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11 February 2021

### **DRAFT LEGAL SECTOR CODE FOR COMMENT**

The Legal Practice Council (LPC) and the Steering Committee wish to express their appreciation to all those who attended the public consultations, both in-person and via the online platform. The LPC and the Steering Committee also wish to extend its thanks to all those who made written contributions and provided detailed comments on the draft statements. These comments were all carefully considered by the Steering Committee in its deliberations and were very valuable. Many of the contributions from legal practitioners and interested parties were included in this draft.

Following from the consultations and discussions within the Steering Committee, the draft Legal Sector Code was amended.

Stakeholders, legal practitioners, and all interested parties are requested to peruse the attached draft Legal Sector Code and submit your comments in writing to [legalsectorcode@lpc.org.za](mailto:legalsectorcode@lpc.org.za) by 3 March 2021, 12h00.

**DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**

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

I, **Ebrahim Patel (MP)**, Minister of Trade, Industry and Competition hereby:

- (a) issue the Legal Sector Code in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act No: 53 of 2003, as amended; and
- (b) determine that this Legal Sector Code shall come into effect on the date of this publication.

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**EBRAHIM PATEL, MP**

**MINISTER OF TRADE, INDUSTRY AND COMPETITION**

\_\_\_\_\_/\_\_\_\_\_/2021

**BROAD-BASED BLACK ECONOMIC EMPORWERMENT LEGAL SECTOR CODE OF GOOD PRACTICE  
ISSUED IN TERMS OF SECTION 9 (1) OF THE BROAD-BASED BLACK ECONOMIC EMPORWERMENT  
ACT NO: 53 OF 2003, AS AMENDED**

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## 1. **BACKGROUND**

- 1.1 The history of apartheid in the Republic of South Africa is well documented. The apartheid legislation, policies and practices have created inequalities and injustice in the socio-economic and political landscape of the Republic of South Africa. The result of such legislation, policies and practices have also created high levels of poverty amongst the black people and racially based inequalities in the South African society. They have also excluded, by and large, black people from meaningful participation in the economy of the country. This has also created shortage of skills and expertise among black people as some of the fundamental objectives of the apartheid legislation, policies and practices were that the black people, who constitute majority of the people in the Republic of South Africa, should only provide unskilled labour force to their white counterparts. The consequences and the effect of such legislation, policies and practices still exist in the democratic era with the economy, as a result, divided along the racial lines and it is owned and controlled by whites while black people have a minimal role therein.
- 1.2 There was a change in the political dispensation with the adoption and promulgation of the new<sup>1</sup> Constitution (“**the Constitution**”) of the Republic of South Africa and the inauguration of democracy. However, the legacy of apartheid referred to above requires a robust legislative intervention. The adoption of the Constitution assisted in the eradication of the apartheid laws and in the promotion of the important principles of democracy and the upliftment of human dignity of the majority of the people in the country. The Constitution is also intended to promote the establishment of a society which is based on

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<sup>1</sup> the Constitution of the Republic of South Africa Act No.: 108 and 1996, as amended

the democratic values, social justice and it safeguards the fundamental human rights. It further seeks to improve the quality of life of persons who were disadvantaged by the unfair discriminatory legislation, policies and practices, under apartheid.

- 1.3 The right for all South Africans to fully participate in the economy of the Republic of South Africa, is enshrined and embodied in the Constitution. This is not only a fundamental right, but it is also an important tool designed to assist the government to grow the economy of the country. It is in this context that the government of the Republic of South Africa promulgated the Broad-Based Black Economic Empowerment Act No 53 of 2003, as amended (“**the B-BBEE Act**”), to address the imbalances created by the apartheid laws, policies and practices and to promote socio-political equality and equal participation in the economy of the country.
- 1.4 Members of the legal profession, do not have a sector code to guide them to address imbalances and inequality within the legal profession. Reliance has been placed on the principles of the Codes of Good Practice issued under the Government Gazette No: 36928 of May 2015 (“**the Generic Codes**”), which are generic in nature and apply broadly and such, do not address the unique nature of the legal profession as a sector in the economy. The Legal Sector Code (“**LSC**”) embodied herein, is therefore intended to address this.



## 2. **VISION**

The aim and objective of the LSC is to transform the legal sector to give effect to the objectives of the Constitution of promoting effective and sustainable economic participation by black people in the economy of the Republic of South Africa in general and in the legal profession in particular.

## 3. **MISSION**

The LSC is intended to provide a legislative framework for the meaningful and sustainable transformation and growth of the legal sector in the Republic of South Africa.

## 4. **INTERPRETATION AND DEFINITIONS**

4.1 In this LSC, unless the context otherwise requires, the words, expressions, definitions and/or qualifications used have the meaning assigned to them, and should be read together with the Generic Codes issued in terms of section 9(1) of the B-BBEE Act.

4.2 In the event of a conflict between the provisions of the LSC and the Generic Codes, the provisions of the LSC shall prevail. Where a matter is not expressly dealt with in terms of this LSC, then the Generic Codes of Good Practice as amended will take precedence. Otherwise in all other matters the LSC will take precedence.

4.3 In addition, words and expressions defined in B-BBEE Act, shall, unless the context dictates otherwise, bear the same meanings were used and not defined in the LSC.

4.4 The following words, expressions, definitions and/or qualifications shall bear the following meanings:

<b>Concept</b>	<b>Definitions</b>
advocate	means a legal practitioner who is admitted and enrolled as such in terms of the LPA;
annual revenue	means the income generated by legal practitioners in providing their services in the course of rendering professional services as regulated by the LPA;
associate	means an attorney employed in such a capacity, by an LSME in terms of an employment agreement concluded by these parties;
associate director	means an attorney employed in that capacity by an LSME, in terms of an employment agreement, ranking above a position of a senior associate or senior professional assistant and below a position of a director or partner, as the case may be, in that LSME;
attorney	means a legal practitioner who is admitted and enrolled as such in terms of the LPA;

B-BBEE	means broad-based black economic empowerment, a national government policy that enables the participation of black people in the mainstream of the economy;
B-BBEE Commission	means the regulatory monitoring and compliance commission responsible for investigating and prosecuting B-BBEE contraventions and fronting;
B-BBEE compliant LSME	means legal services measured entity that has achieved a level 1 to level 8 B-BBEE status level as set out in the B-BBEE Act;
B-BBEE verification regulator	means a body appointed by the Minister for the accreditation of rating agencies or the authorisation of B-BBEE verification professionals;
black people	shall for the purposes of the LSC means black people as defined in the B-BBEE Act.
board or board of directors	means, in respect of an incorporated LSME, a body that is constituted by the directors of such LSME, and in respect of a partnership, a body which is constituted by the partners of such an LSME, which, in each event, is responsible for the executive management decisions and/or strategic direction of such an LSME;

candidate attorney	this term shall bear similar meaning as defined in the LPA;
Charter Council	means the Legal Sector Code Charter Council to be established by the Minister to oversee and implement the LSC, as set out in paragraph 10 of this LSC ;
Companies Act	means Companies Act No.:71 of 2008, as amended;
continuous legal education	means the practical legal training, which is intended to improve the practical knowledge and skills of the practitioners (including the skills and knowledge of the candidate attorneys and pupils);
designated categories	means black people, who are women, youth, black people with disabilities and/or from the rural, as contemplated in this LSC;
director or salaried director	means, for the purposes of this LSC, and notwithstanding the definition ascribed to that term in the Companies Act, an attorney employed, in that capacity, by an LSME, in terms of an employment agreement, and does not participate in the profits of the LSME nor has a legal entitlement to such profits and is not liable for the expenses and liabilities of such LSME;
discretion	means the unfettered and absolute discretion;

DOJCD	means the Department of Justice and Constitutional Development;
DTIC	means the Department of Trade, Industry and Competition;
EAP	means the economically active population, comprising of persons between the ages of 15 and 65, as may be determined, from time to time, by the quarterly labour force survey published periodically by Statistics South Africa. The operative EAP for the purposes of any calculation under the LSC will be the most recently published EAP;
economic interest	means a legal practitioner's right to a share in the profits , , credits or similar items of an LSME, and to receive distributions from that LSME, representing a return on ownership similar in nature to a dividend right
ELE	means an exempted legal entity in the form of a law firm or an advocate as the case may be, as contemplated in the LSC;
employment agreement	means any written agreement concluded between an LSME and an attorney for the employment of such an attorney, by such relevant LSME, in the capacity and as may be stipulated in such agreement, and on the terms as may be agreed to between such parties;

ESD	means enterprise and supplier development programme as set out in this LSC;
equity partner/director	means a partner or a director who has an ownership interest in an LSME and share in the profits of that LSME and is liable for the expenses and liabilities of such an LSME;
executive management	for the purposes of this LSC, shall be constituted by the various sub-committees established by the board, to carry out and implement specific functions and/or duties, as may be delegated to such sub-committees, by the board, from time to time;
GDP	means gross domestic product;
incorporated LSME	means an LSME constituted, organized and incorporated by one or more attorneys, in accordance with the provisions of the Companies Act, and registered and established as a law firm with the LPC, in terms of the provisions of the LPA;
in-service training	means practical training which objective is to improve and enhance the skills and knowledge of the support staff in any relevant LSME;
JSE	means the Johannesburg Stock and Securities Exchange;

junior management	for the purposes of this LSC, shall be constituted by the associates and/or professional assistants, within an LSME with no specific management duties and/or responsibilities, unless the board determines otherwise, in its discretion;
large enterprises	means an LSME with more than 15 directors and/or partners and which generates more than R15 million annual in revenue;
law firm	means an LSME which has been established by one or more attorneys and is duly registered as such, with the LPC, in terms of the provisions of the LPA, for the purposes of engaging in the business and practice of law in South Africa.
legal entity	shall, for purposes of this LSC, have similar meaning as a law firm, and the two terms may be used interchangeably throughout this LSC;
legal practitioner	<p>shall bear the meaning ascribed to that term in the LPA, but for the purposes of the LSC, it shall include:</p> <ul style="list-style-type: none"> <li>• attorneys practicing and</li> <li>• advocates practicing as such.</li> </ul>

