



Global Business Solutions



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SANDTON CONVENTION CENTRE

**BALANCING THE LEADERSHIP / SKILLS
CHALLENGE WITH EMPOWERMENT
IMPERATIVES**



LEGISLATIVE CONTEXT

- THE EMPLOYMENT EQUITY ACT NO. 55 OF 1998
- THE BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT NO. 53 OF 2003 AND THE CODES OF GOOD PRACTICE



THE BROAD BASED BLACK ECONOMIC EMPOWERMENT LEGISLATION

- MANAGEMENT CONTROL – 10
- EMPLOYMENT EQUITY - 15
- SKILLS DEVELOPMENT – 15
- TOTAL 40 POINTS

MANAGEMENT CONTROL

Element	Category	Indicator	Weighting points	Interim Target (Years 0-5)	Compliance Target (Years 6-10)
MANAGEMENT CONTROL	Board Participation	Exercisable Voting Rights of black Board members who are black using Gender Recognition Factor	3		50 %
		Black Executive Directors using Gender Recognition factor	2		50 %
	Top Management	Black Senior Top Management using Gender Recognition factor	3		40 %
		Black Other Top Management using Gender Recognition factor	2		40 %
	Bonus Points	Black Independent Non-Executive Board Members	1		40 %
Total Points = 10					

EMPLOYMENT EQUITY

Element	Indicator	Weighting points	Interim Target (Years 0-5)	Compliance Target (Years 6-10)
EMPLOYMENT EQUITY	Black employees of the Measured Entity who are Disabled Employees as a percentage of all employees adjusted using the Gender Recognition Factor	2	2 %	3%
	Black employees of the Measured Entity who are in the Measurement Category of Senior Management as a percentage of all employees in that Measurement Category adjusted using the Gender Recognition Factor	5	43%	60%
	Black employees of the Measured Entity who are in the Measurement Category of Middle Management as a percentage of all employees in that Measurement Category adjusted using the Gender Recognition Factor	4	63%	75%
	Black employees of the Measured Entity who are in the Measurement Category of Junior Management as a percentage of all employees in that Measurement Category adjusted using the Gender Recognition Factor	4	68 %	80 %
Total Points = 15	NOTE: Bonus for meeting or exceeding the EAP targets in each of the above categories	3		

SKILLS DEVELOPMENT

Element	Category	Indicator	Weighting points	Interim Target (Years 0-5)	Compliance Target (Years 6-10)
SKILLS DEVELOPMENT	Skills Development Spend on Learning Programmes	Skills development spend on learning programmes specified in the matrix for black employees as a percentage of leviabile amount using the adjusted recognition for gender	6		3 %
		Skills development spend on learning programmes specified in the matrix for black employees with disabilities as a percentage of leviabile amount using the adjusted recognition for gender	3		0.3%
	In-service Training Programmes	Number of black employees participating in Learnerships or Category B, C and D programmes as a percentage of total employees using the adjusted recognition for gender	6		5%
Total Points = 15					



EMPLOYMENT EQUITY LEGISLATION

- The legal compliance obligation measurement is the extent to which suitably qualified people (employees) from and amongst the different designated groups are equally represented within each occupational category and level in that enterprise's workforce looking at a range of factors.
- The section 42 makes it very difficult for the Department of Labour to enforce the Employment Equity Act (EEA). It obliges the Director General or any person or body applying this Act to take all of the factors listed below into account when assessing compliance. As a result, the Act is almost impossible to enforce.

EMPLOYMENT EQUITY ACT (NO 55 OF 1998)

Section 42 of the Act

- 4 In determining whether a designated employer is implementing employment equity in compliance with this Act, the Director General or any person or body applying this Act **must**, in addition to the factors stated in section 15, take into account all of the following:
- (a) the extent to which suitably qualified people from and amongst the different designated groups are equitably represented within each occupational category and level in that employer's workforce in relation to the –
 - (I) Demographic profile of the national and **regional economically** active population;
 - (II) **Pool of suitably qualified people from designated groups from which the employer may reasonably be expected to promote or appoint employees;**
 - (III) **economic and financial factors relevant to the sector in which the employer operates;**

EMPLOYMENT EQUITY ACT (NO 55 OF 1998)

Section 42 of the Act

- (I) **present and anticipated economic and financial circumstances of the employer; and**
- (II) **the number of present and planned vacancies that exist in the various categories and levels, and the employer's labour turnover;**
- (a) progress made in implementing employment equity **by other designated employers** operating under comparable circumstances and within the same sector;
- (b) reasonable efforts made by a designated employer to implement its employment equity plan;
- (d) **the extent to which the designated employer has made progress in eliminating** employment barriers that adversely affect people from designated groups; and
- (e) any other prescribed factor

