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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

**BRIEFING ON THE BROAD-BASED
BLACK ECONOMIC EMPOWERMENT
IMPLEMENTATION**

12 AUGUST 2015

PRESENTATION LAYOUT

- Introduction.
- B-BBEE Commission.
- Trumping Provision.
- Ushering in a new era for Empowerment (B-BBEE)
- The Status of the Sector Codes.
- Broad-Based Ownership Task Team.
- B-BBEE EME Certification and Sworn Affidavits.
- The Way Forward.



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INTRODUCTION AND BACKGROUND

- ❑ The Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003 (the Act) as amended by the B-BBEE Amendment Act 46 of 2013 came into effect on 24 October 2014.
- ❑ The B-BBEE Codes of Good Practice (the Codes) came into effect on 1 May 2015.
- ❑ On-going education campaign on the Act and the Codes.
- ❑ To date, the Department has managed to conduct 46 workshops since April 2015.



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THE B-BBEE COMMISSION

- ❑ The Commission is an entity within the administration of **the dti**.
- ❑ Functions of the Commission:
 - Oversee, supervise and promote adherence with the Act;
 - Receive and investigate complaints relating to B-BBEE;
 - Investigate any matter relating to B-BBEE;
 - Promote advocacy, access to opportunities and educational programmes and initiatives;
 - Maintain a registry of major B-BBEE transactions; and
 - Receive and analyse prescribed reports concerning B-BBEE compliance.

THE B-BBEE COMMISSION Cont...

- ❑ The process of establishing the Commission is at an advanced stage, and await Cabinet consultation as per the Act on the appointment of the Commissioner.



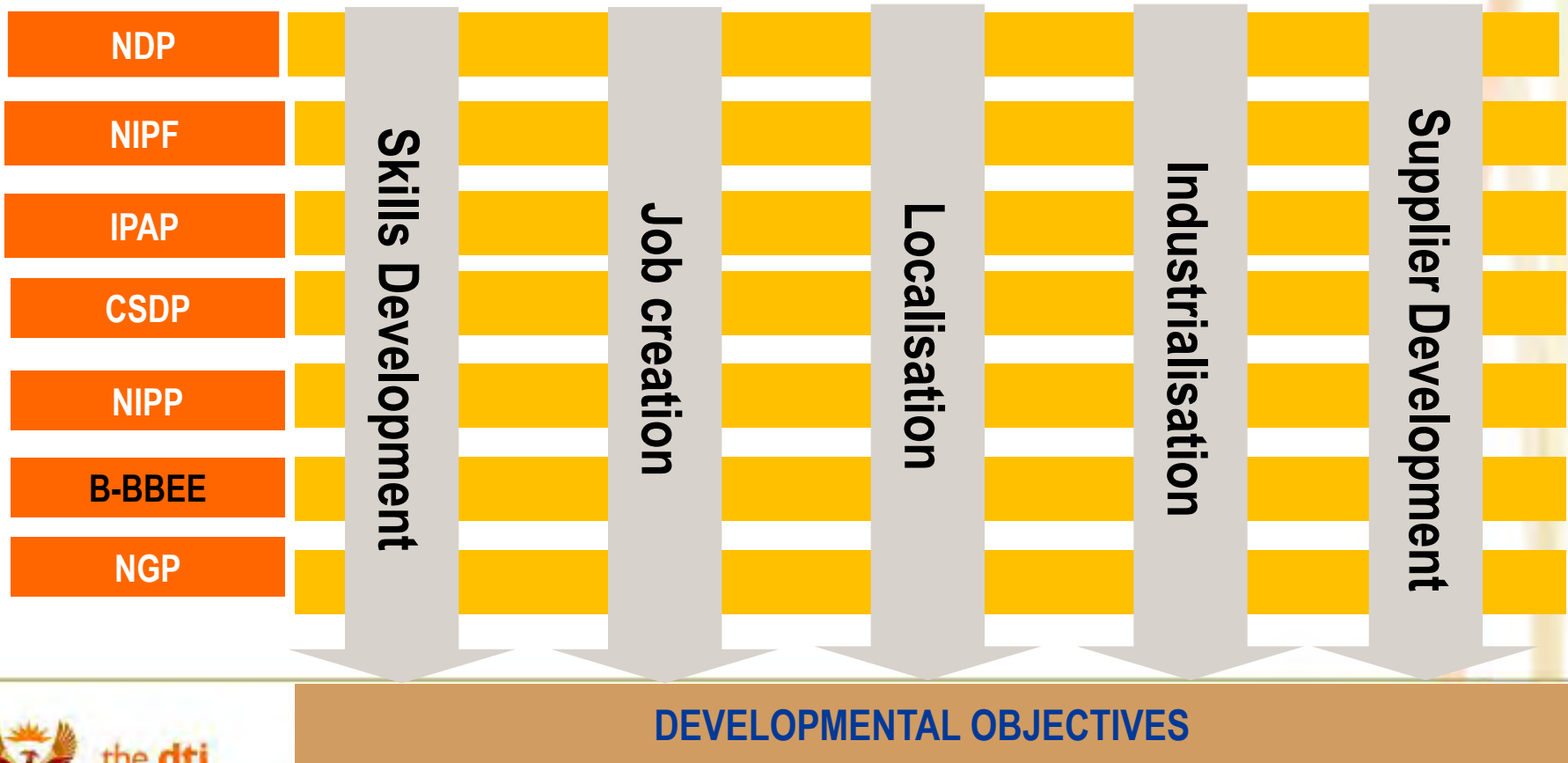
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THE TRUMPING PROVISION