LPA	means the Legal Practice Act No.: 28 of 2014, as amended;
LPC	means the Legal Practice Council, which is a national, statutory body established in terms of section 4 of the LPA. The LPC and its provincial councils regulate the affairs of and exercise jurisdiction over all legal practitioners (attorneys and advocates) and candidate attorneys and pupils.
LSC	means this Legal Sector Code, gazetted in terms of section 9(1) of the B-BBEE Act,
LSME	means the legal sector measured entity, in the form of a law firm in case of attorneys or an advocate;
LSTF	means the Legal Sector Transformation Fund, to be established in terms of clause 24 of this LSC, by the Charter Council, for the purposes of receiving and administering contributions and/or payments made by LSMEs and ELEs in terms of this LSC, for the enhancement categories as may be directed and determined by the Charter Council from time to time;
measurement date	means the last day of the measurement period (or such later date agreed upon with the LSME) that is as close as practically possible to



	the commencement of the verification or to the date of making of the LSME confirmation affidavit, whichever the case may be;
medium enterprise	means an LSME with a minimum of 4 partners or directors but not more than 15 partners or directors, with a minimum annual revenue of not less than R3 million but not more than R15 million;
middle management	for the purposes of this LSC, shall be constituted by, where relevant, associate directors, or the senior associates and/or senior professional assistants, where applicable, within any LSME, to carry out and/or implement any decisions, functions and/or management duties, as may be delegated to them by the board from time to time;
Minister	means the Minister of Trade, Industry and Competition of the government of the Republic of South Africa;
Minister of Justice	means the Minister of Justice and Constitutional Development of the government of the Republic of South Africa;
NDP	means the National Development Plan;

Organs of State	<p>Means any of the following institutions</p> <ul style="list-style-type: none"><li>• A national or provincial department as defined in the Public Finance Management Act no 1 of 1999;</li><li>• A municipality contemplated in the Constitution;</li><li>• A provincial legislature; and</li><li>• A constitutional institution listed in Schedule 1 of the Public Finance Management Act 1999 (Act no 1 of 1999);</li></ul>
partner	<p>means an attorney who has been employed in such capacity, in terms of the relevant employment agreement, by an LSME, who is a level above a senior associate or a senior professional assistant, in such LSME, but is not entitled to the profits of such LSME and is not liable or has limited liability, to the expenses and/or loses of such LSME, by agreement;</p>
partnership	<p>means an LSME established and constituted by two or more attorneys, registered with the LPC, in accordance with relevant provisions of the LPA, to manage and oversee the business operations and share profits and liabilities of such LSME;</p>

PGL	means practice group leaders, who are generally equivalent and have the same rank as the heads of departments, within the LSME, and carry out the same mandate and/or functions, as the heads of departments, as the case may be, within an LSME;
priority scorecard elements	means the compulsory elements that must be complied with in terms of the LSC, as outlined in the scorecards, referring to ownership, skills development and enterprise and supplier development;
professional assistant	this term shall bear a similar meaning as an associate, unless the context indicates otherwise;
PSED	means the procurement, supplier and enterprise development element as a measurement statement as contained in this LSC
pupil	this term shall bear similar meaning as defined in the LPA;
public entity	means an enterprise that is listed as a public entity in Schedule 2 or 3 of the Public Finance Management Act, 1999 (Act 1 of 1999);
QPB	means a qualifying procurement beneficiary which is a recipient that qualifies, in terms of the qualifying enterprise and supplier development contributions and interventions, as set out in this LSC;

QSE	means a qualifying small measured LSME or an advocate, as the case may be, which for the purposes of this LSC, is described as qualifying small enterprises as measured in the relevant provisions of the LSC;
QSED	means qualifying supplier enterprise development initiatives that are intended to benefit communities and/or individuals, measured in monetary value or hourly rates, using generally accepted standards of valuation methods, as may be approved by the Sector Charter from time to time;
rural areas	means areas that are without access to ordinary public services, such as water, sanitation, infrastructure and/or economic opportunities;
SANAS	means the South African National Accreditation Agency, an agency responsible for carrying out accreditations in respect of conformity assessments mandated through the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act No. 19 of 2006, as amended;
SED	means the socio-economic development elements as contained in this LSC;

senior associate	means an attorney employed by an LSME, in that capacity, in terms of the relevant employee agreement, who is at the senior level above an associate but who is not a partner or a director at that LSME;
senior management	for the purposes of this LSC, shall be constituted and refer to the heads or PGL, as the case may be, of the various departments, within a relevant LSME, who are the leaders of such departments, to oversee the performance, effectiveness and efficiency of such departments;
senior professional assistant	this term shall bear a similar meaning as a senior associate, unless the context indicates otherwise;
SOE	means the state-owned enterprises which are entities that are wholly or partly owned by the state or any organs of the government;
sole practitioner	means an LSME, in case of attorneys, which has been established and registered by a single attorney, as a law firm, with the LPC, in terms of the provisions of the LPA;

specialised areas of law

means, for the purposes of this LSC, those areas of law where black people were excluded or have limited exposure, including, but not limited to the following:

1. corporate and commercial law;
2. intellectual property law and cyber law;
3. maritime law;
4. regulatory law;
5. conveyancing and property law;
6. pension law;
7. aviation law;
8. entertainment law;
9. arbitration and mediation;
10. insolvency and business rescue;
11. banking law;

	<ul style="list-style-type: none"><li>12. initial public offerings and the securities exchange;</li><li>13. business and corporate tax law;</li><li>14. assets restructuring;</li><li>15. mergers, acquisitions and take overs;</li><li>16. competition law;</li><li>17. mining, energy and natural resources;</li><li>18. international trade;</li><li>19. corporate governance;</li><li>20. due diligences and compliance;</li><li>21. forensic and fraud investigation;</li><li>22. transaction advisory services;</li><li>23. environmental law;</li><li>24. project finance;</li></ul>
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	<p>25. corporate finance;</p> <p>26. structured finance;</p> <p>27. construction and engineering law;</p> <p>28. media law;</p> <p>29. telecommunication law; and</p> <p>30. sports law.</p>
Statistics SA or Statistics South Africa	means the national statistical service of South Africa with a goal of producing timely, accurate and official statistics, in order to advance economic growth, development and democracy;
steering committee	means a committee which has been established by the LPC, in terms of the B-BBEE Act, to facilitate and co-ordinate the drafting and the gazetting of the LSC and it is constituted by major commercial associations in the legal profession, including the following: <ul style="list-style-type: none"><li>• Black Lawyers Association (BLA);</li><li>• Pan African Bar Association of South Africa (PABASA);</li></ul>



	<ul style="list-style-type: none"><li>• National Association of Democratic Lawyers (NADEL);</li><li>• National Bar Council of South Africa (NBCSA);</li><li>• General Council Bar of South Africa (GBCSA);</li><li>• Law Society of South Africa (LSSA);</li><li>• Black Conveyancers Association (BCA);</li><li>• Department of Justice and Constitutional Affairs (DoJ);</li><li>• Department of Trade, Industry &amp; Competition (DTI&amp;C);</li><li>• The Corporate Counsel Association of South Africa (CCAS);</li><li>• Advocates for Transformation (ATF)</li><li>• Legal Aid South Africa (LABSA) ; and</li><li>• South African Woman Lawyers Association (SAWLA).</li></ul>
targeted procurement	means procurement from preferred categories of bidders, such as persons previously disadvantaged by unfair discrimination, provided that (a) this does not compromise the value for money requirement; and (b) incentives for recognising and rewarding genuine innovators in the case of unsolicited proposals, provided that these incentives do not compromise the competitive bidding process. It is intended to

	address more long-term socio-economic issues and increase access to work available to the poor and generating income within the marginalised sectors of society;
top management	refers to a board of directors, in case on an incorporated LSME, or a board of partners, in case of a partnership, constituted by equity directors or partners and salaried directors or partners, as a case may be, who participate in the overall strategic direction of an LSME and have the final decision-making powers in relation to such relevant LSME;
voting rights	the term shall have similar meaning as defined in the Companies Act.

## 5. INTRODUCTION AND PREAMBLE

- 5.1 As indicated above, despite the dawn of democracy and the new dispensation in April 1994, the South African legal profession has continued to face challenges in achieving transformation. The top positions and roles in this sector, from senior partners of law firms, senior advocates at the Bar, remain largely homogenous and are mainly occupied by white male practitioners. There is a marked absence of diversity on the basis of race and gender.
- 5.2 Although there have been pockets of improvement, an overview of the South African legal profession shows that despite an increase in the numbers of admitted black legal practitioners, there are still not

enough black-owned large legal firms in the country that can compete in size, scale and service offerings with the traditionally large established white-controlled firms. Many of those firms have become multi-national companies with global brands and guidance, at times, at the expense of the local transformation and empowerment policies.

- 5.3 According to research conducted by the Centre for Applied Legal Studies and the Foundation for Human Rights, in 2014, it has been established that:

*“South Africa’s corporate law firms are still dominated by white men, especially in the upper echelons: 80 percent of the chief executives of the 12 firms canvassed in the survey were white men, as were 72 percent of all managing partners. The picture at the CEO/managing partner level was replicated in the ownership and remuneration structures of the firms: 53 percent of all equity partners were also white and males.”<sup>2</sup>*

- 5.4 Furthermore, in his research for the Masters Business Administration programme, submitted to the Faculty of Commerce, Law and Management, of the University of the Witwatersrand, in 2018, Boitumelo William Phungwayo<sup>3</sup> submits, at page 8, that:

*“The systematic, structural and social-economic inequalities that were prevalent under the apartheid government distorted the ability of the people in accessing courts, legal services and*

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<sup>2</sup> Transformation of the Legal Profession [2014] para 2 at page 5

<sup>3</sup> South African Broad-Based Black Economic Empowerment and the Provision of Legal Services in the Financial Services Sector, Johannesburg, 2018, protocol number WBS/BA1738718/952

*legal work on the basis of race, gender and disability (Roopram, 2007). The socio-economic status and geographic location factors were further hindrances for black people from being able to gain access to legal services. In their media release on 29 November 2007, the co-chairpersons of the LSSA acknowledged “that although much had been done to improve the structural and systematic issues of the past; inequality and discrimination still prevailed in the new democratic dispensation” (Ramathodi, 2010). According to the meeting report shared at the LSSA briefing on legal profession transformation, statistics showed that there were 24% fully female-owned attorney practices, 60% fully male-owned practices and 9.1% practices which were gender mixed (Law Society of South Africa, 2007). Ramathodi (2010) in his briefing further advised that 80% of the practices were fully owned by whites, only 6.5% fully owned by Africans, 6.2% by Indians, 1.4% by coloureds and 6.5% had mixed ownership (Ramathodi, 2010).”*

- 5.5 Against this background, in 2007, prior to the establishment of the LPC, the Council of the Law Societies of South Africa, developed and adopted the Legal Sector Charter as a section 12 Transformation Charter (“**the Transformation Charter**”) in terms of the B-BBEE Act. The Transformation Charter represented an historic milestone in the commitment towards the transformation of the industry. It came about as a result of an extensive process of consultations which culminated in the legal profession undertaking the responsibility for the drafting of the Legal Sector Charter (“**the Legal Sector Charter**”), in consultation with the DOJCD. The Legal Sector Charter embodies the profession's commitment to transformation

and recognizes that a strong, independent and representative profession is essential to ensure access to justice and to promote the Bill of Rights, as contained in the Constitution.

