector;
  - 4.1.5 Promote the effective advancement of employment equity in the property sector and encourage diverse organisational cultures;
  - 4.1.6 Increase the pool of intellectual capital amongst Black people, particularly black women, in the sector by focusing on attracting new entrants and developing appropriate curricula;
  - 4.1.7 Address skills development in a manner that accelerates the advancement of black people (especially Black women and Black people with disabilities) with increased investment in the skills development and training of new entrants;
  - 4.1.8 Enhance entrepreneurial development and increase the number of B-BBEE firms and SMMEs providing services and products to the sector whilst promoting sustainable growth of such firms;
  - 4.1.9 Increase the procurement of goods and services from B-BBEE compliant suppliers;

- 4.1.10 Facilitate the accessibility of finance for property ownership and property development;
- 4.1.11 Encourage good corporate citizenship amongst enterprises in the sector, including participation in corporate social investment projects and adherence to triple bottom line accountability;
- 4.1.12 Promote investment in and contribute to growth of the sector; and
- 4.1.13 Enhance uniformity and consistency in the application of the principles contained in the aligned sector code.

## 5. REGULATORY ISSUES

- 5.1 It is acknowledged that the amended Codes of Good Practice will govern the measurement of B-BBEE. In this regard the stakeholders acknowledge that to the extent that the measurement principles contained in the amended Codes of Good Practice differ materially from those in the amended sector code, the measurement principles in the amended Codes of Good Practice, will take precedence over the content of this amended sector code.
- 5.2 To the extent that any of the amended Codes of Good Practice specify further measurable elements of B-BBEE, the stakeholders commit to apply the utmost good faith in seeking to ensure that such elements are integrated into this amended sector code.
- 5.3 The parties to the amended sector code commit to review on an on-going basis any legislation, policy and standards which may have a direct impact on the empowerment outcomes of the amended sector code with intention to ensure that the property sector remains committed to the attainment of the national B-BBEE objectives and priorities.
- 5.4 This could include, but would not be limited to, government's regulatory framework in respect of property transactions where and whenever they have to apply for rights or ask for consent from government, including access to development land and rights and zoning rights and transactions.

## 6. SCOPE OF APPLICATION

- 6.1 This amended sector code (including the scorecard incorporated herein) applies to all privately owned and public enterprises within the property sector. In addition it is binding to all organs of state and public entities, organized labour and communities involved with or interested in the Property Sector.
- 6.2 The scope of this amended sector code is applicable but not limited to commercial activities in the following industries:
- 6.2.1 Residential property industry, which includes:
- 6.2.1.1 Housing;
  - 6.2.1.2 Community schemes; and
  - 6.2.1.3 Land zoned for development.
- 6.2.2 Commercial property industry, which includes:
- 6.2.2.1 Office property industry;
  - 6.2.2.2 Industrial property industry;
  - 6.2.2.3 Leisure property industry;
  - 6.2.2.4 Retail property industry; and
  - 6.2.2.5 Land zoned for development.
- 6.2.3 Including other Property value chain areas in Property Sector (but not limited to):
- 6.2.3.1 Property Development
  - 6.2.3.2 Property Ownership
  - 6.2.3.3 Property Services
    - 6.2.3.3.1 Property Management
    - 6.2.3.3.2 Facility Management
    - 6.2.3.3.3 Broking
    - 6.2.3.3.4 Estate Agents
  - 6.2.3.4 Professionals
    - 6.2.3.4.1 Property Valuation
  - 6.2.3.5 Regulators (in Property Sector)
  - 6.2.3.6 Organs of state

## 7. FOCUS OF APPLICATION

- 7.1 This amended sector code applies to the South African property sector, and in particular to all enterprises engaged in property ownership or the provision of property services, and includes without limitation, practitioners and enterprises engaging in property development. It does not include any property enterprise outside the borders of Republic of South Africa.
- 7.2 The stakeholders all acknowledge that the scope defined in this paragraph 7.1 represents a basis for delineation of the property sector based upon common commercial characteristics.
- 7.3 Subject to any provisions to the contrary contained in any provision of the amended codes of good practice issued under the B-BBEE Amendment Act:
- 7.3.1 This amended sector code will be applicable to a subsidiary of a holding company or a division or business unit of a company if the primary business of the subsidiary, division or business unit of that company ("the entity") is dealing in property or providing property services ("the services"), even if the company or holding company has to comply with provisions of another code issued in terms of Section 9(1) of the B-BBEE Act as amended. Notwithstanding the above, where a company or holding company has to comply with the provisions of another code issued in terms of Section 9(1) of the B-BBEE Act as amended and the entity of such company or holding company provides the services, this code shall not apply to such entity if the services provided by such entity:
- 7.3.1.1 relate to the internal business requirements of such entity, company or holding company;
- 7.3.1.2 relate to an in-house function of such entity, company or holding company; and
- 7.3.1.3 does not compete in the open market with services provided by entities to which this code applies.
- 7.3.1.4 For the avoidance of doubt this code shall, among other, not apply to the following activities undertaken by entities such as but not limited to: mortgage loans, securitisation of mortgage loans,

properties in possession of banks, properties owned, leased or otherwise used for the conducting of the business of the company or holding company and in-house property management services.

- 7.3.1.5 In case of doubt, please refer to the technical guideline and verification manual.
- 7.4 All Measured Entities falling within the scope of the amended Property Sector Code as set out in 6 above may only be measured for compliance in accordance with this Amended Property Sector Code.
- 7.5 A section 9(1) code is legally binding on the applicable sector, organ of state or public and private entities.
- 7.6 The determining factor for a holding company/group of companies or subsidiary compliance with the aligned Property sector code is the scope of application of the aligned Property sector code and/or revenue. If a holding company/group of companies of subsidiary derives over 50% of its revenue and/or have its significant core from “this sector” then such measured entity will be measured in accordance with the scorecard of this aligned Property sector code.

**8. ELEGIBILITY AS AN EXEMPTED MICRO ENTERPRISE (EME)**

8.1 Any enterprise with an annual total turnover of R10 Million or less qualifies as an Exempted Micro-Enterprise.

8.2 Despite 8.1 measurement of B-BBEE Exempted Micro Enterprise (EME) for the below mentioned property segments, will apply as shown in the table below:

Exempted Micro Enterprises		ASSET BASED	SERVICE BASED	ESTATE AGENCIES/ BROKING/ VALUATION COMPANIES
	Net Assets	Less than R 80 M		
Annual Turnover		Less than R10M	Less than R2.5M	

8.3 An Exempted Micro-Enterprise is deemed to have a B-BBEE Status of "Level Four Contributor" having a B-BBEE recognition level of 100% as per the Amended Codes of Good Practice recognition level.

8.4 Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise:

8.4.1 Despite paragraphs 8.3 an EME which is 100% Black owned qualifies for elevation to "Level One Contributor" having a B-BBEE recognition level of 135%.

8.4.2 Despite paragraph 8.3 and 8.4.1, an EME which is at least 51% Black owned qualifies for elevation to "Level Two Contributor" having a B-BBEE recognition level of 125%.

8.5 Despite paragraphs 8.3 and 8.4 an EME is allowed to be measured in terms of the QSE scorecard should they wish to maximise their points and move to a higher B-BBEE recognition level.

8.6 An EME is only required to obtain a sworn affidavit or Certificate from the Companies and Intellectual Property Commission (CIPC) on an annual basis, confirming the following:

- 8.6.1 Annual total turnover based on the EME threshold table above.
- 8.6.2 Level of Black ownership.
- 8.7 Any misrepresentation in terms of Para 8.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.



**9. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISES (QSE)**

9.1 Measurement of B-BBEE in Qualifying Small Enterprises for the below mentioned property segments, will apply as shown in the table below.

Qualifying Small Enterprises		ASSET BASED	SERVICE BASED	ESTATE AGENCIES/ BROKING/ VALUATION COMPANIES
	Net Assets		Less than R400M	
Annual Turnover			Less than R50M	Less than R35M

9.2 A QSE must comply with all of the elements of B-BBEE for the purposes of measurement.

9.3 Enhanced B-BBEE recognition level for QSE:

9.3.1 A QSE which is 100% Black owned qualifies for an elevation to Level One contributor of B-BBEE recognition level.

9.3.2 A QSE which is at least 51% Black owned qualifies for an elevation to Level Two contributor of B-BBEE recognition level.

9.3.3 QSEs mentioned under 9.3.1 and 9.3.2 above are only required to obtain a sworn affidavit or Certificate from the Companies and Intellectual Property Commission (CIPC) on an annual basis, confirming the following:

9.3.3.1.1 Annual total revenue based on the QSE threshold table above.

9.3.3.1.2 Level of black ownership.

9.4 Any misrepresentation in terms of Para 9.3 above constitutes a criminal offence as set out in the B-BBEE Act as amended.

**10. THE AMENDED PROPERTY SECTOR CODE SCORECARD**

- 10.1 The Ownership element, measures effective ownership of entities by Black people.
- 10.2 The Management Control element for the Amended Property Sector Code has been split into Management Control and Employment Equity. Management Control measures the effective control of entities Black people and the Employment Equity measures initiatives intended to achieve equity in the workplace under the Act, and the Employment Equity Act.
- 10.3 The Skills Development element, measures the extent to which employers carry out initiatives designed to develop the competencies of Black employees and Black people internally and externally.
- 10.4 The Enterprise and Supplier Development element, measures the extent to which entities buy goods and services from Empowering Suppliers which are EME or QSE Suppliers with at least 51% Black Ownership. This element also measures the extent to which enterprises carry out supplier development and enterprise development initiatives intended to assist and accelerate the growth and sustainability of black enterprises.
- 10.5 The Socio-Economic Development and sector specific contributions element, measures the extent to which entities carry out initiatives that promote access to the economy for Black people contributing towards Socio-Economic Development or sector specific initiatives.
- 10.6 The Economic Development element is the unique element of the amended Property sector code, measures the extent to which entities contribute towards development in under resourced areas.