EMPLOYMENT EQUITY ACT (NO 55 OF 1998) PROPOSED CHANGES

Recommendations going forward

Section 42 of the Act

- 4 In determining whether a designated employer is implementing employment equity in compliance with this Act, the Director General or any person or body applying this Act **may**, in addition to the factors stated in section 15, take the following into account:
- (a) the extent to which suitably qualified people from and amongst the different designated groups are equitably represented within each occupational category and level in that employer's workforce in relation to the demographic profile of the economically active population;
 - (b) reasonable steps taken by an employer to develop a pool of suitably qualified people from the designated groups;**
 - (c) reasonable steps taken by an employer to appoint and promote suitably qualified people from the designated groups;
 - (d) reasonable efforts made by a designated employer to implement its employment equity plan; and
 - (e) the extent to which the designated employer has made progress in eliminating employment barriers that adversely affect people from designated groups.

TOP AND SENIOR MANAGEMENT – 10 YEAR TREND

	2001	2009	% Diff	Trend	EAP %
African	13.0%	20.0%	7%	↑	73.5%
Coloured	11.6%	6.1%	-5.5%	↓	11.3%
Indian	4.0%	8.6%	4.6%	↑	3.0%
White	71.4%	62.3%	-9.1%	↓	12.2%
Foreign national	0.0%	2.9%	2.9%	↑	0%

Total black = 34.7%. (African, Coloured and Indian)

EMPLOYMENT EQUITY ACT (NO 55 OF 1998)

This Schedule sets out the maximum fines that may be imposed in terms of this Act for contravention of certain provisions of this Act.

PREVIOUS CONTRAVENTION	CONTRAVENTION OF ANY PROVISIONS OF SECTIONS 16, 19, 20, 21, 22 AND 23	NEW APPROACH
No previous contravention	R500 000	% of turnover
A previous contravention in respect of the same provision	R600.000	% of turnover
A previous contravention within the previous 12 months or two more previous contraventions in respect of the same provision within three years	R700 000	% of turnover
Three previous contraventions in respect of the same provision within three years	R800 000	% of turnover
Four previous contraventions in respect of the same provision within three years	R900 000	% of turnover

PROGRESS

BBBEE Rating Analysis – 2010/2011

Element	MBSA	VWSA	MAXIMUM SCORE
Ownership	0	0	20
Management Control	7.59	7.01	10
Employment Equity	9.93	8.57	15
Skills Development	15	14.72	15
Preferential Procurement	13.08	14.81	20
Enterprise Development	15	15	15
Socio-Economic Development	5	5	5
Total Score	65.6	65.11	100
BBBEE Contributor Level	Level 4	Level 4	

TOP 12 EMPOWERED COMPANIES

Rank	Company	MANAGEMENT 10 POINTS			EMPLOY- MENT EQUITY 15 POINTS	SKILLS DEVELOPMENT 15 POINTS	
		Top	Top exec black (%)	Score	Score	Skills spend %	Score
1	Sekunjalo Invest	64,29	70,00	11,00	11,98	0,81	7,61
2	Adcorp Holdings	65,00	25,00	5,94	10,00	2,18	10,11
3	Nedbank	44,44	37,50	9,34	10,77	2,97	10,38
4	Kagiso Media	55,00	50,00	9,88	12,98	0,80	7,56
5	Brimstone Invest	57,69	33,33	10,33	11,69	0,03	6,05
6	Hosken Consolidated	66,67	33,33	9,50	10,57	1,54	5,88
7	Glenrand MIB	25,00	0,00	2,50	5,19	2,79	14,57
8	FirstRand	36,84	16,67	7,05	10,77	2,63	9,00
9	Group Five	42,73		6,97	5,91	67,74	12,80
10	Kelly Group	26,92	25,00	4,36	9,53	4,63	12,00
11	Tongaat Hulett	58,30	0,00	7,80	10,18	1,50	5,96
12	GijimaAST Group	50,00	25,00	8,55	6,50	0,98	3,52