5.6 The Legal Sector Charter recognizes that, whereas significant progress has been made in restructuring and transforming our society and its institutions, systemic inequalities and unfair discrimination remain deeply embedded in social structures, practices and attitudes, undermining the aspirations of our constitutional democracy.

5.7 The LPC was established as a national statutory body established to, together with its provincial councils, regulate the affairs of and exercise jurisdiction over all legal practitioners in South Africa, that is, attorneys, advocates and candidate legal professionals and pupils.

5.8 The purpose of the LPA is to, *inter-alia*:

*“Provide a legislative framework for the transformation and restructuring of the legal profession that embrace the values underpinning the Constitution and ensures that the rule of law is held...”*

5.9 The South African legal profession constitutes the cornerstone of an entrenched constitutional provision in a constitutional democracy that provides amongst other things, the promotion of access to justice which is a universally entrenched human right.

## 6. **BUSINESS CASE AND IMPERATIVES FOR THE LSC**

- 6.1 There has been a lack of sufficient and/or quality legal instructions to black attorneys and advocates from the private sector, SOEs and other organs of state. The marginalization of black legal firms and advocates manifests itself in the continuing award of major legal commercial and litigation instructions to white-owned law firms or foreign-owned and white advocates. This condemns black legal firms and advocates to fulfilling largely peripheral roles and to areas of law such as criminal and personal injury cases or being BEE partners, rather than as leading partners in large commercial transactions and/or litigation matters.
- 6.2 Until now, the legal sector has used the generic scorecard contained in the Generic Codes to measure its compliance with the provisions of the B-BBEE Act and commitment to empowerment. Whilst the Generic Codes have proven to be useful in certain ways, there is a need for a sector specific code in the legal profession that recognizes the specific unique features and characteristics of the industry. For instance advocates cannot, because of the nature of their practice, be measured under ownership and management control.
- 6.3 It is important to ensure that the following outcomes and objectives of the LSC, are achieved:
  - 6.3.1 to deal with and manage the legal sector's unique features and characteristics that require specific measurements and interventions;
  - 6.3.2 to ensure that industry stakeholders commit to the implementation of the LSC;

- 6.3.3 that industry specific and practical thresholds, targets, measurement principles and weighting points are clearly defined and outlined in the LSC for all to understand and implement;
- 6.3.4 to implement more effective interventions in certain elements of the scorecard; and
- 6.3.5 to ensure that incentives for innovation and progressive implementation of the LSC in a unique manner are promoted, encouraged and protected.
  
- 6.4 It is important that in achieving the objectives of the LPA and the B-BBEE Act:
  - 6.4.1 the entire legal sector (in all its forms) supports the vision of and commitment to a transformed, quality legal profession in compliance with the B-BBEE Act, which establishes a legislative framework for the promotion of B-BBEE and economic inclusiveness;
  - 6.4.2 the LSC is aligned to the principles underpinning the NDP, which aims to, *inter alia*, eliminate poverty and reduce inequality at least by the year 2030;
  - 6.4.3 the introduction of EAP targets which are aimed at addressing the unequal representation of racial sub-groups participating in the industry, based on regional and demographic representations, particularly Africans, Coloured and Indians (ACI).
  - 6.4.4 the setting aside of minimum levels of procurement spend and the allocation of work from the legal measured entities having regard to racial and gender demographics at a national level, with specific

- reference to the legal measured entities that are at least 75% black owned or at least 51% black women owned are affected;
- 6.4.5 the setting aside of minimum levels of allocations of work for legal practitioners that are, having regard to the racial and gender demographics at a national level, with specific reference to legal measured entities that are at least 75% black owned or 51% black women owned are affected; and
- 6.4.6 the promotion, enhancement and consolidation of *pro-bono* legal work, which is a unique feature of the legal profession that ensures that the poor, rural and disadvantaged individuals and/or communities, which as a result of past discrimination are primarily black, have access to quality legal services.
- 6.5 At all relevant and material times, the implementation of the LSC should be underpinned by the following objectives:
  - 6.5.1 **ensuring that women, particularly black women are equitably** represented in the management and ownership structures of legal practices;
  - 6.5.2 **providing access to justice** and outlining the responsibilities and obligations of stakeholders in addressing those challenges;
  - 6.5.3 improving the **availability of quality legal services** by ensuring the provision of continuing and sustained education and skills development;



- 6.5.4 enhancing, developing and empowering legal professionals, and in particular **designated categories**, in all fields of legal practice especially areas of the law that are currently not usually allocated to them;
- 6.5.5 addressing challenges of **entry into the legal profession**, with specific emphasis on challenges experienced by law students and trainees from designated categories;
- 6.5.6 ensuring the availability of **quality legal training and education** by ensuring the availability of continuing legal training and education; and providing quality workplace learnership opportunities;
- 6.5.7 implementing measures to address the provision and availability of **pro bono services and community-based legal services**, thus ensuring access to affordable legal services for all people in South Africa, particularly marginalized, poor and rural communities;
- 6.5.8 facilitating the **transformation of the legal services** sector so as to ensure that it is representative of the demographics of South Africa, ensuring that a body of well-trained and competent providers of legal services are developed to enable equitable appointments to be made to the judiciary;
- 6.5.9 adopting measures to promote the **equitable distribution of all areas of legal work effectively** and meaningfully, to eliminate barriers of entry and provide equal opportunities by empowering Black practitioners especially persons from designated categories through ensuring equal participation in the economic opportunities within the legal sector;
- 6.5.10 ensuring and enhancing demographic **representativity in respect of ownership, management, control and** employment within legal practices;

- 6.5.11 creating conditions **conducive to ensuring that providers of legal services** are able to establish, manage and build sustainable practices; and
- 6.5.12 creating an **enabling environment to reflect the diversity of our** society and to ensure the promotion of equality and the prevention of discrimination.

## 7. **UNDERTAKINGS AND COMMITMENTS BY THE INDUSTRY STAKEHOLDERS**

- 7.1 The LPC facilitated the process of developing the LSC and provided the necessary resources and technical support. This included the establishment of the Steering Committee, consisting of representatives of stakeholders in the sector and the co-ordination of the consultations with stakeholders in the legal profession and other affected and interested parties and the drafting of the LSC.
- 7.2 In view of this, the development of the LSC is based on the definitions, principles and methodologies of transformation as outlined in the B-BBEE Act and the Generic Codes, and is necessitated by the prevailing conditions and the need to foster equitable representation from all races.
- 7.3 All stakeholders within the legal profession represented on the Steering Committee committed their support for, and undertook to be bound by, the applicable provisions of the LSC and compliance with the LSC scorecard.

## 8. **UNIQUE FEATURES AND STRATEGIC OBJECTIVES OF THE LSC**

- 8.1 The LSC is premised on the recognition that a B-BBEE measurement framework in the legal sector is necessary to address transformation as a whole, B-BBEE in general, and the promotion of black persons

as well as the need for a significant increase in the fair and equitable procurement of specialized legal professional services by black practitioners from both the private and public sectors.

- 8.2 The LSC therefore seeks to ensure that the continuing adverse consequences of past discriminatory practices for black practitioners are addressed by providing for certain measures, including the following:
- 8.2.1 by seeking to achieve a substantial, meaningful and accelerated change in the racial and gender composition of ownership, control and management of legal practices in the legal services sector;
  - 8.2.2 by promoting employment patterns in the sector that adhere to the principles of non-racialism and non-sexism by addressing the underrepresentation of Black practitioners in many LSMEs.
  - 8.2.3 by addressing the shortage and lack of relevant skills and increasing the skills pipeline in order to accelerate the advancement of black legal practitioners, black women legal practitioners and practitioners with disabilities, including legal internships, learnerships, employment of candidate attorneys and pupils with specific reference to legal technical and management skills;
  - 8.2.4 by increasing the procurement of the legal services from the private and public sectors by LSMEs that are at least 75% black owned and/or 51% black women owned;
  - 8.2.5 by enhancing enterprise and supplier development in the core value chain of the legal services that leads to sustainable empowerment of qualifying supplier development beneficiaries in the legal services sector;

- 8.2.6 by contributing to the creation of sustainable substantially black-owned LSMEs that are independently owned by black legal professionals who would have been supported through an effective enterprise and supplier development initiatives;
- 8.2.7 by increasing preferential procurement spend on LSMEs that contribute to local job creation through the investment in various forms of community projects that contribute to employment opportunities;
- 8.2.8 by increasing on-going qualitative and quantitative methods for monitoring and evaluating the progress towards realizing the goals of this LSC and B-BBEE in general and thereby contributing to measures of eradicating fronting and other mechanisms for circumventing such goals;
- 8.2.9 by promoting access to quality legal services, through *pro bono* legal services to rural and under resourced communities and individuals; and
- 8.2.10 by ensuring reporting to the Charter Council in order to monitor progress of LSMEs toward implementing the provisions of B-BBEE.

## 9. **SCOPE OF APPLICATION**

The LSC shall be applicable and binding on the following:

### 9.1 **attorneys**

except in the case of ELEs in the defined categories, all law firms whether they are sole practitioners, partnerships, associations or any other juristic entities;

## 9.2 **advocates**

all advocates who are enrolled and practising as such;

## 9.3 **others**

all legal entities where the majority of their annual revenue is derived from the business of the legal practice. For the purposes of this paragraph 9.3, majority means more than 50% of the annual revenue of such entity;

## 9.4 **organs of state and public entities**

9.4.1 all state-owned entities whose primary focus is the procurement of legal services from legal practitioners;

9.4.2 this also refers to government departments and all levels of government, national, provincial and local, the state law offices, state owned entities and institutions established in terms of Chapter 9 of the Constitution, which procure and consume legal services; and

9.4.3 as the user and procurer of the legal services, the public sector referred to above shall be expected to use the LSC to ensure the equitable distribution of its legal instructions;

## 9.5 **private sector**

all private sector entities that provide legal services to the public or procure legal services who resolved and elected to submit their reports to the Charter Council For avoidance of doubt, such private sector entities may be measured in terms of a different sector code. However, in instances where such private sector entities are measured in terms of a different industry sector code, they may, nevertheless choose to submit reports to the Charter Council reflecting the extent to which their annual budgets for legal services have been implemented in terms of the LSC; and

#### **9.6 Legal Aid South Africa**

this refers to independent statutory body established in terms of the Legal Aid South Africa Act, 39 of 2014, as amended, which is mandated by the state to enhance access to justice by providing legal services to those who cannot afford such services.