- ❑ Interpretation clause (Section 3) extended to include trumping provision which means that the B-BBEE Act will trump any law that was in force prior to the date of commencement of this Act if the conflict pertains to any aspect dealt with in this Act.
- ❑ Trumping provision was given 12 months transitional period and will come into effect in October 2015.
- ❑ The Department is currently in the process of engaging relevant public sector stakeholders on the implications of this clause.

USHERING IN A NEW ERA OF EMPOWERMENT



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THE CODES OF GOOD PRACTICE

- The Generic Scorecard is aligned in accordance with government key priorities.
- The Generic Scorecard has five (5) elements.
- All companies except for Micro-Exempted Enterprises (EMEs) will comply with all 5 elements.
- Enhanced the recognition status of black owned EMEs and Qualifying Small Enterprises (QSE).



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B-BBEE CODE OF GOOD PRACTICE

- Phase 1 of the Codes of Good Practice (the Codes) was gazetted on 11 October 2013 (80%).
- Phase 2 of the Codes was gazetted on 6 May 2015 (20%).
- The Codes came into effect on 1 May 2015.
- Education campaign for phase 1 was conducted between February and September 2013.
- Education drive for draft phase 2 was done between October and December 2014.



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THE CODES OF GOOD PRACTICE

Cont...

- ❑ Employment Equity and Management Control merged into one element: **Management Control.**
- ❑ Preferential procurement and Enterprise Development merged into one element: **Enterprise and Supplier Development.**
- ❑ Introduced minimum requirements for priority elements: **ownership, Skills Development, and Enterprise and Supplier Development.**



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THE CODES OF GOOD PRACTICE

Cont....

- ❑ Measured entities to comply with priority elements under the following conditions:
 - Qualifying Small Enterprises to comply with at least two of the priority elements:
 - Ownership is compulsory; and either
 - Enterprise & Supplier Development or Skills Development.
 - Large entities to comply with all priority elements.
- ❑ Measured entities who do not meet the thresholds in priority elements, the overall score will be discounted one (1) level down.



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THE CODES OF GOOD PRACTICE

Cont....

- An Exempted Micro Enterprise and Qualifying Small Enterprise that is 100% owned by black people qualify as a Level 1 contributor.
- An Exempted Micro Enterprise and Qualifying Small Enterprise that are more than 50% owned by black people qualify as a Level 2 contributor.
- No verification requirements for Exempted Micro Enterprises.



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THE CODES OF GOOD PRACTICE

Cont...

- ❑ The **thresholds** for Exempted Micro Enterprises, Qualifying Small Enterprises and Large Entities has been adjusted as follows:
 - Exempted Micro Enterprise increased from **R5 million to R10 million**;
 - Qualifying Small Enterprises: **R5 million -R35 million to R10 million - R50 million**; and
 - Large entities: **R50 million and above**.



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THE CODES OF GOOD PRACTICE

Cont....

❑ Ownership Element:

- Target of 25%+1 Ownership.
- The 40% sub-minimum is applicable on NET VALUE, as the key driver of true ownership in the hands of black people and it is important to measure economic interest on an annual basis.
- Provisions for Family Trust on the B-BBEE ownership principles for recognition on the ownership element.
- Clarification that only RSA based and regulated investments will be considered for qualification as Mandated Investment.



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THE CODES OF GOOD PRACTICE

Cont....

❑ Management Control:

- The merged Management Control includes Senior Management, Middle Management and Junior Management from the Employment Equity Element.
- The compliance targets for Management Control are aligned with the EAP targets as annually published by the Department of Labour; and
- Measurement principle of EAP targets for enterprises operating in the Provincial and National.



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THE CODES OF GOOD PRACTICE

Cont....

❑ Skills Development:

- The compliance target for skills development expenditure increased to 6% to cover both internal and external training expenditure.
- Introduced a 15% cap for non-core training costs such as accommodation, catering etc.
- Introduced a 15% cap on Category F & G training (informal training).
- The compliance targets are based on EAP targets for black people.



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THE CODES OF GOOD PRACTICE

Cont...

❑ Enterprise and Supplier Development:

- Imports exclusion principle maintained (as per public submissions) with overriding proviso that imports are not applicable in Designated Sectors.
- Value Adding Supplier replaced with Empowering Supplier definition as follows:
 - An Empowering Supplier in the context of B-BBEE is a B-BBEE compliant entity which can demonstrate that its production and/or value adding activities take place in the country.