SOURCE: FINANCIAL MAIL 2010

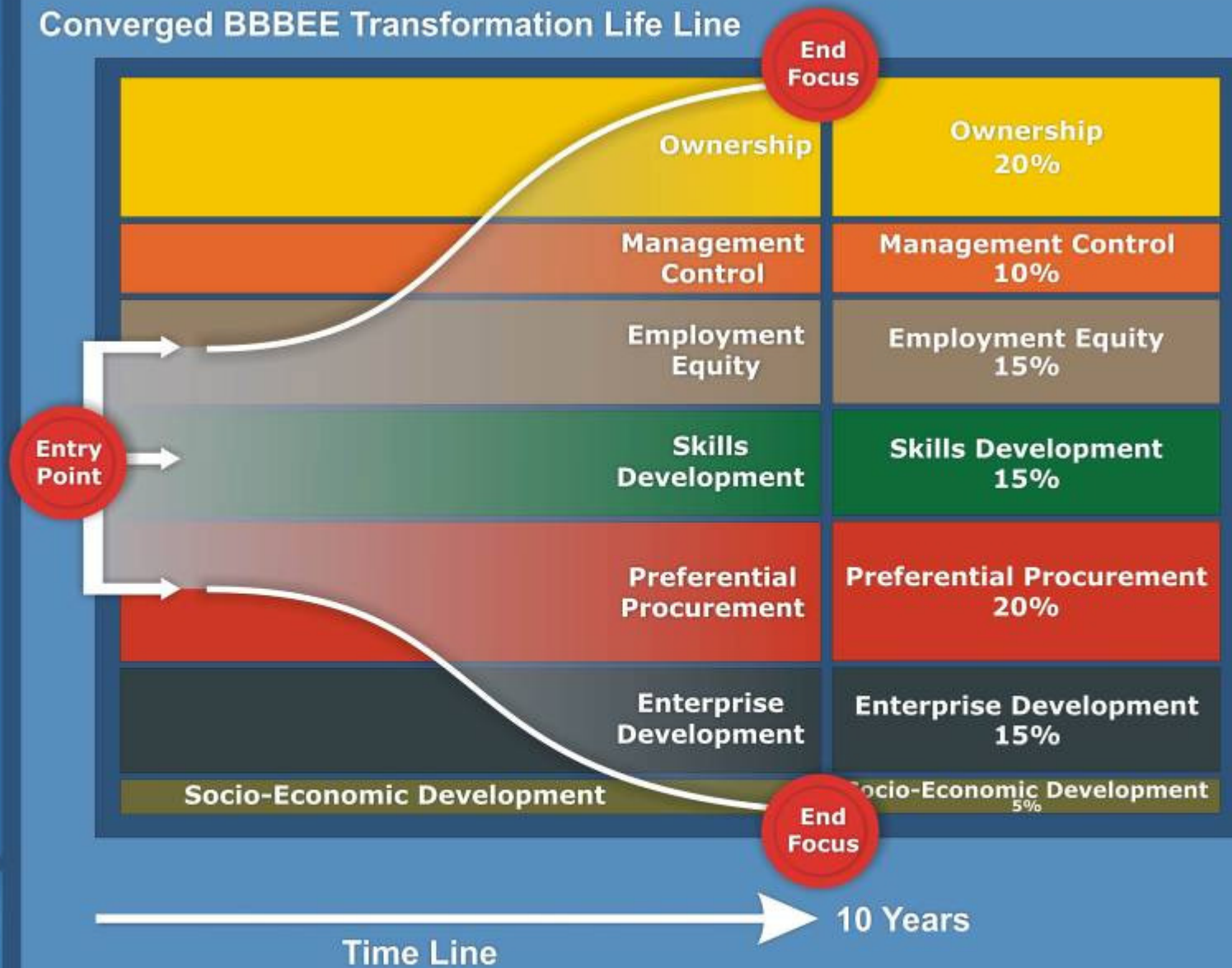


SOME QUESTIONS AND A COMMENT

1. SKILLS SHORTAGE?
2. WHO IS TO BLAME?
3. WHAT IS THE SOLUTION?
4. CAN YOU LEGISLATE THE CHANGE? (QUOTAS)
5. LETS SEE WHAT IS WORKING?
6. COMMENT ON BBBEE LEGISLATION AND ITS KNOCK ON EFFECT
 - 2009 – 35 COMPANIES OVER 65 POINTS (100% COMPLIANT)
 - 2010 – 57 COMPANIES OVER 65 POINTS (100% COMPLIANT)
 - TWO MOTOR MANUFACTURING COMPANIES
 - PREFERENTIAL PROCUREMENT ACT