### **10. RESPONSIBILITY FOR MONITORING THE IMPLEMENTATION OF THE LSC**

- 10.1 Subsequent to the Minister gazetting the LSC, the responsibility to monitor compliance with it and to oversee its implementation shall reside with the Charter Council.
- 10.2 The Charter Council shall be established by the Minister of Justice after consultation with stakeholders in the legal profession.
- 10.3 The Charter Council shall consist of stakeholders in the legal profession and shall be constituted in terms of the relevant provisions of the B-BBEE Act.

- 10.4 The establishment, operations and/or activities of the Charter Council shall be jointly funded by the LSTF, DOJCD and the LPC, in proportions and manner to be agreed to by such parties from time to time.
- 10.5 On an ongoing basis, the Charter Council shall:
- 10.5.1 monitor compliance with the LSC;
  - 10.5.2 provide guidance, clarification, support and assistance in the interpretation of the LSC and on B-BBEE issues and/or matters, relevant to the legal profession;
  - 10.5.3 liaise with all government departments, agencies and other relevant stakeholders for the purpose of facilitating the implementation of the LSC;
  - 10.5.4 initiating and supervising revisions to the LSC, and
  - 10.5.5 publish annual reports reviewing progress in the transformation of the legal profession and submit such reports to all relevant stakeholders including the Minister of Justice and the B-BBEE Commission.
- 10.6 The following provisions shall apply to the measurement of all LSMEs in terms of this LSC:
- 10.6.1 proof of the exemption of any LSME from measurement in terms of this LSC shall be by way of an affidavit by such LSME setting out the basis for such exemption, unless otherwise stipulated herein;

- 10.6.2 the B-BBEE verification certificate shall be incomplete unless it is accompanied by a verification report that details the applicable LSME's performance and scoring against the scorecard elements in the LSC;
  - 10.6.3 the information relied upon for providing the B-BBEE verification certificates and reports must be accurate, correct and verifiable by suitable evidence;
  - 10.6.4 B-BBEE Certificates and reports are valid for a period of 12 (twelve) months from the date of issue;
  - 10.6.5 the Charter Council will use the information, data and detail contained in the B-BBEE verification certificate and report to assess the performance of each LSME to provide accurate and reliable state of the industry reports to the DTIC and the DOJCD;
  - 10.6.6 no contractual obligations between the verification agencies and the LSMEs shall preclude the verification agencies from providing such information and data as the Charter Council may require from time to time for measurement purposes; and
  - 10.6.7 the Charter Council must, in accordance with the B-BBEE regulations and established working protocols that may be finalized with the B-BBEE Commission, report all suspected incidents of fronting and fraudulent scorecards to the office of the B-BBEE Commission to enable investigations and subsequent prosecution of any fronting and circumvention within the legal services profession.
- 10.7 The Charter Council shall ensure that:



10.7.1 the LSC is effectively complied with in both the public and private sector; and

10.7.2 the relevant public sector clients and procurers of legal services achieve targeted procurement as set out in this LSC.

## **11. PRIORITY ELEMENTS AND SUB-MINIMUM**

11.1 The priority elements are as follows:

### **11.1.1 ownership**

the sub-minimum requirement for ownership is 40% of net value points;

### **11.1.2 skills development**

the sub-minimum requirement for skills development is 40% of the total weighting points for skills development; and

### **11.1.3 enterprise and supplier development**

the sub-minimum requirement for enterprise and supplier development is 40% for each of the enterprise and supplier development elements.

## **12. KEY MEASUREMENT PRINCIPLES**

- 12.1 The fundamental principle for measuring B-BBEE compliance by any LSME is that substance takes precedence over legal form.
- 12.2 In interpreting the provisions of the LSC, any reasonable interpretation consistent with the objectives of the B-BBEE Act and the B-BBEE strategy must take precedence.
- 12.3 The basis for measuring B-BBEE initiatives under the LSC shall:
  - 12.3.1 for the ownership and management control elements, be the B-BBEE compliance of the LSME at the date of measurement (as defined), and
  - 12.3.2 for skills development, ESD and SED elements, shall be B-BBEE compliance of the LSME throughout the measured period.
- 12.4 Initiatives which split, separate or divide an LSME with the intent of ensuring eligibility as an LSME, a QSE or a start-up enterprise will constitute an offence and will be dealt with in accordance with the provisions of the B-BBEE Act, as amended.
- 12.5 Any representation made by an LSME about its B-BBEE compliance must be supported by suitable evidence or documentation. An LSME that does not provide suitable evidence or documentation supporting any initiative will not receive any recognition for that initiative.
- 12.6 Throughout the interpretation of the LSC, effect shall be given to the following underlying principles:

- 12.6.1 in the event that there is uncertainty, or conflict, any reasonable interpretation consistent with the objectives of the B-BBEE Act must take precedence; and
- 12.6.2 any misrepresentation or attempt to misrepresent an LSME's true B-BBEE status will be dealt with in accordance with the provisions as set out in the B-BBEE Act as amended, and may lead to the disqualification of the entire scorecard of the entities' concerned.

### **13. INTERPRETATION OF B-BBEE INITIATIVES IN THE LSC**

- 13.1 LSMEs are only measurable in respect of their South African operations and not their global operations and partnerships. This applies to the measurement of all the elements and indicators of the scorecard. The LSC is a relevant, binding and applicable sector code for all activities listed in section 10 of the B-BBEE Act. This means that all LSMEs are, unless exempted, obliged to be measured in terms of this LSC.
- 13.2 The LSC is a relevant, binding and applicable sector code for all activities listed in section 10 of the B-BBEE Act. This means that all LSMEs are, unless exempted, obliged to be measured in terms of this LSC.
- 13.3 The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 is only applicable to 'designated employers' who employ 50 or more employees. However, for the purpose of measurement in terms of the LSC both Large Enterprises and QSEs that employ less than 50 employees are required to submit sufficient evidence for verification purposes.

## 14. ELIGIBILITY TO QUALIFY AS AN ELE

- 14.1 For the purposes of measurement in terms of the LSC, an LSME shall qualify as an ELE based on the criteria set out below, for both attorneys and advocates, which are based on the annual revenue and the number of years after been admitted as attorneys and advocates, respectively.
- 14.2 Any LSME with a total annual revenue set out in the relevant categories as set out in this LSC for attorneys and advocates respectively, shall comply with the elements of the LSC scorecard.

The following tables set out the exempted practitioners:

<b>LSC 000 - EXEMPTED LEGAL ENTITIES</b>						
<b>ELEs – Attorneys</b>						
(Applicable to law firms registered with the LPC either as sole practitioners, partnerships and/or incorporated law firms)						
<b>Monetary Annual Threshold</b>	<b>Number of Partners / Directors &amp; type of Firm</b>	<b>Number of years in existence as a law firm</b>	<b>Indicator</b>	<b>B-BBEE Level Contributor Status</b>	<b>Level of Black Ownership</b>	<b>Form of suitable Evidence</b>
	1 – 3	Less than 3 years	Fully exempted from the LSC	B-BBEE Level 1	100% Black or 51% Black Women owned	Confirmatory Affidavit

For attorneys generating R0 up to R3 million annual revenue			Partially exempted  <i>Can choose any one of the following</i>	Enhanced Recognition for other categories of ELEs		
				B-BBEE Level 3	Only if the firm is owned by less than 51% Black persons	B-BBEE Certificate
				B-BBEE Level 4	if the firm is owned by less than 35% black persons	B-BBEE Certificate
				B-BBEE Level 5	Is a Start Up and New Entrant as defined in 15.1 of the LSC	Confirmatory Affidavit
			<ul style="list-style-type: none"> <li>• LSTF for this purpose.</li> <li>• LSC 300 contribution</li> <li>• LSC 500 contribution</li> </ul>			

- *The exempted legal entities scorecard applies to 84.6% of the total number of legal practices in South Africa.*
- *Enhanced Recognition above means that an otherwise white or majority white owned ELE that is either a B-BBEE level 3, 4 or 5 may enhance itself one level up if they implement at least one of the three indicators, namely;*
  - 1) *contribution to LSTF;*
  - 2) *training in specialized areas of law for black legal practitioners or*
  - 3) *any contribution towards the supplier development element.*

**LSC 001 - EXEMPTED LEGAL ENTITIES**

<b>ELE– Advocates</b>						
(Applicable to all advocates practicing as such)						
<b>Monetary Threshold</b>	<b>Practicing in their own account as such</b>	<b>Number of years in practice</b>	<b>Applicable scorecard</b>	<b>This therefore means (B-BBEE Contributor Status)</b>	<b>Form of suitable Evidence</b>	
<b>Fully Exempted</b>						
<b>For advocates with an annual revenue of R 0 - R 5 million</b>	Junior Advocates	Less than 5 years	Fully exempted from the LSC	B-BBEE Level 1	Only if the advocate is black	Confirmatory Affidavit
				B-BBEE level 3	Only if the advocate is white	Confirmatory Affidavit

## 15. **START - UP LSMEs**

- 15.1 For the purposes of this LSC, a start-up LSME shall constitute a new entrant and shall, for purposes of measurement, constitute the following:
- 15.1.1 a recently formed or incorporated law firm or an advocate who has been in practice for less than 3 years and generates not more than R3 million in annual revenue within that period of 3 years; and
  - 15.1.2 a start-up enterprise does not include any newly constituted LSME which is merely a continuation or a breakaway of a pre-existing LSME or a newly established law firm which is constituted by legal practitioners who have been in practise for a period of more than 3 (three) years and/or turns over more than R3 million per annum..
- 15.2 A start-up LSME shall, unless it is black owned or an individual in the case of an advocate, shall qualify as an automatic B-BBEE level 5 LSME, in accordance with the provisions of this LSC.
- 15.3 Consequently, a start-up legal practitioner shall qualify to be an ELE, as contemplated in this LSC, and is entitled to submit an affidavit as suitable evidence for proof of their status.