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THE CODES OF GOOD PRACTICE

Cont....

❑ Enterprise and Supplier Development:

- Large enterprises should comply with at least three criteria listed below:
 - 25 % of cost of sales excluding labour cost and depreciation (unless in the service sector) must be spent in RSA;
 - 50% of job created must be for black people;
 - Beneficiation of raw materials;
 - Skills transfer; and
 - 85% labour costs in service industry.



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THE CODES OF GOOD PRACTICE

Cont....

❑ Enterprise and Supplier Development:

- Qualifying Small Enterprises should at least comply with one of the above-mentioned criteria.
- Exempted Micro Enterprises to be automatically recognised as Empowering Suppliers.

NB: No changes for Socio Economic Development Element



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THE AMENDED GENERIC SCORECARD

Element	Weighting	Compliance Target
Ownership	25 points	25% + 1 vote
Management control	19 points	(50% to 88%)
Skills Development	20 points	6% of payroll
Enterprise and Supplier Development	40 points	PP = 80% SD = 2% (NPAT) ED = 1% (NPAT)
Socio-Economic Development	5 points	1% (NPAT)
TOTAL	109 points	



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THE STATUS OF THE SECTOR CODES

- ❑ Sector Codes are developed in terms of the Generic Codes of Good Practice.
- ❑ The process of developing Sector Codes is set out in Code Series 003.
- ❑ Sector Codes create a harmonised environment for implementation of transformation/ empowerment policies – “Reduce Red Tapes”.
- ❑ Effective date of the aligned Sector Codes is 1 November 2015.



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THE STATUS OF THE SECTOR CODES Cont...

- ❑ Explicitly stated that deviations of sector codes in terms of targets must be over and above those of the Generic Codes.
- ❑ Companies that derive more than 50% of revenue from sectors where there is a Sector Code must be measured in terms of the Sector Code.
- ❑ The funding of the operations of Sector Charter Councils is a joint responsibility between government and the private sector.
- ❑ Entities must report annually on their B-BBEE status to Sector Councils, who will in return report to the Commission.



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THE STATUS OF THE SECTOR CODES Cont...

- ❑ The existing 10 Sector Codes have been given extension to align since October 2013
- ❑ All sector Codes had to align by October 2014. A further extension was granted until October 2015.
- ❑ To date five sector codes (Tourism, Property, AgriBEE, Forest, Media, advertisement and Communication) have been submitted for approval.



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THE STATUS OF THE SECTOR CODES Cont...

- The Tourism Sector Codes was published on 30 June 2015 for 60 days public commentary period.
- The others are still being considered.
- The process of aligning the Mining Charter and Liquid Fuel Charter to the Codes has started.



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BROAD-BASED OWNERSHIP TASK TEAM

- ❑ The terms of reference for the Task Team is to investigate and explore the appropriate model for structuring B-BBEE Deals, as well as develop an ownership guideline on the composition of beneficiaries in an ideal B-BBEE transaction.

- ❑ The Task Team consists of:
 - Presidential BEE Advisory Council;
 - Labour;

BROAD-BASED OWNERSHIP TASK TEAM Cont...

- Business;
 - Academia; and
 - Industry experts and practitioners.
- First meeting is scheduled to take place this month (August 2015)
- A month later from first meeting, the Task Team is expected to table recommendations to the Minister.

THE B-BBEE SWORN AFFIDAVITS

- ❑ As of October 2013 the Department made public its intention to reduce costs associated with B-BBEE verification of Exempted Micro Enterprises (EMEs) in support of small business development, as well as eliminate the role of intermediaries that exploited small businesses.
- ❑ EMEs do not have to be verified, only have to obtain a sworn affidavit.

THE B-BBEE SWORN AFFIDAVITS

Cont....

- ❑ A template affidavit was developed for consistency and is available for downloading from **the dti** website - http://www.thedti.gov.za/gazettes/Affidavit_EME.pdf
- ❑ Further entered into a Memorandum of Understanding with the Companies and Intellectual Property Commission (CIPC) to provide a service to issue B-BBEE certificates for EMEs and Start-up companies when registering a new company and filling annual returns.
- ❑ This is a free service accessible at all 47 CIPC self service terminals.

THE WAY FORWARD

- ❑ The amended B-BBEE Verification Manual has been completed, and will be published before the end of August 2015 for implementation.
- ❑ In the process of finalising the Technical Assistance Guide (TAG).
- ❑ Further nationwide workshops and briefing sessions on the B-BBEE Codes are underway.



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ACRONYMS

BBBEE : Broad-Based Black Economic Empowerment

EME: Exempted Micro Enterprises

QSE: Qualifying Small Enterprises

NDP: National Development Plan

NIPF: National Industrial Policy Framework



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ACRONYMS

IPAP: Industrial Policy Action Plan

CSDP: Competitive Supplier Development Programme

NIPP: National Industrial Participation Programm

NGP: New Growth Path

ICT: Information and Communication Technology



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THANK YOU



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