**11. THE B-BBEE AMENDED PROPERTY SECTOR CODE QSE SCORECARD**

11.1 The amended Property QSE Sector code scorecard element weighting is as follows:

ELEMENT	CODE NUMBERS	WEIGHTING
<b>AMENDED PROPERTY SECTOR CODE</b>		
Ownership	Code 701	27 points
Management Control	Code 702A	9 points
Employment Equity	Code 702B	11 points
Skills Development	Code 703	17 points
Enterprise and Supplier Development	Code 704	35 points
Socio-Economic Development	Code 705	2 points
Economic Development	Code 706	4 points
<b>TOTAL</b>		<b>105 points</b>

**12. THE B-BBEE AMENDED PROPERTY SECTOR CODE GENERIC SCORECARD**

12.1 The amended Property Sector Generic Code scorecard element weighting is as follows:

ELEMENT	CODE NUMBERS	WEIGHTING
<b>AMENDED PROPERTY SECTOR CODE</b>		
Ownership	Code 100	30 points
Management Control	Code 200A	9 points
Employment Equity	Code 200B	13 points
Skills Development	Code 300	19 points
Enterprise Supplier Development	Code 400	39 points
Socio-Economic Development	Code 500	2 points
Economic Development	Code 600	5 points
<b>TOTAL</b>		<b>117 points</b>

12.2 The maximum weighting points available under the Amended Property Sector Code, including Bonus Points are:

Generic Entities	132 (117 + 15)
QSE Entities	110 (105 + 5)

Since the achievable points for entities within the property Sector vary depending on the relevant segment as per the Complex Structure Table clause 13.2, the points calculation for BEE Level qualification is according to the following formula:

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

A= Points for BEE level qualification

B= Maximum Points under Code

C= Maximum Points available to Measured entity as per clause 13.2 and relevant segment.

It should be noted that if a Measured Entity does not qualify for specific points such as Disposal of Assets or Property Development, the points under C are reduced accordingly.

#### Example

A Generic entity measured as an Asset Management organisation does not have to be measured under the Economic Development element as per clause 13.2. Thus, the maximum points available to that entity is 127 points. If that Measured Entity scores 85 points, the calculation for BEE Level qualification is as follows: -

$$\frac{132}{127} \times 85 = 88.35 = \text{BEE Level 4 (100\% recognition).}$$

- 12.3 The B-BBEE recognition level of a property sector enterprise will be recognised based on the status framework as indicated in the DTI Codes, Code 000: B-BBEE Status.
- 12.4 In case of doubt, refer to the sector code technical guidelines to work out the recognition level based on a varying denominator.

### 13. ROLE OF COUNCIL

- 13.1 The Property Sector Charter Council (*“the Charter Council”*) represents all stakeholders in the sector. The mandate of the Charter Council includes:
- 13.1.1 To constitute an executive structure with adequate capacity;
  - 13.1.2 To oversee and monitor the implementation of the sector code;
  - 13.1.3 To receive, consider and approve annual enterprise B-BBEE reports;
  - 13.1.4 To issue guidance notes on the interpretation and application of the sector code; and
  - 13.1.5 To prepare annual reports on progress in implementing the sector code.
  - 13.1.6 May offer support to the industry where conflicting opinions between regulators exist.

### 14. MONITORING AND REPORTING

- 14.1 Measured entities within the property sector will be encouraged to contribute towards funding the Charter Council and this will be recognised as Enterprise Development or Supplier Development contribution.
- 14.2 Each enterprise will submit a B-BBEE report annually to the Charter Council. The report, must contain the BBEE certificate and enterprise’s scorecard, verified by an accredited BEE verification agency. and other information may be requested from time to time by the Charter Council.
- 14.3 The first annual report will be for the enterprise’s first full financial year after the effective date of the code and must be submitted to the sector charter council within two months after the request from the Charter Council office.
- 14.4 Once the sector code is gazetted, it will be binding and enforceable with immediate effect and the verification certificates issued before the gazetting of the sector code will remain valid for 12 months.
- 14.5 The Charter Council will comprehensively review progress on the implementation of the sector code after five (5) years from the effective date of this sector code or at the review of the Codes of Good Practice – which ever one comes first.
- 14.6 All verification agencies must submit Property Sector BBEE certificate and scorecard report within 30 days of issue at the following email address [admin@propertycharter.co.za](mailto:admin@propertycharter.co.za).

**STATEMENT 000:**  
**GENERAL PRINCIPLES AND GENERAL SCORECARD AS APPLIED  
TO THE AMENDED PROPERTY SECTOR CODE**

**Issued under section 9(1) of the Broad-Based Black Economic  
Empowerment act of 2003 as amended**

**1. OBJECTIVES OF THIS STATEMENT**

All the objectives indicated in the DTI codes, Code 000 will be applicable to the Property sector code.

**2. KEY PRINCIPLES**

- 2.1 The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 2.2 Where 'this code' is silent in terms of certain provisions then the amended Codes of Good Practice will apply.
- 2.3 In interpreting the provisions of the Codes any reasonable interpretation consistent with the objectives of the B-BBEE Act as amended and the B-BBEE strategy must take precedence.
- 2.4 The basis for measuring B-BBEE initiatives under this sector code is the B-BBEE compliance of the Measured Entity at the date of measurement.
- 2.5 Any misrepresentation or attempt to misrepresent a Measured Entity's true BBEE Status will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended,
- 2.6 Initiatives which split, separate or divide a Measured Entity as a means of ensuring eligibility as an Exempted Micro-Enterprise, a Qualifying Small Enterprise or a Start-Up Enterprise may constitute an offence and will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended.
- 2.7 Any representation made by an entity about its B-BBEE compliance must be supported by suitable evidence or documentation. A Measured Entity that does not provide evidence or documentation supporting any initiative must not receive any recognition for that initiative.
- 2.8 Wherever a Standard Valuation Method applies to measuring an indicator, the same standard should apply, as far as reasonably possible, consistently in all other applicable calculations in this statement.

### 3. APPLICATION OF THE CODES

- 3.1. All measured entities that are scoped under this sector code (under statement 6.2) must be measured under this sector code.
- 3.2. The basis for measuring the B-BBEE compliance of an entity in terms of paragraph is:
- 3.2.1. Using the eligibility of Exempted Micro-Enterprise;
- 3.2.2. The Generic Scorecard and QSE Scorecard, in the case of other Measured Entities.
- 3.2.3. A measured entity in a sector in respect of which a sector code has been issued in terms of Section 9(1) of the B-BBEE Act as amended, may only be measured for compliance in accordance with this code.
- 3.3. **PRIORITY ELEMENTS, SUBMINIMUM AND DISCOUNTING PRINCIPLE**
- 3.3.1. The Priority Elements are as follows:
- 3.3.2. **Ownership:**
- The sub-minimum requirement for Ownership is 40% of the Net Value points based on the property owning company time based graduation factor.
- 3.3.3. **Skills Development:**
- The sub-minimum requirement for Skills Development is 40% of the total weighting points for Skills Development excluding bonus points.
- 3.3.4. **Enterprise and Supplier Development:**
- The sub-minimum requirement for Enterprise and Supplier Development is 40% for each of the three weighting points excluding bonus points, within the Enterprise and Supplier Development element, namely Preferential Procurement; Supplier Development And Enterprise Development.
- 3.4. **COMPLIANCE TO PRIORITY ELEMENTS**
- 3.4.1. A Large Enterprise is required to comply with all the Priority Elements;

3.4.2. A Qualifying Small Enterprise is required to comply with Ownership as a compulsory element, and either Skills Development or Enterprise and Supplier Development.

	Applicable area	Sub-Minimum Requirement	Generic		QSE
			Property Owning companies	All other companies	
<b>Ownership</b>	Net Equity	40%	3.2	4	4
<b>Skills Development</b>	Total Weighting	40%	7.6		6.8
<b>Enterprise &amp; Supplier Development</b>	Preferential Procurement	40%	9.6		10
	Supplier Development	40%	4		2
	Enterprise Development	40%	2		2

### 3.5. DISCOUNTING PRINCIPLE EFFECT

3.5.1. Non-compliance with the 40% sub-minimum requirements of any of the applicable priority elements, will result in the following outcomes for both Large Enterprises and Qualifying Small Enterprises:

3.5.1.1 The discounted level that the Measured Entity achieved because of non-compliance with the 40% sub-minimum requirements will be recognised by the Verification Professional ("the Recognition Level");

3.5.2. Notwithstanding the recognition in the point above, the Measured Entity's B-BBEE status level will be discounted by one level down;

3.5.3. The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 as amended from time to time is only applicable to 'designated employers' who employ 50 or more employees or are above the threshold as gazetted in the Amendments to the Employment Equity Act

### 3.6. BONUS POINTS

3.6.1. Bonus points are calculated on pro-rata basis and unless otherwise stated.



#### 4. START-UP ENTERPRISES

- 4.1 Start-up Enterprise incorporated within 12 months must be measured as an Exempted Micro-Enterprise under this statement for the first year following their formation or incorporation. This provision applies regardless of the expected total turnover of the Start-up Enterprise.
- 4.2 Start-up Enterprise is deemed to have the qualifying B-BBEE Status in accordance with the principles of eligibility of an Exempted Micro Enterprises (EME).
- 4.3 In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status.
- 4.4 Despite paragraph 4.1 and 4.2, a Start-up Enterprise must submit a QSE scorecard when tendering for any contract, or seeking any other economic activity covered by Section 10 of the B-BBEE Act as amended, with a value higher than R10 million but less than R50 million. For contracts of R50 million or more they should submit the Generic scorecard. The preparation of such scorecards must use annualised data.