**16. B-BBEE RECOGNITION LEVELS IN THE LSC**

<b>B-BBEE Status</b>	<b>B-BBEE Qualification</b>	<b>B-BBEE Recognition Level</b>
Level One (1)	Has reached the minimum of 100 weighting points	135%
Level Two (2)	Has achieved the minimum of 95 but no more than 100 weighting points	125%
Level Three (3)	Has achieved the minimum of 90 but no more than 95 weighting points	110%
Level Four (4)	Has achieved the minimum of 80 but no more than 90 weighting points	100%
Level Five (5)	Has achieved the minimum of 75 but no more than 80 weighting points	80%
Level Six (6)	Has achieved the minimum of 70 but no more than 75 weighting points	60%



Level Seven (7)	Has achieved the minimum of 55 but no more than 70 weighting points	50%
Level Eight (8)	Has achieved the minimum of 40 but no more than 55 weighting points	10%
Non-Compliant Contributor	Has achieved less than 40 points in the measurement scorecard	0%

## 17. THE SUMMARY OF THE SCORECARDS

In the LSC, the following is the summary of the scorecards assigned to each element of the sector code.

Code Series	Relevant Scorecard	Categories	Weighting Points	
LSC 000	ELE	Attorneys	R0 – R3 million	N/A
		Advocates	R0 – R 5 million	N/A

LSC 100	Ownership	QSE	Above R3 million but not more than R15 million	24
LSC 001		Large	Above R15 million	20
LSC 200	Management Control	QSE	Above R3 million but not more than R 15 million	24
LSC 201		Large	Above R15 million	16
LSC 300	Skills Development	Attorneys	Above R3 million but not more than R15 million	20
		Advocates	Above R5 million but not more than R15 million	21
		Attorneys	Above R15 million	25
		Advocates	Above R15 million	30
LSC 400	PSED	QSE	Above R3 million but not more than R15 million	40
		Large	Above R15 million	40

LSC 500	SED	Attorneys	Above R3 million but not more than R15 million	6
		Advocates	Above R5 million but not more than R15 million	6
		Attorneys	Above R15 million	6
		Advocates	Above R15 million	6
LSC 401	Specialized Scorecard	Public Sector		46

## 18. THE OWNERSHIP SCORECARD

### Key measurement principles relating to ownership

- 18.1 The fundamental principle for measuring BBBEE compliance in any LSME is that substance takes precedence over legal form.
- 18.2 The purpose of measuring ownership element in this LSC is to acknowledge the following peculiar characteristics and dimensions of the legal profession:

- 18.2.1 that the legal profession is partly made up of advocates who are admitted and enrolled and practicing as such and cannot be measured on ownership element; and
- 18.2.2 that the legal profession sector is partly made up of admitted and enrolled attorneys who practice as such, either as sole legal practitioners, in partnerships or in incorporated practices of different sizes and shapes, in which event the ownership element would be applicable.
- 18.3 Certain principles applicable to ownership measurement set out in the generic codes, such as bonus points and new entrants, may not necessarily find full expression in the LSC due to the nature of the legal profession, and where practically possible, such shall be aligned accordingly.
- 18.4 The ownership scorecards for QSEs and the Large Enterprises, are as set out below:

**LSC 100 - OWNERSHIP SCORECARD FOR QSEs**

<b>Attorneys Ownership Scorecard – Qualifying Small Entities (QSEs)</b>				
Applicable to LSMEs registered with the LPC as sole practitioners, partnerships and incorporated LSMEs				
<b>Monetary Threshold</b>	<b>Number of Partners / Directors &amp; type of Firm</b>	<b>B-BBEE element</b>	<b>Measurement</b>	<b>Compliance Targets</b>
				<i>Weighting Points (WP) Targets (T)</i>
				<b>WP</b>
				<b>T</b>

				Measurement Indicators		Year 1	Year 2	Year 3		
For law firms generating above <b>R3 million</b> but not more than <b>R15 million</b>	4 - 15 partners / directors	Ownership	Voting Rights (VR)	Exercisable voting rights held by black legal practitioners	7	30%	35%	40%		
				Exercisable voting rights held by black women	4	20%	25%	35%		
				Exercisable voting rights held by black people with disabilities	2	5%	7%	10%		
			Economic Interest (EI)	Economic Interest held by black legal Practitioners	4	30%	35%	40%		
				Economic Interest held by black women	3	20%	25%	30%		
				Economic Interest held by people with disabilities	2	5%	7%	10%		
			Realisation Points	Realisation Point (RP)	2	05%	07%	09%		
			<b>Total Weighting Points</b>				<b>24</b>			

- *The QSE ownership scorecard applies to LSMs made up of 4 -15 partners accounting for at least 14.6% of the total number of legal practices in South Africa.*

**LSC 001- OWNERSHIP SCORECARD FOR LARGE ENTITIES**

<b>Attorneys Ownership Scorecard – Large LSME</b>								
Applicable to LMSE registered with the LPC as partnerships and incorporated firms								
Monetary Threshold	Number of Partners / Directors & type of Firm	B-BBEE element		Measurement	Compliance Targets	Weighting Points (WP) Targets (T)		
						WP	T	
				Measurement Indicators	WP	Year 1	Year 2	Year 3
For LSMEs generating more than <b>R15 million</b> per annum	More than 15 partners / directors	Ownership	Voting Rights (VR)	Exercisable voting rights held by black legal practitioners	8	40%	45%	50%
				Exercisable voting rights held by black women	3	25%	30%	35%
				Exercisable voting rights held by black people with disabilities	1	5%	7%	10%
			Economic Interest(EI)	Economic Interest held by black legal Practitioners	3	40%	45%	50%
				Economic Interest held black women	3	25%	30%	35%
				Economic interest held by black people with disabilities	1	5%	7%	10%

		•	Realization Points	Realisation Point (RP)	1	05%	07%	09%
Total Weighting Points					<b>20</b>			

- *The ownership scorecard for Large Enterprises applies to approximately 97 LSMEs made up of more than 15 partners accounting for approximately 0.6% of the total number of legal practitioners in South Africa.*

### MANAGEMENT CONTROL SCORECARD

18.5 In view of the unique features of the legal sector and profession, the measurement of LSMEs shall not take the usual form of categories of management as found in other commercial entities and/or sectors or as they may apply in the generic scorecard.

The following table represents the criteria used for deriving a score for the management control under this LSC in respect of practicing attorneys (*W* represents the weighting points, while *T* represents targets)

#### LSC 200 - MANAGEMENT CONTROL STATEMENT – QSE

<b>Attorneys</b>					
Applicable to LSMEs made up of attorneys whether as partnerships or incorporated law firms					
Monetary Threshold	Number of Partners / Directors	Applicable Sub-element	Measurement Indicator	Weighting Points (WP)	Compliance targets Targets (T)
				<b>WP</b>	<b>T</b>

				Year 1	Year 2	Year 3 >>	
For LSMEs generating above <b>R3 million</b> but not more than <b>R15 million</b> per annum	between 4 - 15 partners / directors	<b>Board Participation</b>	Measures the percentage of equity participation of black legal practitioners as a percentage of board members	4	40%	45%	50%
			Measures the percentage of equity participation of black women as a percentage of board members	2	25%	30%	35%
		<b>Executive Management</b>	Measures the percentage of equity participation of black legal practitioners as a percentage of top management	3	30%	35%	40%
			Measures the percentage of equity participation of black women as a percentage of top management	2	20%	25%	30%
		<b>Senior Management (HoDs or PGL))</b>	Measures the percentage of black legal practitioners as a total number of members of executive management/heads of departments within the LSME.	2	40%	45%	50%



			Measures the percentage of black women as a total number of members of executive management/ heads of functions within the LSME.	2	20%	25%	30%
		<b>middle management</b>	<b>Senior Associates /Senior Professional Assistants</b> Black legal practitioners as a total of senior associates in the LSME	1	20%	22%	27%
		<b>Junior management</b>	Persons from designated categories as a total of senior associates in the LSME	1	12%	15%	18%
			<b>Associates/ Professional Assistants</b> Black legal practitioners as a total of associates in the LSME	1	5%	7%	09%

				Persons from designated categories who are associates in the LSME	1	05%	07%	09%
		<b>Support and consulting management role (non-Legal)</b>	Measures the appointment of black people in the support roles within the LSME		1	06%	09%	13%
			Measures the appointment of persons from designated categories in the support roles within the LSME		1	03%	06%	10%
		<b>Total Weighting Points</b>			<b>21</b>			

**LSC 201 - MANAGEMENT CONTROL STATEMENT – Large LSME**

<b>Attorneys</b>								
(Applicable to LSMEs made up of attorneys whether as partnerships or incorporated firms)								
Monetary Threshold	Number of Partners / Directors	Applicable Sub-element	Measurement Indicator	Compliance targets				
				Weighting Points (WP)	Targets (T)			
				W P	Year 1	T Year 2	Year 3 >>	

<b>Above R15 million</b>	More than 15 partners / directors	<b>Board Participation</b>	Measures the percentage of equity participation of black legal practitioners as a percentage of board members	3	50%	55%	60%	
			Measures the percentage of equity participation of black women as a percentage of board members	2	35%	40%	45%	
		<b>Executive management</b>	Measures the percentage of black legal practitioners as a total number of members of executive management within the LSME.	1	35%	40%	45%	
			Measures the percentage of persons from designated categories as a total number of members of executive management within the LSME.	1	10%	13%	16%	
		<b>Heads of Departments (HoDs) (senior management)</b>	Measures the number of black people as a percentage of HoDs and PGLs in the LSME.	1	20%	25%	30%	
			Measures the number of persons drawn from designated categories as a percentage HODs and PGLs appointed in the LSME.	1	12%	15%	18%	
		<b>Junior management</b>	<b>Senior Associates /Senior Professional Assistants</b>	Black legal practitioners as a total of seniors associates in the LSME	1	25%	30%	35%
				Persons from designated categories as a total of seniors associates in the LSME	1	12%	15%	18%

			<b>Associates/Professional Assistants</b>	Black legal practitioners as a total of associates in the LSME	1	25%	30%	35%
				Persons from designated categories who are associates in the LSME	1	12%	15%	18%
		<b>Support and Other Consulting Management role (Non-Legal)</b>		Measures the appointment of black people in the support roles within the LSME	1	06%	09%	13%
				Measures the appointment of persons from designated categories in the support roles within the LSME	1	03%	06%	10%
		<b>Total Weighting Points</b>			<b>16</b>			

## 18.6 KEY MEASUREMENT PRINCIPLES RELATING TO MANAGEMENT CONTROL

- 18.6.1 An LSME shall only receive points for its achievement towards the targets for participation of black people and black women at the board, executive management, middle management, senior management and junior management.
- 18.6.2 The compliance targets for senior, middle and junior management in the Management Control Scorecard are based on the national and regional demographic representation of Black people as defined in the Regulations of the Employment Equity Act no.55 of 1998 as amended from time to time.