Converged BBEE Transformation Life Line



GlobalBusinessSolutions

FreeBEE
BBEE
Measurement
Software



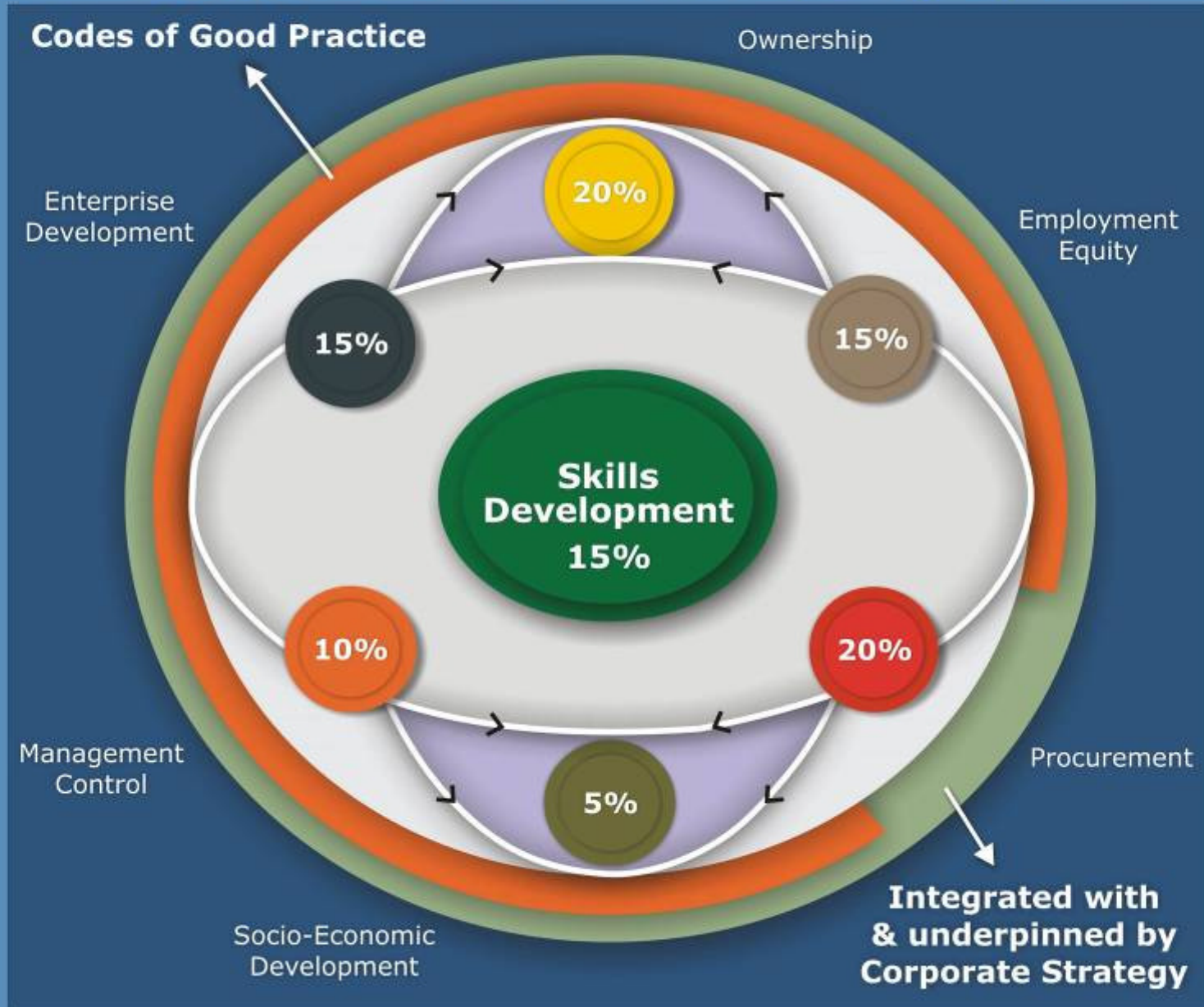


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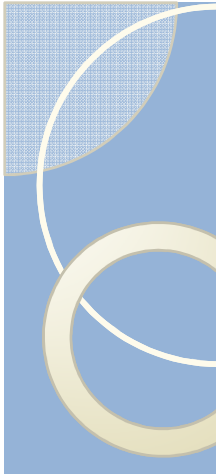
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MULTI-TRAIT, MULTI-METHOD BBBEE TRANSFORMATION



PERPETUAL MODEL - Driven by Competitive & Sustainable Strategies



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