#### 5. DURATION OF THE B-BBEE CODES

- 5.1 A Code remains in effect until amended, substituted or repealed under Section 9 of the B-BBEE Act as amended.

**6. OWNERSHIP**

- 6.1. To date the commercial activities surrounding property continue to reflect inequalities in ownership, with little transformation having taken place. The situation is further exacerbated by skewed ownership patterns of property in general.
- 6.2. There are two Ownership scorecards which relate to generic: Property owning companies and all other companies. The All other companies must comply with ownership scorecard as indicated in the DTI Codes.
- 6.3. This code aims to address the low levels of black ownership in property enterprises (including property services enterprises), as well as deal with obstacles to ownership by black people of property assets.
- 6.4. Each property sector enterprise commits to achieve the following targets:
- at least 27% ownership and economic interest held by black people and 27% exercisable by black people in such enterprises;
  - at least 10% ownership and economic interest held by black women and 10% votes exercisable by black women in such enterprises;
  - at least 3% participation in ownership and economic interest held by broad-based ownership schemes and/or designated groups; and
  - at least 3% participation in ownership and economic interest held by new entrants.
- 6.5. For property owning companies only, the following measurement of net equity (realisation points) will be applied as indicated in the table below, whilst for the all other companies in the property sector the measurement of net equity (realisation points) as indicated in the DTI Codes will apply.

Year	Percentage
Year 1	3%
Year 2	7%
Year 3	10%
Year 4	15%
Year 5	19%
Year 6	24%
Year 7	30%
Year 8	36%
Year 9	43%
Year 10	50%

- 6.6. Given that the majority of the listed share register have a mandated investments that are far beyond 40%, a special consent is given for only property listed companies and property unit trusts or REITS companies to cap the mandated investment at 50%. Despite this provision, the cap shall be 40% as in the Generic Codes for those listed companies and property unit trusts, unless there is consistent evidence of 50% or more of the mandated investment ownership from the time the measured entity got listed or three years prior to being verified of their B-BBEE status.
- 6.7. The Property Listed industry is such that there is high level of dilution of Economic Interest than in any other listed companies. To address the excessive dilution of BEE shareholdings in property listed companies relative to other listed corporate companies, as a result of frequent equity capital raisings a normalisation formula has been created:

- The formula seeks to calculate the deemed number of shares in issue. The deemed number of shares in issue is calculated as:

$$Y \times (1+X)^n$$

- Where:
  - **Y**= number of shares in issue at the time of doing direct BBBEE deal
  - **X**=Average 10 year compounded increase in number of shares in issue for the top 50 listed companies (excluding real estate)
  - **n**= year of Measurement (e.g. Year 1 )
- X in the formula will be calculated by an independent external party and published by the PSCC at the beginning of every year
- X=0.8% applicable from 1 June 2017-December 2017 and thereafter the number will be independently calculated and published every year by PSCC, to be applied at the beginning of each calendar year.

- 6.8. Peculiar cases will be reviewed and assessed on a case to case basis via an application to the Sector Charter Council office and the DTI (BEE Unit). The application would have to provide detailed and full justification that warrants a special concession.
- 6.9. Property Sector commits to providing financial support to Black owned and controlled companies with at least 51% black ownership (level 1-3) measured as a percentage of development/redevelopment spend on properties not currently owned by the measured entity. The target to graduate over a period of time as follows:
- 6.9.1. 1% from the first to the end of third calendar year (1-3 year) after commencement;
- 6.9.2. 2% from the first calendar day of the fourth year to the last calendar day of the fifth year (4-5 year) after commencement.
- 6.10. The financial support sub-element in ownership is subject to the measured entity doing development or redevelopment at any given year.
- 6.11. Where the measured entity has not done any form of development or redevelopment, it will calculate its overall performance based on the total maximum points minus the weighting allocated the financial support sub-element.
- 6.12. If the measured entity choose under this provision to give financial support that result in ownership points, the same provision can not be counted again under Enterprise and Supplier Development
- 6.13. Black people and designated groups including black women, black youth, black people with disabilities and black people living in rural areas who are already involved in the sector should be given preference in case of any competitive bids for equity ownership opportunities in enterprises within the property sector.
- 6.14. The funding structures should facilitate the transfer of full economic interest to the black partners and longer term shareholder-type relationships.
- 6.15. Any provisions in Code 100 relating to the recognition of ownership contributions arising from the sale of shares, businesses or assets by enterprises, shall apply to enterprises in the property sector, provided that the sale itself is not counted under enterprise development.

- 6.16. The parties to the code commit to devise mechanisms to remove the obstacles that restrict the ability of black people to own property and to participate in the property market. These would include but not be limited to the following:
- 6.16.1. Address administrative and other constraints to ownership, in partnership with the relevant government departments at national, provincial and local level;
  - 6.16.2. Design partnerships with the financial sector and government to enhance access to finance for property ownership and property development initiatives;
  - 6.16.3. Meet asset disposal targets as outlined in the Ownership bonus section of this code;
- 6.17. The Charter Council will follow and apply the DTI Codes regarding indirect ownership. If there is any matter relating to scorecards and/or measuring of enterprises in this codes, the generic DTI Codes shall take precedence over the charter code 100.
- 6.18. All principles under Ownership in the revised codes as amended time to time (for both generic and QSE) are applicable.

**CODE 100 OWNERSHIP GENERIC SCORECARDS – 30 POINTS**

CATEGORY	OWNERSHIP INDICATOR	WEIGHTING POINTS		COMPLIANCE TARGET	
		Property Owning companies	All other companies	Property Owning Companies	All other companies
Voting Rights	Exercisable Voting Rights in the Enterprise in the hands of Black people	4	5	27%	25% +1 vote
	Exercisable Voting Rights in the Enterprise in the hands of Black women	2	2	10%	10%
Economic Interest	Economic Interest of Black people in the Enterprise	4	5	27%	25%
	Economic Interest of Black women in the Enterprise	2	2	10%	10%
	Economic interest of the following black natural persons in the measured entity 1. Black designated groups; 2. Black participants in Employee share ownership Schemes Programme; 3. Black beneficiaries of Broad based Ownership Schemes; or 4. Black participants in Co-operatives.	4	4	2.5%	2.5%
Realization points	New Entrants	2	2	2%	2%
	Net equity Value	8	10	Yr 1 – 3% Yr 2 – 7% Yr 3 – 10% Yr 4 – 15% Yr 5 – 19% Yr 6 – 24% Yr 7 – 30% Yr 8 – 36% Yr 9 – 43% Yr 10 -50%	Yr 1 =10% Yr 2=20% Yr 3 = 40% Yr 5 = 60% Yr 7 = 80% Yr 9 = 100%
Financial Support	Financial support to Black property owned and controlled companies with at least 51% black ownership (level1-3) measured as a % of development/ redevelopments spend on properties not currently owned by the measured entity	4		<u>1-3yrs</u> 1%	<u>4-5yrs</u> 2%

**OWNERSHIP BONUS POINTS FOR GENERIC SCORECARD**

- 6.19. There has been limited support by the sector of entrepreneurial development and both public and private sector disposal strategies have in general inadequately incorporated B-BBEE objectives.
- 6.20. The sector commits to utilise property disposals to increase property ownership amongst black people and to contribute towards the growth of sustainable enterprises. In pursuit of this commitment, when an enterprise engages in the above activity in the sector, it commits to target 35% of total disposals to Level One (1) to Level Three (3) B-BBEE enterprises which are 51% black owned over a five year period from the effective date of this sector code. The enterprises should be independent from the measured entity and the disposed assets must result in the creation of sustainable businesses or business opportunities in the hands of black people as well as the transfer of specialised skills or productive capacity to black people. Contributions will be measured using a rolling 5 year period commencing on the effective date of the revised Codes of Good Practice being 2015. This means that the 35% target must be achieved at any time in a rolling 5 year period as a percentage of the total disposal of assets during that same period. A sale of fixed property may not be simultaneously counted towards the ownership score under sale of Assets, regardless of the fact that an actual business unit may have been sold.
- 6.21. In each year a sub-minimum of 20% of 35% i.e 7% must be achieved before any bonus points are awarded.
- 6.22. Where greater disposal on any year are achieved, they can be carried forward as contribution to the next years.
- 6.23. The bonus points will be calculated for the organisation that make disposal in line with clause 6.20 above.