18.6.3 In determining an LSME score, the targets should be further broken down into specific criteria according to the different race sub - groups within the definition of Black in accordance with the Employment Equity Act, being African, Coloured and Indian on an equitable demographic representation and weighted accordingly

18.6.4 An LSME measured in terms of the management control must provide the following documentary information for the purpose of measuring management control.

18.6.4.1 employment agreements and/or letters of engagement;

18.6.4.2 any other acceptable evidence that is deemed suitable to support the existence of a management level role in the LSME.

## 18.7 REMUNERATION PARITY AND JUSTICE

18.7.1 The LSME must strive for parity in remuneration between race groups and gender at all management levels. To this end the measured entity must provide full payroll access together with a copy of the payment parity report EEA4 to the verification agency during the verification. In the absence of such, the staff management levels will be declined by the verification agency.

18.7.2 In cases where measured entities are exempt from submitting the Department of Labour Employment Equity reports, then a remuneration parity statement, similar to form EEA4 report, must be signed by the authorised signatory of the LSME as part of the verification process. This is to ensure that a person's responsibility and remuneration are in line with their job grade.

## **18.8 MEASUREMENT OF THE MANAGEMENT CONTROL CRITERIA**

The formulae applicable in measuring the principles of the management control element will be aligned to the generic scorecard issued by the DTIC.

## **18.9 SKILLS DEVELOPMENT SCORECARD**

### **18.9.1 The key measurement principles relating to skills development**

The criteria for recognition of skills development spend by legal practitioners under this LSC must be underpinned by unique, enhancing and value-adding attributes for the targeted beneficiaries. This means that over and above the skills development spend that merely facilitates entrance into the profession, such as bursaries, stipends and mandatory training programmes including in relation to candidate legal practitioners, all other training interventions that enhances the ability of candidates/targeted beneficiaries, subject to the approval by the Charter Council, should be recognized.

### **18.9.2 Statutory and mandatory training interventions**

18.9.2.1 The statutory and mandatory training initiatives which shall not be recognised shall include, but not be limited to the following:

18.9.2.1.1 the completion and submission of workplace skills plan, an annual training report and the report that needs to be have been submitted to the SETA; and

18.9.2.1.2 the implementation of priority skills programmes generally and more specifically, for black people.

**18.9.3 Other interventions**

18.9.3.1 In line with the YES initiatives, gazetted by the Minister in terms of Notice 640 of 2018, LSMEs must be encouraged to employ young people (as defined in the Youth Services Plan) and that employs young people in professional capacities.

18.9.3.2 The Charter Council may, from time to time, announce specific sector training and capacity building initiatives to enhance the above initiatives.

18.9.3.3 The skills development expenditure on black people that are counted under the skills development scorecard may not be counted again under any other B-BBEE element of the QSE or large enterprise scorecard.

The following tables set out the targets under the skill development elements:

**LSC 300 - SKILLS DEVELOPMENT ELEMENT FOR ATTORNEYS**

Measurement indicator	Monetary Threshold	Targets and Weighting Points (WP)			
		W P	Compliance Target		
Skills Development Expenditure /Spend			Year 1	Year 2	Year 3 >

<b>Skills development expenditure/spend on initiatives undertaken by the LSMEs in pursuing training of a percentage (%) of black legal practitioners (Candidate attorneys) within the LSME as part of the leviable amount.</b>						
Expenditure / spend incurred on recognizable training programmes on the percentage of black candidate attorneys as a total number in the LSME in a particular year.	Above <b>R3 million</b> but not more than <b>R15 million</b>	3	6.5%	7.0%	7.5%	
	Above <b>R15 million</b>	4	7.5%	8.0%	8.5%	
Expenditure / spend incurred on recognizable training programmes (essential) on the percentage of persons from designated categories as a total number in the LSME in a particular year.	Above <b>R3 million</b> but not more than <b>R15 million</b>	3	6.5%	7.0%	7.5%	
	Above <b>R15 million</b>	3	6.5%	7.0%	7.5%	
<b>Recognition of skills development expenditure/spend on candidate black legal practitioners and persons from designated categories</b>						



Points allocated for the <b>recruitment or training</b> initiatives directed at black candidate attorneys as a total number in the LSME	Above <b>R3 million</b> but not more than <b>R15 million</b>	3	6.0%	6.5%	7.0%
	Above <b>R15 million</b>	3	6.0%	6.5%	7.0%
Points allocated for <b>recruitment or training initiatives</b> directed at black candidate attorneys drawn from black designated categories	Above <b>R3 million</b> but not more than <b>R15 million</b>	2	5.5%	6.0%	6.5%
	Above <b>R15 million</b>	3	6.5%	7.0%	7.5%
<b>Recognition for specialized areas of the law</b>					
Recognition for expenditure on training in <b>specialized areas of law</b> for candidate black legal practitioners and post-qualification training for black legal practitioners.	Above <b>R3 million</b> but not more than <b>R15 million</b>	3	2.0%	2.5%	3.0%
	Above <b>R15 million</b>	5	2.0%	2.5%	3.0%
<b>Registration of Learnerships and continuous legal training</b>					

<p>Number of black trainees and/or candidate attorneys registered by an LSME in any of the following programmes:</p> <ul style="list-style-type: none"> <li>SASSETA through the learnership programmes for a period of no more than 12 months.</li> <li>At any legal training institute for pursuing compulsory training for qualification as attorneys.</li> </ul>	<p>Above <b>R3 million</b> but not more than <b>R15 million</b></p>	2	3.0%	3.5%	4.0%
	<p>Above <b>R15 million</b></p>	2	2.5%	3.0%	3.5%
<b>Recognition of enhanced levels training for non-legal and support members of staff</b>					
<p>Recognition of training of persons from designated categories in areas that enhances their functionality to provide efficient support in a law firm (such as debt collection, forensic and other areas of legal functionality)</p>	<p>Above <b>R3 million</b> but not more than <b>R15 million</b></p>	2	1.0%	2.0%	3.0%
	<p>Above <b>R15 million</b></p>	3	2.0%	2.5%	3.0%
<b>Mentorship and creation of employment opportunities, including Y.E.S initiatives</b>					
<p>Implementation of an approved and verifiable mentorship programme implemented by a senior attorney</p>	<p>By all categories of the LSMEs.</p>	2	2.0%	4%	5.5%

where beneficiaries are in the black designated categories.					
Y.E.S initiatives which seek to promote the employment of non-professional persons from designated categories who are in the category of Youth as defined in the National Youth Services.	By all categories of the annual thresholds.	2	2.0%	4%	5.5%
	<b>R3 - R15 million</b>	<b>20</b>			
	<b>Above R15 million</b>	<b>25</b>			

**LSC 301 - SKILLS DEVELOPMENT ELEMENT FOR ADVOCATES - QSEs**

Applicable Category and Monetary threshold	Measurement Indicator	Targets and Weighting Points			
		W	T		
			Year 1	Year 2	Year 3 >
<b>Recognition of skills development expenditure/spend on initiatives undertaken by Advocates in the training of pupils to become advocates (of which at least one is a black woman)</b>					
	Expenditure / spend incurred on recognizable training and	Generating above <b>R 5 million</b> but not more	8	At least 2 black pupils	At least 3 black pupils

Training	tutoring of black pupils in a one year	than <b>R 15 million</b>			
		Generating more than <b>R 15 million</b> per annum	8	At least 2 black pupils	At least 4 black pupils
	Expenditure / spend incurred on recognizable training and tutoring of pupils from <b>designated categories</b> in a one year	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	5	At least 2 black pupils	At least 3 black pupils
		Generating more than <b>R 15 million</b> per annum	3	At least 2 black pupils	At least 4 black pupils
<b>Recognition of skills development expenditure/spend on mentorship programmes for the training of pupils to become advocates</b>					
Mentorship	Recognition of Advocates spend in the mentorship programme in mentoring <b>junior black advocates who have no more than 5 years'</b>	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	3	At least 2 black pupils	At least 3 black pupils
		Generating more than <b>R 15 million</b> per annum	2	At least 2 black pupils	At least 4 black pupils

	experience in each year.				
	Recognition of <b>Advocates spend in the mentorship programme in mentoring persons from designated categories who have no more than 5 years' experience in each year.</b>	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	5	At least 2 black pupils	At least 3 black pupils
		Generating more than <b>R 15 million</b> per annum	5	At least 2 black pupils	At least 4 black pupils
	Recognition of <b>hours and/or monetary contribution/s pend by Advocate in conducting mentorship of legal graduates who are in the process of pursuing legal training</b>	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	10	If the payment is R 50 000	If the payment is 70 000
		Generating more than <b>R 15 million</b> per annum	10	If the payment is 60 000	If the payment is R 80 000

Contribution into the Legal Sector Transformation Fund (LSTF)	Monetary contribution into the LSTF	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	6	R20 000	R 30 0000
	Monetary contribution into the LSTF	Generating more than <b>R 15 million</b> per annum	6	R 50, 000	R 60 000
<b>Recognition of advocacy training, including training in specialized areas of the law</b>					
Training in pursuit of specialized legal skills and services	Initiatives to training in specialized skills by black junior advocates	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	5	At least 2 Lecturing/teaching initiatives in recognized institution per year	At least 3 lecturing/teaching initiatives in recognized institutions per year
		Generating more than <b>R 15 million</b> per annum	5	At least 3 Lecturing/teaching initiatives in recognized institution per year	At least 3 lecturing/teaching initiatives in recognized institutions per year
	Initiatives to ensure the training in specialized	Generating above <b>R 5 million</b> but not more than <b>R 15 million</b>	3	at least 2 Black Junior Advocates	At least 3 Junior Black Advocates of which 1 is a <b>black woman</b>

	areas of the law by black junior advocates from designated categories	Generating more than <b>R 15 million</b> per annum	3	at least 2 Black Junior Advocates	At least 3 Junior Junior Black Advocates of which 1 is a <b>black woman</b>
	<b>Total number of points</b>	<b>R 3 – R 15 million</b>	<b>4</b> <b>5</b>		
		<b>Above R 15 million</b>	<b>4</b> <b>4</b>		

## 19. SUB-MINIMUM AND DISCOUNTING PRINCIPLE

19.1 In order to have complied with this element, an LSME must have achieved a minimum of 40% (forty percent) of the total weighting points set out in the skills development scorecard.

