



Forestry Sector Code

The Amended Forestry Sector Code (AFSC) was gazetted in Gazette 40803 dated 21 April 2017. It was signed by the Minister of Trade and Industry on 4 November 2016, so it has taken nearly 6 months from date of signature to gazetting? Who knows how many other Sector codes have been signed and need to be published? A copy of the AFSC can be downloaded [here](#).

As with other Amended Sector Codes gazetted to date, the AFSC comes into effect from the date of publication. There is no transition period.

Key points from the sector codes are as follows:

- The following table summarises the points per element under the AFSC and compares the same points per the Amended Codes of Good Practice (CoGP).

Element	AFSC	CoGP
Ownership	25 + 12 Bonus Points	25 Points
Management Control	19 points	19 Points
Skills Development	20 + 5 Bonus Points	20 + 5 Bonus Points
Enterprise and Supplier Development	43 + 6 Bonus Points	40 + 4 Bonus Points
Socio-Economic Development	5 + 3 Bonus Points	5 Points
Total	112 + 26 Bonus Points	109 + 9 Bonus Points

The points per level and percentage recognition per level remain the same as the CoGP. Note that the AFSC states there are 23 bonus points, but if you add up per element there are 26 points.

- Compliance with the terms of the Employment Equity Act is not required for companies to score points under Management Control.

Empowering Supplier is defined as follows in the AFSC “means a B-BBEE Compliant Entity, which complies with all regulatory requirements of the Employment Equity Act, Skills Development Act, and Skills Development Levies Act and which meets at least four if it is a large enterprise or two if it is a QSE of the following criteria:

From the desk of **Richard Ryding**
B-BBEE Division Head at Global Business Solutions
Tel: 043 721 1030 Email: richard@globalbusiness.co.za





GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

- (a) *At least 25% of cost of sales excluding Total Labour Cost and depreciation must be procured from local producers or local suppliers in SA, for service industry Total Labour Costs are however included.*
 - (b) *Job creation – 50% of jobs created are for Black People provided that the number of Black employees since the immediate prior verified BBBEE Measurement is maintained.*
 - (c) *At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.*
 - (d) *Skills transfer – at least spend 12 days per annum of productivity deployed in assisting 51% Black Owned EMEs and QSEs to increase their operational or financial capacity.*
 - (e) *Certification by a recognised international or domestic forestry or processing certification authority such as FSC, PEFC or ISO.*
 - (f) *At least 85% of the labour force of the Measured Entity are South African citizens.*
- Gazette 40373 issued on 28 October states “(b) Any Entity measured on or after 1 May 2016 will automatically be recognised as an Empowering Supplier until a further notice is issued.” We submit this means companies measured under the AFSC are automatically Empowering Suppliers.
 - Code FSC000 Statement FSC000 supplies equivalent original code terms as some companies will get certificates issued under the original CoGP. In paragraph 10.2, the equivalent under the old codes for an Empowering Supplier is a Value Adding Supplier. So, it appears if companies measured under the AFSC using supplier certificates issued under the original codes can only claim Value Adding Suppliers as Empowering Suppliers. This is different the CoGP which allow all valid certificates to be treated as Empowering Suppliers.
 - Certain commitments were made in Schedules 2 and 3 to the original Forestry Sector codes. Most these commitments expired in 2010. Until these commitments have been complied with all companies covered by the AFSC will automatically receive recognition for 5% Black Women Ownership under Voting Rights and Economic Interest. This is scored as if done on the Flow Through principle and carries no acquisition debt.
 - If a company does not distinguish between any of Senior, Middle or Junior Management, then the weightings and points relating to the “missing” levels must be allocated evenly to the other management categories.
 - Mandatory Sectoral training is not allowed to be claimed under the CoGP. The AFSC allows the claim of 60% of such training if it is recognised as core or critical skills by the Forest Sector Charter Council.
 - Enterprise Development and Supplier Development contributions are measured on an annual basis. Any contributions made more than targets can be carried forward for 1 year only. The same applies to Socio-Economic Development.
 - SAFCOL has one year to apply for and be granted BEE facilitator status. Until such time companies are entitled to exclude procurement from SAFCOL when determining Total Measured Procurement Spend for scoring procurement from black owned suppliers.
 - Meeting targets is an equal and joint responsibility of Industry and Government. Industry’s targets for procurement from EME, QSE, 51% Black owned, 30% Black Women Owned and 51% black owned by designated groups cannot be less than 50% of the targets. Government’s targets will be based upon a completeness ratio determined annually by the Forest Sector Charter Council. This completeness ratio is currently 0%. The table below illustrates the application:



GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

Element	Industry	Government	Adjusted Target
Target for Procurement from QSE – 15%	7.50% (50% x 15%)	7.50% (50% x 15%)	
Completeness Ratio		0.00%	
Adjusted Target	7.50%	0.00% (7.50% x 0.00%)	7.50%

- When scoring Ownership for QSE and EME, the modified flow through principle cannot be applied when determining any enhanced recognition.
- The following definitions are relevant:
 - Absorbed - *“means a measure of the Measured Entity’s ability to have successfully secured formal, permanent or long-term contract employment for the Learner, or to assist the Learner’s to proceed with further education and training. **Where the Learner was already employed by the Measured Entity when he commenced the Learnership and merely continues with his/her existing employment after the Learnership, it will not qualify as Absorption.**”* The bolding is mine as it is different to the CoGP.
 - Measurement Period – *“means, subject to the following, the financial period of the Measured Entity:*
 - a) *The financial period of a Measured Entity is a period of 12 consecutive calendar months;*
 - b) *However where the Measured Entity amended its financial reporting period from one year to another the financial period may, for that particular year in question, be more or less than 12 consecutive months. In such exceptional cases the Measured Entity may, at its discretion, elect to be measured for the amended financial period (however many months it may include) or the 12 months ending on the last day of the amended financial period. For purposes of determining its classification as an EME, QSE or Generic enterprise the Measured Entity must however, irrespective of the election it exercises above, do so with reference to the 12 months ending on the last day of the amended financial period;*
 - c) *Measured Entities for which verification is required may not be measured for a Measurement Period that has ended more than 12 months prior to the commencement of the verification thereof;*
 - d) *For EME’s and QSE’s that are allowed to merely make an affidavit, the Measurement Period must be the 12 consecutive calendar months that immediately precedes the last day of the most recently completed financial period;*
 - e) *The Measurement Period is the period over which the ‘Skills Development’, ‘Enterprise and Supplier Development’ and ‘Socio-Economic Development’ elements must be measured.*

This definition will align to the final definition of the term “Measurement Period” contained in the Draft Verification Manual (Gazetted 39378, 6 November 2015) as finalised and amended.”



GLOBAL BUSINESS SOLUTIONS

future thinking, now

B-BBEE NEWSFLASH - EDITION 2/2017

- Start-up Enterprise – *“means a recently formed or incorporated Entity that has been in operation for less than 1 year. An entity that was formed and incorporated some time ago but which has been dormant (non-operational), will qualify as a start-up enterprise for the first year after it commences operations. A start-up enterprise does not include any newly constituted enterprise which is merely a continuation of a pre-existing enterprise.”* This is a broader definition than allowed under the CoGP.

If you have any B-BBEE consulting needs, please contact either Charlene Skipp on charlene@globalbusiness.co.za (083 780 7209) or me on richard@globalbusiness.co.za (083 440 2130).

Kind Regards

Richard Ryding
Global Business Solutions

28 April 2017