CRITERIA	BONUS POINTS	BONUS TARGETS
Disposal of assets to Black owned and controlled company with at least 51% Black ownership (level1-3) as a % of total asset disposal	3	35%

**CODE 701: OWNERSHIP QSE SCORECARD - 27 POINTS**

The following table represents the indicators and method for calculating score for Ownership used this statement:

MEASUREMENT CATEGORY INDICATOR	WEIGHTING POINTS		COMPLIANCE TARGETS	COMPLIANCE TARGETS
	Property Owning Companies	All other companies	Property owning companies	All other companies
<b>1.1 Voting Rights</b>				
1.1.1 Exercisable voting rights in the enterprise in hands of Black people	5	5	25% + 1 vote	25% + 1 vote
1.1.2 Exercisable voting rights in the enterprise in the hands of Black women	2	2	10%	10%
<b>1.2 Economic interest</b>				
1.2.1 Economic Interest of Black people in the enterprise	5	5	25%	25%
1.2.3 Economic Interest of Black women in the enterprise	2	2	10%	10%
1.2.3 New entrants or Black designated groups	3	3	2%	2%
<b>1.3 Realisation Points</b>				
1.3.1 Net Value	10	10	Y 1 = 3% Y 2 = 7% Y 3 = 10% Y 4 = 15% Y 5 = 19% Y 6 = 24% Y 7 = 30% Y 8 = 36% Y 9 = 43% Y 10 = 50%	Y 1 = 10% Y 2 = 20% Y 3 = 40% Y 5 = 60% Y 7 = 80% Y 9 = 100%



**7. MANAGEMENT CONTROL**

- 7.1. Black people, Black women and designated groups continue to be under-represented at board level and in executive management in the sector.
- 7.2. Enterprises in the sector therefore commit to achieve the following
- 7.2.1 50% of voting rights for Black people at board level;
  - 7.2.2 25% of voting rights for Black females at board level;
  - 7.2.3 50% Black executive directors as a percentage of all executive directors;
  - 7.2.4 25% Black female executive directors as a percentage of all executive directors;
  - 7.2.5 60% Black executive management as a percentage of all executive management; and
  - 7.2.6 30% Black female executive management as a percentage of all executive management.
- 7.3. All principles under Management Control that covers Board Participation and other Executive Management in the revised codes as amended from time to time (for both generic and QSE) are applicable.

**CODE 200A: MANAGEMENT CONTROLS GENERIC ENTITIES – 9 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGETS
<b>2.1 Board participation:</b>		
2.1.1, Exercisable voting rights of Black Board members as a percentage of all Board members	2	50%
2.1.2 Exercisable voting rights of black Female Board members as a percentage of all Board members	1	25%
2.1.3 Black executive directors as a percentage of all executive directors	2	50%
2.1.4 Black female executive directors as a percentage of all executive directors	1	25%
<b>2.2 Other executive management</b>		
2.2.1 Black other executive management as a percentage of all executive management	2	60%
2.2.2 Black other female executive management as a percentage of all executive management	1	30%

**MANAGEMENT CONTROL BONUS POINT FOR GENERIC ENTITIES - 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	TARGET
<b>2.1 Board participation:</b>		
Black executive directors as a percentage of all executive directors	1	70%
Black female executive directors as a percentage of all executive directors	1	35%

7.4. Recognising that residential estate agencies, Broking and valuation companies do not differentiate various board level participation, these segments therefore commit to achieve the board participation targets in line Code 200A as shown below.

7.5. In the Management Control, all entire Property Sector will not be broken down into the 6 demographic sub targets.

**MANAGEMENT CONTROL FOR ESTATE AGENCIES, PROPERTY BROKERS, VALUATION COMPANIES – 9 POINTS**

MANAGEMENT CONTROL INDICATOR	WEIGHTING POINTS	COMPLIANCE TARGETS
<b>Board participation</b>		
Exercisable voting rights of Black Board members as a percentage of all voting Board members	4	50%
Exercisable voting rights of Black Female board members as a percentage of all voting Board members	2	25%
<b>Other executive management</b>		
Black executive management as a percentage of all executive management	2	60%
Black Female executive management as a percentage of all executive management	1	30%

**MANAGEMENT CONTROL BONUS POINTS FOR ESTATE AGENCIES, PROPERTY BROKERING, VALUATION COMPANIES – 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
<b>Other executive management</b>		
Black Executive Management as a percentage of all executive Management	1	70%
Black Female executive Management as a percentage of all executive management	1	40%

**CODE 702A: MANAGEMENT CONTROLS FOR QSE SCORECARD – 9 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
<b>Executive management</b>		
Black representation at executive management as a percentage of all executive management	4	50%
Black Female representation at executive management as a percentage of all executive management	2	25%
<b>Non-Executive management</b>		
Black representation at non-executive management as a percentage of all non- executive management	2	60%
Black Female representation at non-executive management as a percentage of all non-executive management	1	30%

**8. EMPLOYMENT EQUITY**

- 8.1 Despite the introduction of the Employment Equity Act, 55 of 1998, racial and gender representation in the property sector, especially in the various management categories, is not representative of the demographics of the country.
- 8.2 Consequently, each property sector enterprise undertakes to:
- 8.2.1 Implement transformation programme in its workplace and eradicate inequalities and disparities;
  - 8.2.2 Promote a non-racial, non-sexist environment and enhance cultural diversity and gender sensitivity; and
  - 8.2.3 Ensure reasonable accommodation and access for applicants of employment and employees with disabilities within the sector.
- 8.3 In addition to obligations in terms of employment equity, enterprises in the sector commit to achieve the following targets of the draft aligned sector code:
- 8.3.1 60% Black senior management employees as a percentage of all senior management;
  - 8.3.2 30% Black female senior management employees as a percentage of all senior management;
  - 8.3.3 75% Black employees in middle management as a percentage of all middle management;
  - 8.3.4 38% Black female employees in middle management as a percentage of all middle management;
  - 8.3.5 88% Black employees in junior management as a percentage of all junior management;
  - 8.3.6 44% Black female employees in junior management as a percentage of all junior management;
  - 8.3.7 2% Black disabled employees as a percentage of all employees.

- 8.4 All principles under management control that covers Senior, Middle, Junior management as well as black employees with disability in the revised codes as amended from time to time (for both generic and QSE) are applicable.
- 8.5 EAP targets and calculations apply in the Employment Equity as per code of Good practice unless otherwise stated.

**CODE: 200B EMPLOYMENT EQUITY FOR GENERIC ENTITIES - 13 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE
<b>SENIOR MANAGEMENT</b>		
Black employees in Senior Management as a percentage of all Senior Management	4	60%
Black Female employees in Senior Management as a percentage of all Senior Management	2	30%
<b>MIDDLE MANAGEMENT</b>		
Black employees in Middle Management as a percentage of all Middle Management	3	75%
Black Female employees in Middle Management as a percentage of all Middle Management	1	38%
<b>JUNIOR MANAGEMENT</b>		
Black employees in Junior management as a percentage of all Junior Management	1	88%
Black Female employees in Junior Management as a percentage of all Junior Management	1	44%
<b>EMPLOYEES WITH DISABILITY</b>		
Black Disabled Employees as a percentage of all employees	1	2%

**EMPLOYMENT EQUITY BONUS POINTS FOR GENERIC ENTITIES– 3 POINTS**

MEASUREMENT CATEGORY & CRITERIA	BONUS POINTS	COMPLIANCE TARGET
<b>SENIOR MANAGEMENT</b>		
Black employees in Senior Management as a percentage of all Senior Management	1	70%
Black Female employees in Senior Management as a percentage of all senior management	1	40%
<b>MIDDLE MANAGEMENT</b>		
Black employees in Middle Management as a percentage of all Middle Management	0.5	85%
Black Female employees in Middle Management as a percentage of all Middle Management	0.5	50%

8.6 Recognising that residential estate agencies, property brokers and valuation companies do not differentiate various management levels, residential estate agencies, Brokers and valuation companies in the sector commit to achieve the following targets from the effective date of the sector code.

- 8.6.1 50% Black practitioners as a percentage of total practitioners;
- 8.6.2 35% Black female practitioners as a percentages of total practitioners;
- 8.6.3 35% Black people in management as a percentage of total Management;
- 8.6.4 18% Black women in management as a percentage of total Management ;
- 8.6.5 30% Black people in administration as a percentage of total administrators; and
- 8.6.6 40% Black female in administration as a percentage of total administrators.

**CODE 200B: EMPLOYMENT EQUITY FOR ESTATE AGENCIES, BROKERS AND VALUATION COMPANIES -13 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Black practitioners as a percentage of total practitioners	4	50%
Black Female practitioners as a percentage of total practitioners	3	35%
Black people in Management as a percentage of total Management	2	35%
Black female in Management as a percentage of total Management	1	18%
Black people in administration as a percentage of total administrators	1	30%
Black Females in administration as a percentage of total administrators	2	40%

**EMPLOYMENT EQUITY BONUS POINTS FOR ESTATE AGENCIES, PROPERTY BROKERS AND VALUATION COMPANIES – 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Black practitioners as a % of total practitioners	1	60%
Black people in management as a % of total management	0.5	45%
Black Females in Management as a % of total Management	0.5	35%

8.6.7 For only Estate Agencies, Property Broking companies and Valuation companies - the Employment Equity will not be broken down into the 6 demographic sub targets.