19.2 Non-compliance with the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance with the above.

## 20. GENERAL PRINCIPLES

20.1 The general principles underpinning the skills development element in the LSC is that it must:

20.1.1 contribute to the achievement of the country's economic growth and social development goals that will promote the creation of decent work and sustainable livelihoods

- 20.1.2 promote the development of the skills base of black legal practitioners in critical and specialised areas of law within the legal profession; and
- 20.1.3 strengthen the skills and human resource base by encouraging the support of skills development initiatives with an emphasis on skills development and career pathing for both legal practitioners and non-legal support staff in order to support employment creation.
- 20.2 Recognisable skills development expenditure includes any legitimate training expenses, as may be recognised by the Charter Council as such, incurred for any learning programme offered by an LSME to black people.
- 20.3 The legitimate training expenses, shall include but not limited to the following:
  - 20.3.1 costs of training materials;
  - 20.3.2 costs of trainers;
  - 20.3.3 costs of training facilities including costs of catering;
  - 20.3.4 course fees;
  - 20.3.5 accommodation and travel;
  - 20.3.6 administration costs such as the organization of training including, where appropriate, the cost of the measured entity of employing a skills development facilitator or a training manager; and



## **21. MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS**

The formulae and example that explains the method of measurement of the criteria in the skills development scorecard will be aligned to the formulae in the generic codes.

## **22. PREFERENTIAL PROCUREMENT AND SUPPLIER ENTERPRISE DEVELOPMENT SCORECARD**

22.1 As a general principle, section 217(1) of the Constitution provides that:

*“when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective”,*

to ensure that there is an equitable distribution of access to procurement.

22.2 In addition, section 217(2) of the Constitution provides that:

*“subsection (1) does not prevent the organ of state or institutions referred to in that subsection from implementing a procurement policy providing for:*

*(a) categories of preference in the allocation of contracts; and*

*(b) the protection or advancement of persons, or categories or person, disadvantaged by unfair discrimination”.*

- 22.3 Skewed procurement from both public and private sector which prejudices black legal practitioners has been a cause for concern, which has been one of the reasons for the development of this LSC.
- 22.4 Having regard to the content of paragraphs 22.1.2 and above, the LSC must provide for a transparent measurement or mechanism that will provide for an enabling environment for the state and all its arms, including but not limited to the state-owned enterprises, the public and private sector entities, to procure legal services from black legal practitioners, in line with the provisions of section 217 (2) of the Constitution.
- 22.5 There are 3 (three) categories, within the enterprise and supplier development element, namely, preferential procurement, supplier and enterprise development his statement therefore seeks to specify the measurement for preferential procurement, supplier and enterprise development and/or programmes that will benefit all black qualifying legal practitioners in the legal profession.
- 22.6 It will further outline the key measurement principles applicable in calculating preferential procurement and enterprise and/or supplier development spend.
- 22.7 In addition, this LSC:
- 22.7.1 defines the principles applicable when calculating B-BBEE procurement spend and supplier/enterprise development spend; and
- 22.7.2 indicate the formulae for calculating the individual criteria specified in the preferential procurement and supplier development scorecard.

22.8 The table set out below represents the criteria for deriving a score for preferential procurement, supplier development and enterprise development and/or programmes for all designated and qualifying legal practitioners in the legal profession

**LSC 400 - PREFERENTIAL PROCUREMENT, SUPPLIER AND ENTERPRISE DEVELOPMENT (PSED) – ATTORNEYS**

Measurement Category		Indicator	monetary thresholds	Weighting Points (WP) and Compliance Targets (T)		
Preferential Procurement			W	T		
Procurement of legal services and briefing of Advocates by LSMEs				Year 1	Year 2	Year 3
Measurement of procurement of legal services from advocates	Measuring the procurement of legal services from a black senior advocate.	By LSMEs in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	10	60%	70%	80%
		By LSMEs in the category of above <b>R15 million</b>	10	60%	70%	80%

	Measuring the procurement of legal services from a black woman senior advocate.	By LSMEs in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	8	30%	35%	40%
		By LSMEs in the category of above <b>R15 million</b>	5	40%	45%	50%
Procurement of goods and services that support the business of a legal practitioner						
Measurement of goods, equipment and assets that are core to the business of the LSME	Recognition of procurement spend from suppliers that are at least 75% black owned	By LSMEs in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	5	35%	40%	45%
		By LSMEs in the category of above <b>R15 million</b>	6	50%	55%	60%
	Recognition of procurement spend from suppliers that are at least 51%	By LSMEs in the category of above <b>R3 million</b> but not	6	25%	30%	35%

	owned by persons from designated groups.	more than <b>R15 million</b>				
		By LSMEs in the category of above <b>R15 million</b>	6	50%	55%	60%
<b>Supplier /Enterprise Development</b>						
Partnering, Joint Venturing and Sub-Contracting of LSMEs to facilitate capacity and transfer of skills						
Measuring the partnering and joint ventures between large firms and ELEs or QSEs firms	Measuring sub-contracting or partnering with an ELP level 1 or 75% Black Owned LSME	By an LSME in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	2	26%	28%	32%
		By an LSMEs in the category of above <b>R15 million</b>	2	30%	33%	36%
	Measuring sub-contracting or partnering with a 75% Black Owned LSME or 51% LSME owned by	By an LSME in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	3	10%	13%	16%

	persons from designated categories	By LSMEs in the category of above <b>R15 million</b>	3	15%	20%	25%
<b>Recognition of supplier development initiatives for black owned ELES, Start-UPs and contribution to the Legal Sector Transformation Fund</b>						
Measuring the impact of supplier development initiatives as outlined in this LSC.	Measuring the contributions made towards the development of black owned ELES and start-ups.	By an LSME in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	3	10%	13%	16%
		By LSMEs in the category of above <b>R15 million</b>	3	10%	13%	16%
Contribution into the LSTF	Measuring monetary contributions made by LSMEs to the LSTF	By an LSME in the category of above <b>R3 million</b> but not more than <b>R15 million</b>	5	R5000	R10 000	R15000
		By LSMEs in the category of above <b>R15 million</b>	3	R10 000	R15 000	20,000

Total weighting points	(R3 – R15 million)	40	
	(above R15 million)	40	

### 23. SPECIALISED SCORECARD

- 23.1 The LSC is intended to apply to organs of state and public entities, as well institutions established in terms of chapter 9 of the Constitution.
- 23.2 All organs of state and public entities, procuring legal services from legal practitioners will be measured in terms of this scorecard.
- 23.3 All organs of state and public entities are exempt from all other elements except for the preferential procurement, enterprise and supplier development elements.

#### LSC 401 - PREFERENTIAL PROCUREMENT, SUPPLIER AND ENTERPRISE DEVELOPMENT (PSED) – FOR ORGANS OF STATE AND PUBLIC ENTITIES

Measurement Category	Indicator	monetary thresholds	Weighting Points (WP) and Compliance Targets (T)		
<b>Preferential Procurement</b>				<i>T</i>	
Procurement of Legal services by the the State Attorney public entities and state organs			<i>W</i>	<i>Year 1</i>	<i>Year 2</i>
					<i>Year 3</i>

Measurement of the procurement of legal services from advocates	Measuring the procurement of legal services from a black senior advocate.	6	65%	70%	80%
	Measuring the procurement of legal services from a black woman senior advocate.	5	40%	45%	50%
	Measuring the procurement of legal services from a white senior advocate who must have a black junior advocate	4	35%	40%	45%
Procurement of legal services from Black LSMEs in complex matters in specialized areas of law by state organs, public entities and the state attorney					
Measurement of legal services procured from Black LSMEs	From black owned LSMEs in the category of ELE and level B-BBEE level 1 or black owned QSEs above <b>R3 million but not more than R15 million</b>	7	45%	50%	55%
	From LSMEs owned by persons drawn from designated categories in the category of above <b>R15 million</b>	4	25%	30%	35%
<b>Supplier /Enterprise Development</b>					
Partnering, Joint Venturing and Sub-Contracting of LSMEs to facilitate capacity and transfer of skills					
Measuring the partnering and joint ventures between large firms and	Allocation of work to LSMEs in the category of above <b>R15 million</b> on condition that they partner and/or sub-contract with an LSMEs that are at least <b>75% black owned</b>	10	25%	30%	35%



ELEs or Black QSEs					
<b>Targeted procurement from designated categories of LSMEs</b>					
Targeted procurement of certain legal services	Procurement from exclusively LSMEs owned by Black Legal Practitioners and Black women legal practitioners	10	65%	70%	75%
<b>Total weighting points</b>		<b>46</b>			

**24. KEY MEASUREMENT PRINCIPLES IN DETERMINING THE SUITABILITY OF PREFERENTIAL PROCUREMENT IN THE LEGAL SECTOR CODE**

24.1 Preferential procurement, supplier and enterprise development spend in terms of the LSC must always seek to ensure the following:

24.1.1 facilitate preferential spend for legal commercial work from LSMES that are black-owned.

24.1.2 enterprise and supplier development initiatives targeted at small black legal practitioners with the view to enhance their legal, operational and economic independence; and

24.1.3 enterprise/ supplier development initiatives that seek to enhance businesses that are related to the business of the LSME.

24.1.4 To the extent that the LSC ESD is a compulsory element, non-compliance with it will result in the discounting of LSMEs.

24.1.5 The weighting points in this statement represent the maximum number of points possible for each of the criteria applicable in the sub-categories.

