

GAZETTE #42496

THE IMPACT ON SECTOR CODES

The six-month transition period of Gazette #42496, issued on 31st May 2019 ended on 1st December. Therefore as of this date evidence of an organisation's Status Level, whether in the form of a SANAS accredited B-BBEE Certificate, an Affidavit or a CIPC Certificate, must be measured against the 2019 amended provisions of this Gazette.

The deadline is non-negotiable as Gazette #36928 was repealed on 1st December 2019. Hence all relevant amendments apply; therefore, all organisations, irrespective of their threshold, are bound by it.

However, organisations measured on a Sector Code issued in terms of Section 9(1) of the B-BBEE Act as amended, are measured according to the requirements of that particular Sector Code. Therefore, organisations measured on a Sector Code will not be affected by these amendments. Nevertheless, where matters are silent in the Sector Codes, the amended provisions of Gazette #42496 are applicable.

The Sector Code Impact Analysis table illustrates the impact the amendments in Gazette #42496 will have on published amended Sector Codes. This remains intact until such time that each Sector Code is aligned with the amendments of this Gazette.

The following Sector Codes are excluded from the Impact Analysis table which appears on the following page:

- > The Tourism Sector Code, as it has published draft amendments under Gazette #42725. Between September and November 2019, the Tourism B-BBEE Charter Council held consultation sessions across all provinces. All comments derived from these sessions were to be submitted to the council by 30th November 2019.
- > The Chartered Accountancy Sector Code, as it was not published at the time of going to print.
- > The Transport Sector is not bound by these amendments as it is measured on Sector Codes aligned to the 2007 Codes of Good Practice. This will remain in place unless the Amended Transport Sector Code is published or the current Sector Code is repealed. Upon the repealing of this Sector Code, those within the ambit of this Sector Code will revert to being measured on the Generic Codes.



Stella Nolan
Publisher
TFM Magazine

"What happens when matters are silent in the Sector Codes?"



Gazette #42496 Sector Code Impact Analysis

Revised Schedule 1 Interpretation and Definitions

Absorption | Now restricts to securing long-term employment. It no longer includes further education and training.

Designated Group Supplier | This is a clarification. It means a supplier that is at least 51% 'Black'-owned as defined under 'Black' Designated Groups.

30% 'Black' Woman-owned | Refers to 'Black' Women holding at least 30% Ownership rather than >30%.

Qualifying Enterprise & Supplier Development Contributions | Qualifying Beneficiaries must be 51% 'Black'-owned. Previously this included 30% 'Black' Woman-owned Beneficiaries.

Revised Code 000, Statement 000 | General Principles

Priority Element Compliance explicitly states that Skills Development excludes Bonus Points.

Priority Element Compliance confirms that 51% 'Black'-owned QSEs who benefit from Enhanced Recognition do not have to comply with either of the other two Priority Elements.

Enhanced Recognition for EMEs and QSEs that are 51% or 100% 'Black'-owned, which allows them to claim a Status Level 2 or 1. However, Ownership Recognition must be measured using the 'Flow-Through' Principle only. Refer to page 18.

The measurement methodology for Unincorporated Joint Ventures is defined.

Revised Code 300 | General Principles for Measuring Skills Development

Amendments to the Weighting Points and targets. Introduced new indicator for Bursaries.

The cap for informal and workplace Skills Development expenditure under Cat F&G Learning Programmes has increased from 15% to 25%.

Ancillary costs are capped at 15%. Allows for the cost of a Skills Development Facilitator or Training Manager - non-exhaustive list requires clarification.

The cap for ancillary costs remains at 15%. However, the cap does not apply to Bursaries, as this specifically relates to the new Department of Trade & Industry (Dti) Bursary indicator.

Stipends are extended to Cat A Bursary Students which relates to the newly introduced Dti Bursary indicator.

The Narrative Description of Cat A in the Learning Programme Matrix is amended.

Revised Code 400 | General

Amendments to the Weighting Points and targets as well as 'Black' Ownership criteria.

The rules pertaining to Net Profit After Tax (NPAT) application have been clarified, as prior to this amendment it was assumed it fell under the definition laid out in the Socio-Economic Development element.

The multiplier of 1.2 for first time suppliers is removed and replaced by a 1.2 recognition boost for purchasing from 51% 'Black'-owned or 'Black' Woman-owned suppliers whose qualification is achieved using the 'Flow-Through' Principle and not the 'Modified Flow-Through' Principle.

Beneficiaries of Enterprise Development and Supplier Development contributions must be 51% 'Black'-owned or 'Black' Woman-owned EMEs or QSEs using the 'Flow-Through' Principle. See page 18.

Large enterprises may qualify as Enterprise Development or Supplier Development Beneficiaries providing they were previously Beneficiaries when they were EMEs or QSEs that first received assistance from the said organisation five years prior.

Procurement from Large Enterprises may be recognised under the EME or QSE indicators. However, this is providing they first procured from the Measured Entity while they qualified as an EME or a QSE in the last five years.

The amendment to the Benefit Factor Matrix specifies that 50% of guarantees provided on behalf of a Beneficiary can be claimed in contrast to 3% previously.

Agriculture	Construction	Defence	Finance	Forest	ITC	MAC	Property
x	x	√	x	x	√	x	x
x	x	√	x	x	√	x	x
x	x	x	x	x	√	x	x
x	x	x	x	x	√	x	√
√	√	√	√	√	√	√	√
√	x	√	√	√	√	√	√
x	x	x	x	x	x	x	x
√	x	√	√	√	√	√	√
x	x	x	x	x	x	x	x
√	√	√	x	x	x	√	√
x	x	x	x	x	x	x	x
√	x	√	x	x	√	√	√
x	x	x	x	x	x	x	x
√	x	√	x	√	√	√	√
x	x	√	x	x	x	√	√
x	x	x	x	x	x	x	√
x	x	x	x	x	x	√	√
x	x	x	x	x	x	√	√
√	x	√	x	x	√	√	√