**CODE 702B: EMPLOYMENT EQUITY FOR QSE – 11 POINTS**

The following table represents the indicators and method for calculating score for Employment Equity used this statement:

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Black representation at Junior, Middle and Senior management as a percentage of all management	8	60%
Black Female representation at Junior, Middle and Senior management as a percentage of all management	3	30%

8.6.8 60% Black representation at junior, middle and Senior management as a percentage of all management

8.6.9 30% Black female representation at junior, middle and Senior management as a percentage of all management

**EMPLOYMENT EQUITY BONUS POINTS FOR QSE SCORECARD– 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	BONUS POINTS	COMPLIANCE TARGET
Black representation at Junior, Middle and Senior management as a percentage of all management	1	80%
Black female representation at Junior, Middle and Senior management as a percentage of all management	1	40%



## 9. SKILLS DEVELOPMENT

- 9.1 Enterprises in the sector are not adequately investing in skills development and consequently there are limited levels of workplace development and continued professional training. There are also an insufficient number of structured and accredited training programmes or curricula in property related professions.
- 9.2 The parties to the charter commit by gazetting the amended sector code to address the backlog in structured skills development. This programme will be designed in partnership with the sector, the SETA, the Estate Agency Affairs Board ("*the EAAB*") the South African Council of Property Valuers Profession (SACPVP) and any other sector regulatory bodies, academic institutions and government.
- 9.3 Enterprises in the sector commit to achieve the following targets:
- 9.3.1 5% of leviable expenditure of learning programmes, specified in the learning matrix for black people as a percentage of leviable amount and, in addition to the skills development levy;
- 9.3.2 0.3% skills development expenditure on learning programmes, specified in the learning matrix for black employees with disabilities as a percentage of leviable amount;
- 9.3.3 2.5% of the total employees that are black people participating in Learnerships, Apprenticeships and Internships; and
- 9.3.4 2.5% of total employees that are unemployed black people participating in Learnerships, Apprenticeships and Internships.
- 9.3.5 You may not count individuals you counted in 9.3.4 under 9.3.3
- 9.4 In addition to the above, enterprises in the sector will:
- 9.4.1 Implement internships in terms of which academically qualified individuals work under supervision of qualified professionals to upgrade the professionalism in the sector;

- 9.4.2 Focus on recognition of prior learning to determine the level of competency in the sector and promote further development and training to improve the level of competency in the sector; and
- 9.4.3 Promote continuous professional development in the sector.
- 9.4.4 Mandatory training for the “Estate agents” or “Property practitioners” only as defined by Estate Agency Affairs Board (EAAB) regulator’s Act, similarly the SACPVP qualification for valuers, will qualify as skill development contribution.
- 9.5 All other principles under Skill Development (Code 300) in the revised codes as amended time to time (for both generic and QSE) are applicable.
- 9.6 In the instance where an unemployed learner has completed at least 6 months of a program as per clause 9.3.4 and obtained permanent, long term employment (longer than 12 months), they are eligible for recognition for absorption in the current measurement period.

#### **CODE 300: SKILLS DEVELOPMENT GENERIC ENTITIES – 19 POINTS**

MEASUREMENT CATEGORY & CRITERIA	SKILLS DEVELOPMENT ELEMENT	WEIGHTING POINTS	COMPLIANCE TARGET
<b>Skill Development expenditure on any programme specified in the learning programme matrix for Black people as a percentage of leviable amount</b>			
Matrix	Skills Development Expenditure on Learning Programmes, specified in the Learning Programme Matrix for Black people as a percentage of leviable amount	8	5%
Matrix	Skills Development Expenditure on Learning Programmes, specified in the Learning Programme Matrix for black people with disabilities as a percentage of Leviable Amount	3	0.3%
<b>Learnerships, apprenticeships and internship</b>			
Learnerships/Apprenticeship and Internship	Number of black employees participating in Learnerships, Apprenticeships and Internships as a percentage of total employees	4	2.5%
	Number of previously unemployed black people participating in Learnerships, Apprenticeships and Internships as a percentage of total employees	4	2.5%

Refer and use as specified in the Learning programme Matrix in the amended Codes of Good Practice.

**SKILL DEVELOPMENT BONUS POINTS FOR GENERIC ENTITIES – 3 POINTS**

MEASUREMENT CATEGORY & CRITERIA	BONUS POINTS	COMPLIANCE TARGET
Number of black people in any sector absorbed by the measured entity and industry entity at the end of the learnership, internship or apprenticeship programme	3	100%

**CODE 703: SKILLS DEVELOPMENT FOR QSE ENTITIES- 17 POINTS**

The following table represents the indicators and method for calculating score for Skill Development used this statement:

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Skills development expenditure on learning programmes specified in the learning programme matrix for Black people as a percentage of leviable amount	12	3%
Skills development expenditure on learning programmes specified in the learning programme matrix for Black Females as a percentage of leviable amount	5	1%

**SKILL DEVELOPMENT BONUS POINTS FOR QSE ENTITIES – 3 POINTS**

MEASUREMENT CATEGORY & CRITERIA	BONUS POINTS	COMPLIANCE TARGET
Number of black people in any sector absorbed by the measured entity and industry entity at the end of the learnership, internship or apprenticeship programme	3	100%

**10. ENTERPRISE AND SUPPLIER DEVELOPMENT**

10.1 To date there has been limited implementation of preferential procurement practices in the sector: The signatories to this sector code commit themselves to:

- a) 80% of B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend;
- b) 15% B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend;
- c) 15% of B-BBEE Procurement Spend from all Empowering Suppliers that are Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend;
- d) 40% of BBEE Procurement Spend from all Empowering Suppliers that are at least 51% black owned;
- e) 12% of B-BBEE Procurement Spend from all Empowering Suppliers that are more than 30% black women-owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement and
- f) Spend 40% of procurement spend on property service Enterprises that are 51% black owned (level 1-3) as a percentage of total property Services spend.

10.2 There are numerous micro and small businesses in the sector; however few of these have significant levels of black ownership and control.

10.3 The property sector commits itself to invest in, support, facilitate and foster new and existing small and micro enterprises possessing that are black owned, through the implementation of comprehensive enterprise development programmes. The parties to the charter therefore commit to achieve the following targets:

10.3.1. 2% of annual value of NPAT on all Supplier Development contributions;

10.3.2. Consequently each enterprise in the sector commits to achieve a target of 1% of annual value NPAT on Enterprise Development contributions and sector specific .

10.4 All principles under Supplier and Enterprise Development (Code 400) in the revised codes as amended time to time (for both generic and QSE) are applicable

**CODE 400: ENTERPRISE and SUPPLIER DEVELOPMENT GENERIC ENTITIES – 39 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGETS
<b>2.1 PREFERENTIAL PROCUREMENT</b>		
BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	2	80%
B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	2	15%
B-BBEE Procurement Spend from all Empowering Suppliers that are Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	2	15%
B-BBEE Procurement Spend from all Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	8	40%
B-BBEE Procurement Spend from all Empowering Suppliers that are more than 30% black women-owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%
Percentage of procurement spend with at least 51% Black owned Property Service enterprises (level 1-3) as a percentage of the total property services spend	6	40%
<b>2.2 SUPPLIER DEVELOPMENT</b>		
Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	10	2% of NPAT
<b>2.3 ENTERPRISE DEVELOPMENT</b>		
2.3.1 Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target.	5	1% of NPAT

**ENTERPRISE & SUPPLIER DEVELOPMENT BONUS POINTS FOR GENERIC ENTITIES - 4 POINTS**

MEASUREMENT CATEGORY & CRITERIA	BONUS POINTS	COMPLIANCE TARGETS
BEE Procurement Spent from designated group suppliers that are at least 51% Black Owned	2	2%
Bonus points for graduation of one or more Enterprise Development beneficiaries to the Supplier Development level	1	
Bonus points for creating one or more job directly in the beneficiary entity as a result of supplier Development or enterprise development initiatives by the measured entity	1	

**CODE 704: ENTERPRISE AND SUPPLIER DEVELOPMENT FOR QSE- 35 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGETS
<b>PREFERENTIAL PROCUREMENT</b>		
B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE procurement Recognition Levels as a percentage of a Total measured Procurement Spend	10	60%
B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	15	15%
<b>SUPPLIER DEVELOPMENT</b>		
Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target	5	1% of NPAT
<b>ENTERPRISE DEVELOPMENT</b>		
Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	5	1% of NPAT

10.5 Enterprise development programmes may include but are not limited to the following

- a) Management, business development and technical skills transfer;
- b) Technology transfer, establishment of administrative systems, cost control systems and infrastructure support;

- c) Development of entity credit resources with suppliers; and
  - d) Development of entity financial capacity and/or financial assistance.
- 10.6 Enterprise development plans should promote sustainability and must provide for the measurement of enterprise growth.
- 10.7 Refer to the enterprise matrix in the revised codes of good practice for a comprehensive list enterprise development programmes that are calculated for points
- 10.8 Empowering supplier is currently not a requirement, but the Property Sector Charter Council reserves the right to implement sector specific Empowering Supplier requirements and would include but not limited to:
- 10.9 At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.
- 10.10 Have a current approved BBBEE Enterprise and Supplier Development plan as defined in the COGP for your company (signed by board and/or CEO and/or CFO) which commits to improvement/s of at least one level higher than previously recorded and the plan should be current-not older than 12 months from verification.
- 10.11 Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE measurement is maintained.
- 10.12 At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.
- 10.13 Skill transfer – at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation of financial capacity.
- 10.14 At least 85% of labour costs should be paid to SA employees by services industry entities.
- 10.15 An Empowering Supplier within a context of B-BBEE is a B-BBEE compliant entity, which is a good citizen South African entity, comply with all regulatory requirements of the country and until the list of possible relevant activities to the property sector is extended, an entity should meet at least two if it is a large enterprise with employees and at least one if it is large enterprise without people or one if it is a QSE.