## 24.2 **Total measurement inclusions under ESD**

In the LSC, measurable procurement spend shall include, but not limited to the following:

### 24.2.1 **operational expenditure**

all goods and services procured that comprise the operational expenditure of the LSME;

### 24.2.2 **capital expenditure**

all capital expenditure incurred by the LSME;

### 24.2.3 **public and private sector procurement**

all legal services sourced by organs of state and all its arms, the private shall be recognized as procurement spend.;

### 24.2.4 **pension and medical aid contributions**

payments made to any post retirement funding scheme or to a medical aid or similar medical insurer by an LSME for legal practitioners employed and other non-legal employees, excluding any portions of such payments which are a contribution to a capital investment of the employee. The scheme or insurer must issue a certificate dividing payment between the capital investment portion and the balance to establish the amount that is measurable within total measured procurement spend;

#### 24.2.5 **Total measurement exclusions under the ESD**

The following shall constitute a non-exhaustive list of matters that will not be recognized in the total measurement procurement spend:

#### 24.2.6 **Taxation**

any amount payable to any person which represents a lawful tax or levy imposed by an organ of state authorised to impose such tax or levy, including rates imposed by a municipality or other local government;

#### 24.2.7 **salaries, wages, remunerations and emoluments**

any amount payable to South African employees as an element of their salary or wage and any emolument or similar payment paid to a director or partner of LSME;

#### 24.2.8 **pass-through third-party procurement**

all procurement for a third-party or a client that is recorded as an expense in the third-party or client's annual financial statements but is not recorded as such in the measured entity's annual financial statements;

#### 24.2.9 **empowerment related procurement**

24.2.9.1 investments in or loans to a black owned entity ; and

24.2.9.2 investments, loans or donations qualifying for recognition under any of the business activities in this LSC; and

#### 24.2.10 **non-discretionary procurement**

where the LSME is forced to make use of a particular supplier due to tender requirements or client specifications it may exclude such procurement.

### 25. **SUPPLIER & ENTERPRISE DEVELOPMENT INITIATIVES AND INTERVENTIONS**

25.1 The LSC supplier and enterprise development initiatives may include the following, which is a non-exhaustive list:

25.1.1 support with rentals and overheads for ELEs and Start Ups;

25.1.2 interest free loans made to the QPB for the payments of salaries, purchase of stationery and related tools of trades;

- 25.1.3 guarantees given or security provided on behalf of the QPBs for operational costs;
- 25.1.4 credit facilities made available to the QPBEs;
- 25.1.5 support with the purchase of a library, subscription to precedents and case law;
- 25.1.6 direct costs incurred by an LSME in assisting and hastening development of the QPB;
- 25.1.7 overhead costs of a LSME directly attributable to qualifying supplier development contributions;
- 25.1.8 preferential credit terms granted by an LSME to the QPBs;
- 25.1.9 preferential terms granted by an LSME in respect of its supply of goods and services to the QPBs
- 25.1.10 contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of the QSEs including, without limitation:
- 25.1.11 professional and consulting services;
- 25.1.12 statutory licensing and/or registration fee;
- 25.1.13 industry specific levies and/or other fees;
- 25.1.14 IT services;
- 25.1.15 payment for B-BBEE verification costs of a dedicated QPB;

- 25.1.16 discounts given to a QPB in relation to the acquisition and maintenance costs associated with the operations and management of such QPBs;
- 25.1.17 access to credit facility facilitating access to credit for the QPB that would not have access to traditional credit facilities owing to a lack of credit history, high-risk or lack of collateral on the part of the QPB; and
- 25.1.18 early settlement of accounts or invoices (at least within 14 days) issued by Black LSMEs or in relation to the normal payment period, issued to organs of state, entities and even private clients.

## **26. THE LEGAL SECTOR TRANSFORMATION FUND**

- 26.1 Stakeholders hereby agree to set up a Legal Sector Transformation Fund.
- 26.2 The objective of such the LSTF is to provide financial assistance and support to Black legal practitioners especially Black females and Black people with disabilities.
- 26.3 The LSTF will be administered by the Charter Council which may outsource the management of the Fund to any entity with the requisite skills, experience and capacity subject to such entity complying with the Charter Council's directives and the aims and objectives of this LSC.
- 26.4 The LSTF shall be utilised for Skills Development and Enterprise and Supplier Development initiatives, including but not limited to the following:

- 26.4.1 Funding Black owned LSMEs, especially start ups, including through the provision of technical equipment, library facilities, office rental and training in specialised areas of law,
  - 26.4.2 Providing financial assistance and support to pupils during their pupillage, including the giving of stipends;
  - 26.4.3 Providing financial assistance, training and support to junior advocates, including subsidising their rental and or Bar or subscription fees;
  - 26.4.4 to provide financial assistance to a junior advocate or attorney to acquire and develop skills in specialized areas of law through training and other initiatives;and
  - 26.4.5 to provide financial assistance and support to female attorneys and advocates during maternity leave from their law firms and chambers respectively.
- 26.5 The Charter Council shall upon its establishment develop a policy and criteria for the access of intended beneficiaries of the LSTF and the quantum of support as well as the manner of disbursement. Such policy shall be drafted after consultation with stakeholders in the legal profession.

## **27. INCLUSION OF RURAL AREAS**

- 27.1 The role played by the legal practitioners, especially in the rural areas is significant in facilitating access to justice by poor and vulnerable communities, as envisaged by the Constitution. This is in the main because Rural communities rarely have access to quality and affordable legal services, prompting

institutions such as the Legal Resources Centre, the University Law Clinics and Legal Aid South Africa, to set up centres around these areas

27.2 The SED element in the LSC therefore seeks to facilitate a comprehensive response of initiatives and measures to ensure that the rural and poor communities receive access to justice, through quality and affordable legal services.

27.3 This statement further outlines some key measurement principles that are applicable when certain specific SED initiatives, as contemplated in the LSC, are being assessed and evaluated.

## 28. THE SED SCORECARD FOR ATTORNEYS AND ADVOCATES

28.1 In view of the inherent differences in the operational nature of the attorneys and advocates practices, the targets for the SED scorecard shall be based on the average time spend/billed (which is converted into hourly rates) by the LSME, over a three (3) financial year period that precedes the first date of the LSME being measured.

28.2 SED measurement scorecard for attorneys.

### **LSC 500 - SOCIO-ECONOMIC DEVELOPMENT (ATTORNEYS AND ADVOCATES)**

<b>Socio-Economic Development</b>	<b>Weighting Points (WP) &amp; Targets (T)</b>
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<b>Measurement Category &amp; Indicator</b>		<b>Monetary Threshold</b>	<i>W</i>	<i>T</i>
<b><i>Pro bono services and community work</i></b>				
Number of hours spent on a <i>pro bono</i> basis dedicated in rendering legal <b>services for the benefit of poor, marginalised and black clients from rural areas.</b>	By an <b>LSME Attorneys</b> in the category of above <b>R3 million</b> but not more than <b>R15 million</b>		2	At least 200 hours per annum implemented by each Legal practitioner within an LSME
	By an <b>LSMEs Attorneys</b> in the category of above <b>R15 million</b>		2	At least 500 hours per annum implemented by each LSME
	By all <b>LSMEs Advocates</b> above <b>R5 million</b> category		2	At least 150 hours per annum implemented by the Advocate
Number of hours spent on a <i>pro bono</i> basis dedicated in <b>rendering legal services for the benefit of poor, marginalised and black clients</b> in community legal centres.	By an <b>LSME Attorneys</b> in the category of above <b>R3 million</b> but not more than R15 million		2	At least 200 hours per annum implemented by each Legal practitioner in the LSME
	By an <b>LSMEs Attorneys</b> in the category of above <b>R15 million</b>		2	At least 500 hours per annum implemented by each LSME
	By all <b>LSMEs Advocates</b> in the category of above <b>R5 million</b>		2	At least 150 hours per annum implemented by the advocate
Number of hours spent on a <i>pro bono</i> basis dedicated in rendering	By an <b>LSME Attorneys</b> in the category of above R3 but not above <b>R15 million</b>		2	At least hours 200 per annum implemented by each Legal practitioner

legal services for the benefit of poor, marginalised and black clients who require legal commercial and contractual assistance for the enhancement	By an <b>LSMEs Attorneys</b> in the category of above <b>R15 million</b>	2	At least 500 hours per annum implemented by each Legal practitioner
	By all <b>LSMEs Advocates</b> in the category of above <b>R5 million</b>	2	At least 150 hours per annum implemented by the advocate
Total Weighting Points	R3 – R15 million LSMEs – Attorneys	6	
	R15 and above LSMEs – Attorneys	6	
	R 5 million and more LSMEs – Advocates	6	

**ALTERNATIVE SED PROVISIONS**  
**(For legal practitioners who wish to invest monetary contributions instead of pro bono hours)**

Recognizable contributions into a <b>community NGO, a community development fund or charitable</b> entity	By an <b>LSME Attorneys</b> in the category of above R3 but not more than <b>R15 million</b>	2	Any contribution but not less than R 80 000. per annum
	By an <b>LSMEs Attorneys</b> in the category of above <b>R15 million</b>	2	Any contribution but not less than R 120 000. per annum
	By all <b>LSMEs Advocates</b> in the category above <b>R5 million</b>	2	Any contribution but not less than R 100 000. per annum
Recognizable contributions into initiatives that <b>enhances community’s economic development initiatives</b>	By an <b>LSME Attorneys</b> in the category of above R3 but not more than <b>R15 million</b>	2	Any contribution but not less than R 80 000. per annum
	By an <b>LSMEs Attorneys</b> in the category of above <b>R15 million</b>	2	Any contribution but not less than R 120 000. per annum

	By all <b>LSMEs Advocates</b> in the category above <b>R5 million</b> category	2	Any contribution but not less than R 100 000. per annum
	R3 – R15 million LSMEs – Attorneys	6	
	Above R15 LSMEs – Attorneys	6	
	R 5 million and more LSMEs – Advocates	6	

## 29. KEY MEASUREMENT PRINCIPLES AND INDICATIVE FACTORS

- 29.1 For purposes of measurement and verification, LSMEs will only receive recognition for verifiable initiatives.
- 29.2 QSEDs and initiatives of any LSME are recognisable only on an annual basis and cannot be ceded nor apportioned in favour of another LSME.
- 29.3 Notwithstanding the provisions dealing enterprise and supplier development initiatives referred to herein, initiatives by any LSME may consist of monetary or non-monetary contributions actually initiated and implemented in favour of beneficiaries by an LSME with the specific objective of facilitating sustainable access to justice for the targeted beneficiaries.
- 29.4 LSMEs are encouraged to prioritise communities in areas where they operate.

29.5 The full value of QSEDs and initiatives by any LSME given to the beneficiaries is recognisable if at least 100% of the value directly benefits black people.