**11. SOCIO-ECONOMIC DEVELOPMENT**

- 11.1 The property sector has but reasonable effort towards implementation of socio economic development initiatives, although more can be done.
- 11.2 The parties to this charter commit to utilising the resources at their disposal to initiate and contribute to socio economic development projects that benefit black groups, communities and individuals and that promote transformation and development.
- 11.3 In the planning of socio economic development projects, the parties undertake to consult with beneficiaries and in particular immediate communities to ensure that their developmental needs will be met.
- 11.4 The parties commit to ensuring that projects go beyond the financial contribution by including monitoring and evaluation of impact in their socio economic development.
- 11.5 The parties to this charter undertake to form partnerships with other appropriate private sector organisations, within and outside the property sector, and with government structures to enhance assistance and support to communities.
- 11.6 Parties to this charter will commit a target of 1% of NPAT of average annual value of all socio-economic development contributions made by the measured entity.

**CODE 500: SOCIO-ECONOMIC DEVELOPMENT FOR GENERIC ENTITIES – 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Annual value of all socio-Economic Development Contribution made by measured entity as a percentage of the target	2	1% of NPAT



**CODE 705: SOCIO-ECONOMIC DEVELOPMENT FOR QSE ENTITIES - 2 POINTS**

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Annual value of all Socio-Economic Development Contributions made by the Measured Entity as a percentage of the target	2	1% of NPAT

11.7 Socio-economic development projects may include but will not be limited to:

- 11.7.1 Support for community education facilities;
- 11.7.2 Programmes at secondary and tertiary education level which promote the sector;
- 11.7.3 Bursaries and scholarships which are oriented towards property related professions;
- 11.7.4 Consumer education and information on property ownership and property practice;
- 11.7.5 Training : community training, building related trades and skills development for unemployed school leavers and adult basic education and training in communities;
- 11.7.6 Development programmes for black youth and other black designated groups;
- 11.7.7 Environment: support of conservation projects, community clean-up projects, urban agriculture and food security, garden initiatives; environmental preservation of flora and fauna in areas where the biodiversity is put at risk due to property development;
- 11.7.8 Arts & culture: support of development programmes for new talent and provision of more public culture centres;
- 11.7.9 Health: HIV and AIDS awareness, support of community clinics and access to health care;
- 11.7.10 Sport: support of developmental programmes; and
- 11.7.11 Job creation.

**12. ECONOMIC DEVELOPMENT**

- 12.1 There is a lack of investment and property development in under-resourced areas, perpetuating service inequalities and exacerbating the limited tradability of properties in these areas.
- 12.2 The parties to the charter acknowledge their role in directing investment into under-resourced areas. Consequently, property enterprises will participate in property development and transformational infrastructure projects that support development and empowerment of micro and small enterprises and contribute towards equitable access to economic resources in under-resourced areas.
- 12.3 An enterprise that engages in property development commits to spend 10% of its total new property development in under-resourced areas. The amended Property Sector Code must use the Transformational Infrastructure Index to categorise under resourced areas as referred to in the Financial Sector Code (FSC) over a five-year period.
- 12.4 A measured entity can contribute 5% of cumulative total annual investment activities to Economic Development projects that stimulates development i.e. infrastructure bulk services as defined on average over a five-year period.
- 12.4 Where an enterprise chooses to apply both sub-elements, the entity can spend 5% of new property development in under resourced areas for 3 weighting points and 2.5% for economic development projects that stimulates development i.e infrastructure bulk services, for 2 weighting points.
- 12.5 There has been limited support by the sector of entrepreneurial development and both public and private sector disposal strategies have in general inadequately incorporated B-BBEE objectives.
- 12.6 As part of the process, the parties will design appropriate risk mitigating measures and risk sharing arrangements with Government and its development finance institutions and the Financial Sector Charter Council.
- 12.7 National, provincial and local government will identify property for development purposes in line with integrated development plans and combine zoning rights with development requirements.
- 12.8 For defining under resourced area, we will use the infrastructure municipality index developed by Financial Draft sector code (FSC) as amended. The

Infrastructure municipality index to be published in the Property Sector Charter Council website. [www.propertycharter.co.za](http://www.propertycharter.co.za).

12.9 If the Measured Entity only undertakes Economic Development under one of the above indicators, then the points of the two indicators are aggregated and the Compliance Target for that indicator is doubled.

For example:

- If an organisation only contributes to 6.1 then the points are 5 and the target is 10%.
- If an organisation only contributes to 6.2 then the points are 5 and the target is 5%.

12.10 A recognised amount counted towards the target of one of the above indicators cannot be recognised under the other i.e. no double counting.

12.11 Economic Development Investments and contributions are recognised based on the percentages contained in the latest Infrastructure Municipality Index contained in the Financial Services Sector Code.

#### CODE 600: ECONOMIC DEVELOPMENT FOR GENERIC ENTITIES – 5 POINTS

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
6.1 Economic Development Investment in under-resourced areas as a % of total annual investment	3	10%
6.2 Contribution towards any Economic Development Programme as a % of total annual investment activities.	2	5%

#### CODE 706: ECONOMIC DEVELOPMENT SCORECARD FOR QSE – 4 POINTS

##### THE ECONOMIC DEVELOPMENT SCORECARD FOR QSE – 4 POINTS

MEASUREMENT CATEGORY & CRITERIA	WEIGHTING POINTS	COMPLIANCE TARGET
Economic Development Investment in under-resourced areas as a % of total annual investment	4	10%

12.12 For QSE's, the Economic Development element will be subject the measured engaging in property development.

12.1. Where the QSE measured entity, has not done any form of property development that year, it will calculate its overall performance based on the total maximum points minus the weighting allocated to the Economic Development element.

### 13. COMPLEX STRUCTURE

13.1. Where an enterprise is exempt from an indicator in the scorecard because of the nature of its trade it will calculate its overall performance based on total maximum points minus the weighting allocated to the indicator from which it is exempt. For example any enterprise that does not do development and thus will not be able to make investments in property related developments will be exempt from performing under that category of the scorecard and consequently scored out of commensurately less. This is illustrated on the table below.

13.2. Each tick represents an indicator of the scorecard that an enterprise needs to comply with.

#### COMPLEX STRUCTURE TABLE

	APUTS Property Unit Trust/ REITS	PLSA Property Loans Stock (external investments)	Asset Management	Property Owners/REITS External Management	Property Managers Services	Internal Management with PLSA/REITS	Unlisted Public Mandated Collective Investment Scheme	Estate Agents	Specialised Entities incl state organs
Ownership	√	√	√	√	√	√	√	√	X
Management Control	√	√	√	√	√	√	√	√	X
Employment Equity	X	X	√	X	√	√	√	√	√
Skill Development	X	X	√	X	√	√	√	√	√
Enterprise & supplier Development	√	√	√	√	√	√	√	√	√
Socio- Economic Development	X	√	√	√	√	√	√	√	X
Economic Development	√	√	X	√	X	√	√	X	X

13.3. ESD under specialised equals Preferential procurement only.

## 14. COMPLEX STRUCTURE AND PRIORITY ELEMENTS

14.1. Following the complex structure application as described above there are entities that can not do skill development as a priority element because they do not have employees due to the nature of its trade;

14.2. As described in section 3 –it is a requirement that Skill Development is one of the priority elements. And in cases where there are no employees and thus no Skill Development, the additional element will be Management Control where:

### 14.2.1. Management Control

The sub-minimum requirement for Management Control is 40% of the total weighting points for skill Development excluding bonus points.

14.3. Each tick represents an indicator of the scorecard that an enterprise needs to comply with under priority elements.

	APUTS Property Unit Trust/	REITS (external management)	Asset Management	Property Owners/REITS External Management	Property Managers Services	Internal Management with REITS	Unlisted Public Mandated Collective Investment Scheme	Estate Agents	Specialised Scorecard incl state organs
Ownership	√	√	√	√	√	√	√	√	
Management Control								√	
Skill Development			√		√	√	√	√	√
Enterprise & supplier Development	√	√	√	√	√	√	√		√
Socio-Economic Development									
Economic Development	√	√		√					

**15. THE SCORECARD**

- 15.1. The scorecard provides an objective and broad-based set of measurement indicators for purposes of measuring B-BBEE progress in and between property enterprises, in different sub-sectors and in the property sector as a whole.
- 15.2. The scorecard contains the following:
- 15.2.1. Elements: The core elements of the amended sector code, derived from the B-BBEE Act as amended and DTI Codes;
  - 15.2.2. Indicators: The area of measurement pertaining to an element of B-BBEE;
  - 15.2.3. Targets: Quantifiable measurement of transformational initiatives;
  - 15.2.4. Weightings: A number on the scorecard against which an enterprise's performance in terms of a particular target will be calculated; and
  - 15.2.5. Bonus points: It is possible to earn bonus points. In all instances these bonus points are aimed at incentivising enterprises to broaden the effect of their transformation programmes.
- 15.3. The B-BBEE status of a property sector enterprise, after calculating its score in terms of this scorecard, will be classified as per the BEE status matrix in this sector code.

**16. MEMBERS OF THE PROPERTY CHARTER COUNCIL ARE:**

1. Association of Property Unit Trust Management Companies (APUTMC);
2. Black Professional Valuers Association (BPVA);
3. Estate Agencies Affairs Board (EAAB);
4. Institute of Estate Agents of South Africa (IEASA);
5. National Association of Managing Agents (NAMA)
6. National Association of Youth Empowerment in Construction (NAYEC)
7. National Department of Public Works (NDPW);
8. National Economic Development and Labour Council (NEDLAC);
9. National Property Forum (NPF)
10. Property Loan Stock Association (PLSA);
11. Public Investment Corporation- Property (PIC);
12. Real Estate Business Owners of South Africa (REBOSA
13. Real Estate Investment Trusts) (REITS)
14. South African Black Technical and Allied Career Organisation (SABTACO);
15. South African Council of Property Valuers Profession (SACPVP);
16. South African Council of Shopping Centres (SACSC);
17. South African Facilities Managers Association (SAFMA);
18. South African Forum of Real Estate (SAFRE);
20. South African Institute of Black Property Practitioners (SAIBPP);
21. South African Property Owners Association (SAPOA);
22. Services Skills Education Training Authorities (SSETA); And
23. Women's Property Network (WPN).

## 17. DEFINITIONS

<i>Absorption</i>	<i>A measure of the learners ability to successfully secure formal permanent or long-term contract employment for the learner or to assist the learners proceed with further education and training.</i>
<i>Acceptable Valuation Standard</i>	<i>Valuation of an asset, an economic interest, an enterprise or any other instrument or right relevant to measurement under Statement 100 of the Codes. All such valuations shall be undertaken in accordance with normal valuation methods that represent standard market practice.</i>
<i>Accredited BEE Verification Agencies</i>	<i>An enterprise that has been accredited by SANAS, or any other body authorised by the Minister to undertake accreditation of verification agencies, on behalf of the DTI, who meet the minimum technical and black economic empowerment criteria for rating agencies and whose main role is to provide an independent opinion on the BBBEE status of an enterprise.</i>
<i>BBBEE enterprises</i>	<i>Enterprises whose BBBEE score in terms of a sector scorecard which has been issued as a code of practice or in terms of the DTI's generic scorecard is greater than or equal to 40% and has been verified by an accredited verification agency.</i>
<i>Benefit scheme</i>	<i>A Broad-Based Ownership Scheme in which more than 50 natural persons:</i> <ul style="list-style-type: none"> <li><i>-are intended to benefit from an Economic Interest received by the scheme or by the fiduciaries of the scheme; and</i></li> <li><i>- the economic benefits paid from the Economic Interest received is not distributed but rather applied to the benefit of the scheme's Deemed Participants.</i></li> </ul>
<i>Black Aged People</i>	<i>Black people who are also aged people as defined in the Aged Persons Act 81 of 1967, as amended or substituted.</i>
<i>Black disabled people</i>	<i>Black people who also satisfy the criteria in the definition of 'persons with disabilities' set forth in paragraph 5.1 of the "code of good practice on the employment of people with disabilities" (as amended or substituted from time to time) issued in terms of section 54(1)(a) of the Employment Equity Act, 1998;</i>
<i>Black New Entrant</i>	<i>A black participant(s) (which includes without limitation, black participants in broad-based ownership schemes) holding in aggregate in excess of 2% of the total voting rights and economic interest in a measured enterprises who has not, prior to their acquisition of their equity interest in a measured enterprise, concluded similar transactions in respect of any other enterprise, which in aggregate have a cumulative value of R50million measured in accordance with an acceptable valuation standard.</i>
<i>Black people</i>	<i>Is a generic term that means Africans, Coloureds and Indians</i> <ul style="list-style-type: none"> <li><i>a. Who are citizens of the Republic of South Africa by birth or decent; or</i></li> <li><i>b. Who become citizens of the Republic of South Africa by naturalisation</i> <ul style="list-style-type: none"> <li><i>i. Before 27 April 1994</i></li> <li><i>ii. On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.</i></li> </ul> </li> </ul>
<i>Black Unemployed People</i>	<i>Black people who are unemployed and are not attending or are not required by law to attend an educational institution and who are not awaiting admission to an educational institution.</i>
<i>Black Women</i>	<i>Black people who are women.</i>
<i>Black Youth</i>	<i>Black persons who are also youth as defined in the National Youth Development Agency Act 54 of 2008, as amended or substituted from time to time;</i>



<i>Broad-based Black Economic Empowerment</i>	<i>The economic empowerment of all black people including women, workers, Youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to –</i> <ul style="list-style-type: none"> <li>-Increasing the number of black people that manage, own and control enterprises and productive assets;</li> <li>- Facilitating Ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;</li> <li>- Targeted procurement; and investment in enterprises that are owned or managed by black people;</li> <li>- Human resources and skills development;</li> <li>- Achieving equitable representation in all occupational categories and levels in the workforce;</li> <li>- Facilitating the provision of additional skills to black employees at all levels in the workforce.</li> </ul>
<i>Commissioned agent</i>	<i>A person who only earns commission, receives no salary.</i>
<i>Community Scheme</i>	<i>Any scheme or arrangement in terms of which the shared use of and responsibility for part of land and building, including but not limited to sectional title development scheme, share block company, home owners association and a housing scheme for retired persons. And scheme has the same meaning.</i>
<i>Deemed current value</i>	<i>The result of the formula in paragraph 17.6 of DTI Code 100, Statement 100. The formula is: the value of the instrument(s) to which a black Participant's Economic Interest attaches minus the carrying value of any third party rights or claims that may exist against that black Participant as a result of the financing of the acquisition of the instrument(s) divided by the current value of the Measured Enterprise. All values to be upon the date of measurement.</i>
<i>Deemed participant</i>	<i>A natural person entitled to receive a distribution or benefit from a broad-based ownership scheme.</i>
<i>Designated groups</i>	<i>a) Means unemployment black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution  b) Black people who are youth as defined in the National Youth Commission Act of 1996;  c) Black people who are persons with disabilities as defined in the Codes of Good Practice on employment of people with disability issued under Employment Equity Act;  d) Black people living in rural and under-developed areas.  e) Black military veterans who qualifies to be called a military veteran in terms of Military veterans Act 18 of 2011.</i>
<i>Development in under resourced areas</i>	<i>Only new stock is considered in this case as development excluding any upgrades, any improvements and/or extensions of existing stock</i>
<i>Distribution scheme</i>	<i>A Broad-Based Ownership Scheme in which more than 50 natural persons are intended to receive distributions from the scheme that are payable from the Economic Interest received by the scheme or by the fiduciaries of the scheme.</i>
<i>Economic Development</i>	<i>Investment and property development in under-resourced areas based on the infrastructure municipality index developed by Financial Draft aligned sector code (FSC).  Note: An Economic Development Investment anticipates a return on investment whereas a Contribution is a recognised payment within an Economic Development Programme with no return expected.</i>

<i>Economic Interest</i>	<p><i>A Participant's Claim against the Enterprise representing a return on ownership of the Enterprise, measured in accordance with the Flow-Through and Modified Flow-Through Principles. In this regard, a Participant's entitlement to receive any payment or part payment on the Participant's Claim from a Measured Enterprise that is not in the nature of a return on ownership in that Measured Enterprise, will be treated as an Economic Interest if such payment is:</i></p> <ul style="list-style-type: none"><li>- <i>not arms-length;</i></li><li>- <i>not market-related;</i></li><li>- <i>mala fide; or</i></li><li>- <i>without a commercial rationale; or</i></li><li>- <i>intended to circumvent the provisions of this statement or the objectives of the Act.</i></li></ul>
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Estate Agent	<p>a) means any person who for the acquisition of gain on his own account or in partnership, in any manner holds himself out as a person who, or directly or indirectly advertises that he, on the instructions of or on behalf of any other person:</p> <ul style="list-style-type: none"> <li>• Sells or purchases or publicly exhibits for sale immovable property or any business undertaking or negotiates in connection therewith or canvasses or undertakes or offers to canvass a seller or purchaser therefor; or</li> <li>• Let's or hires or publicly exhibits for hire immovable property or any business undertaking or negotiates in connection therewith or canvasses or undertakes or offers to canvass a lessee or lessor therefor; or</li> <li>• Collects or receives any moneys payable on account of a lease of immovable property or any business undertaking; or</li> <li>• Renders any such other service as the Minister on the recommendation of the board may specify from time to time by notice in the Gazette;</li> </ul> <p>b) for purposes of section 3(2)(a), includes any director of a company or a member who is competent and entitled to take part in the running of the business and the management, or a manager who is an officer, of a close corporation which is an estate agent as defined in paragraph (a);</p> <p>c) for purposes of sections 7, 8, 9, 12, 15, 16, 18, 19, 21, 26, 27, 30, 33 and 34B, includes:</p> <ul style="list-style-type: none"> <li>• any director of a company, or a member referred to in paragraph (b), of a close corporation which is an estate agent as defined in paragraph(a); and</li> <li>• any person who is employed by an estate agent as defined in paragraph (a) and performs on his behalf any act referred to in subparagraph (i) or (ii) of the said paragraph;</li> <li>• for the purposes of section 7, 9(1)(a), 16, 26, 27, 28 and 33, includes any person who is employed by an attorney or a professional company as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979), otherwise than as an attorney or an articulated clerk, and whose duties consist wholly or primarily of the performance of any act referred to in subparagraph (i) or (ii) of paragraph (a) on behalf of such attorney or professional company;</li> </ul> <p>d) does not include an attorney who, on his own account or as partner in a firm of attorneys or as member of a professional company, as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979), or an articulated clerk as defined in the said section of that Act, who performs any act referred to in paragraph (a), in the course of and in the name of and from</p>
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<i>Effective Date</i>	<i>The date on which this Sector code is gazetted as a sector charter</i>
<i>Eligible Procurement</i>	<i>All expenditure to acquire goods and/or services, including capital expenditure, but excluding: procurement spending where there is a monopoly as a result of government regulation; all salaries and wages; investments in or loans to enterprises supported in terms of enterprise development initiatives claimed in a BBBEE scorecard; donation through initiatives measured in terms of the residual element of the scorecard; and importation of all goods and services, including capital goods, provided that it can be demonstrated there is no local production of the specific imported goods or services.</i>
<i>Employee scheme</i>	<i>A Broad-Based Ownership Scheme in which a group of employees representing more than 90% of the employees of an Enterprise or 90% of the employees in a particular occupational category(ies) (as referred to in form EEA9 the Employment Equity Act) within an Enterprise. Employee Schemes may have the characteristics of Benefits Schemes or Distribution Schemes or hybrids of both.</i>
<i>Employment Equity</i>	<i>As defined in the Employment Equity Act 1998 means to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination and the implementation of affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels of the workforce. It obliges employers with over 50 employees to prepare Employment Equity plans and report on a yearly or bi-yearly basis to the Department of Labour (DoL).</i>
<i>Enterprise</i>	<i>The person(s) conducting a business, trade or profession in the Republic of South Africa</i>
<i>Equity Interest</i>	<i>The entitlement of a participant to receive an economic interest and to exercise a voting right in an Enterprise.</i>
<i>Generic Scorecard</i>	<i>The balanced BEE scorecard included in the DTI Code 000 Statement 000.</i>
<i>Global Policy</i>	<i>Globally applied restriction or regulation to which an enterprise is bound, which inhibits the enterprise from selling equity.</i>
<i>Internships</i>	<i>A process whereby an academically qualified individual performs work for a specified period under the supervision of a qualified professional, with the end result of qualifying as a professional</i>
<i>Investment Activities</i>	<i>Activities that consist of buying and selling long-term assets and other investments.</i>
<i>Joint venture</i>	<i>Normally, unincorporated bodies, regarded in law as partnerships in which the partners are jointly and severally liable for the acts, neglects and omissions of the partnership. A Joint venture is a venture normally formed ad-hoc for a specific project, in which two or more parties share obligations, risks and rewards. Joint ventures in the Procurement context are formed to realise commercial opportunities made available through the award of contracts</i>
<i>Learnership</i>	<i>As defined in the Skills Development Act, a structured learning component which: includes practical work experience of a specified nature and duration; would lead to a qualification registered by the South African Qualifications Authority and related to an occupation; and would be registered with the Director-General in the prescribed manner.</i>
<i>Listed property</i>	<i>A listed property fund is a company that derives its income from property and property related sources. A listed property fund is an income fund because it pays out almost all its income, while normal listed companies retain anything up to 80% of their income.</i>

<i>Management (estate agencies only)</i>	<i>For the purposes of this charter, in the case of estate agencies, anyone earning more than R360,000 a year and possessing a level of authority. This salary threshold will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>
<i>Management -Senior Management</i>	<i>Managers who plan, direct and co-ordinate the activities of a business and who have the authority to hire, discipline and dismiss employees and have a cost to company package (excluding bonuses) to the employer of R450,000 per annum or more, but excludes all employees who fall within the definition of Executive Management. The salary bands will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>
<i>Management -Middle Management</i>	<i>The level of management below Senior Management and includes people who possess a high level of professional knowledge and experience in their chosen field with a cost to company package (excluding bonuses) to the employer of between R225,000 and R450,000 per annum. The salary bands will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>
<i>Management -Junior Management</i>	<i>The level of management below Middle Management and includes academically qualified workers who possess technical knowledge and experience in their chosen field and have a cost to company package (excluding bonuses) to the employer of between R150,000 and R225,000 per annum. The salary bands will be increased in line with the consumer price index ("CPIX") on the first day of January each year.</i>
<i>Mentorship</i>	<i>The process of assisting others to gain further knowledge, experience and skills. It is an activity that can be successfully used where senior employees develop people within a company to enhance their job development.</i>
<i>Net Asset value</i>	<i>Entities 'value minus its liabilities</i>
<i>Payroll</i>	<i>Means salary and wages or similar remuneration payable by an employer to an employee, but does not include any bonus, incentive or commission.</i>
<i>Practitioners</i>	<i>Practicing commercial property brokers /estate agents</i>
<i>Property</i>	<i>Zoned Land and/or improvements</i>
<i>Property brokerages</i>	<i>Enterprises participating in the sale and leasing of commercial property.</i>
<i>Property development</i>	<i>Development of commercial or residential property.</i>
<i>Property ownership</i>	<i>A right or title, in part or whole, either in the form of a unit, land or building, where the owner derives economic benefit. It may include, but is not limited to, freehold title, sectional title, shares, leasehold property.</i>
<i>Property sector</i>	<i>For the purposes of this charter the property sector refers to all enterprises that participate in property ownership including but not limited to all property owning enterprises (and/or the assets themselves), property services enterprises and residential property enterprises.</i>
<i>Property services enterprises</i>	<i>Includes but not limited to: Facilities management, Property management, Asset Management, Valuers, Conveyancers and other professional service providers in the property sector</i>
<i>Property Unit Trust</i>	<i>Property Unit Trust, a collective investment scheme in property which invests in a portfolio of investment grade properties that is held for its rental income and capital appreciation.</i>

<i>Residential property enterprises</i>	<i>Any enterprise involved in facilitating the selling, renting or managing of residential property.</i>
<i>Redevelopment</i>	<i>Is considered when there is a structural change to the building including the building function.</i>
<i>Real Estate Investment Trust – REITS</i>  <i>NPAT for REITS</i>	<p><i>REITS - is a company that owns, and often operates, income-producing property. - is a listed property investment vehicle that is similar to internationally recognised REIT structures from around the world. Listed Company REITs or Trust REITs are publically traded on the JSE REIT board and qualify for the REIT tax dispensation.</i></p> <p><i>Company REITs may be internally managed or externally managed. Trust REITs are externally managed.</i></p> <p><i>Therefore in defining the terms within the Property Sector Charter which are relevant to REITs, it is important to align the definitions exactly up as per tax legislation.</i></p> <p><i>NPAT is not defined within section 25BB and therefore with respect to REITs, the correct calculation “Taxable Income (as calculated in terms of S25BB of the Income Tax Act) after tax”.</i></p>
<i>SETA</i>	<i>Means a Sector Education and Training Authority established in terms of section 9(1) of the Skills Development Act 97 of 1998.</i>
<i>Share register</i>	<i>A Share registry is an entity that provide the following services to the shareholders on behalf of the listed companies: Share register maintenance, receiving, validating and processing of share transfers, Dividend distribution by all modes. Registration of new shareholders, handling general enquiries and handling IPO's.</i>
<i>Skills Development</i>	<i>The transfer or gaining of technical knowledge, related skills, values and attitudes in order to develop proficiency and to develop a person's natural aptitudes and other abilities to improve his/her capabilities as a worker. Training, which generally takes place outside formal educational institutions, is more often than not directed towards the needs of a specific employer or group of employers. Skills development spend refers to the direct cost, excluding peripheral costs, incurred by a company for accredited or sector acknowledged training and development including costs related to learnerships and bursaries and excluding the skills levy as per the skills development legislation.</i>
<i>SOE</i>	<i>State-owned enterprise, being an enterprise, owned or controlled by government.</i>
<i>Spend</i>	<i>The previous 12 months orders at the time of measurement. All expenditure should be counted at the time of invoicing.</i>
<i>Staff</i>	<i>Includes all employees and for the purposes of this charter commissioned agents.</i>
<i>Subsidiary</i>	<i>A company controlled by another usually a large corporation. When that control or ownership is not shared, it is termed a wholly-owned subsidiary. Subsidiaries are distinct legal entities for purposes of taxation and other forms of regulation.</i>
<i>Superannuation scheme</i>	<i>A “provident fund”, a “pension fund” and a “retirement annuity fund” as defined in Schedule 2 of the Tax Act 58 of 1962.</i>
<i>Under-resourced areas</i>	<i>Areas, which did not receive adequate infrastructure development investment or attention from the previous dispensation or the private sector. As defined in the Transformational Infrastructure document by Financial Sector Charter).</i>

<i>Unlisted public mandate collective investment schemes</i>	<i>Unlisted public company wholly owned by mandated investments and public entities</i>
<i>Transformational infrastructure</i>	<i>Also known as bulk service contributions. These projects stimulate development efforts in under-resourced areas. Projects that support economic development in under-resourced areas and contribute towards equitable access to economic resources. Such infrastructure projects could be in the following sectors: transport; telecommunications; water, waste water and solid waste; energy; social infrastructure such as health, education, and correctional services facilities; and municipal infrastructure and services</i>
<i>Triple bottom line</i>	<i>A business concept that refers to corporate attainment of balanced and integrated economic, social and environmental performance.</i>
<i>Unemployed Learner</i>	<i>A learner that was not in the employment of the employer party to the learnership agreement concerned when the agreement was concluded. The employer and learner must therefore enter into a contract of employment.</i>
<i>Value of Enterprise</i>	<i>As Average Annual or such other mechanism as defined in Codes of Good Practice</i>

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
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Publications: Tel: (012) 748 6053, 748 6061, 748 6065