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Government Printing Works

Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website www.gpwonline.co.za to familiarise yourself with the new deadlines.

CANCELLATIONS

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above.
Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette**.
Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

PROOF OF PAYMENTS

GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to submit.egazette@gpw.gov.za, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

REMINDER OF THE GPW BUSINESS RULES

- ❑ Single notice, single email – with proof of payment or purchase order.
- ❑ All documents must be attached separately in your email to GPW.
- ❑ 1 notice = 1 form, i.e. each notice must be on a separate form
- ❑ Please submit your notice **ONLY ONCE.**
- ❑ Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- ❑ The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE AND INDUSTRY

NO. R. 689 **06 JUNE 2016**

NOTICE IN TERMS OF SECTION 14(1) OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT, 2003 (ACT NO. 53 OF 2003), AS AMENDED BY THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT AMENDMENT ACT, 2013 (ACT NO. 46 OF 2013)

1. By virtue of the powers vested in me in terms of section 14(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), I Rob Davies, Minister of Trade and Industry, hereby –

   (a) make the Regulations following hereunder; and

   (b) determine that the Regulations will come into effect on the date of publication of this Notice.

DR ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

DATE: 31 / 5 / 2016

BROAD-BASED BLACK ECONOMIC EMPOWERMENT

REGULATIONS, 2016

REGULATING THE ADMINISTRATION AND IMPLEMENTATION OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT AND THE FUNCTIONS OF THE COMMISSION

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Part 1 – General Provisions

Division A - Interpretation

1. Short title

These Regulations may be cited as the *B-BBEE Regulations*.

2. Interpretation

(1) Section 1 of the Act applies to the interpretation of these Regulations.

(2) A word or expression that is defined in the Act bears the same meaning in these Regulations as in the Act.

(3) In these Regulations unless context indicates otherwise, any word or expression to which a meaning has been provided in the Act has the same meaning:

(a) a reference to a section by number refers to the corresponding section of the Act;

(b) a reference to a Regulation by number refers to the corresponding item of these Regulations; and

(c) a reference to a sub-regulation or paragraph by number refers to the corresponding item of the Regulation in which the reference appears.

(4) In these Regulations unless the context indicates otherwise:

(a) **"Act"** means the *Broad-Based Black Economic Empowerment Act*, 2003 (Act 53 of 2003), as amended by the *Broad-Based Black Economic Empowerment Amendment Act*, 2013 (Act 46 of 2013), and includes any code of good practice or regulations made under the Act;

(b) **"alternative dispute resolution"** means conciliation, mediation or arbitration services to assist in the resolution of a complaint or matter lodged with the B-BBEE Commission;

(c) **"application"** means a request for a deviation or an exemption submitted in terms of section 10(2) and a permission to exceed submitted in terms of section 9(6) of the Act;

(d) **"certificate of approval"** means a certificate issued by the Minister granting permission to exceed the qualification criteria in terms of section 9(6), or an exemption or deviation in terms of section 10(2) of the Act;

(e) **"certificate of registration"** means a certificate issued by the Commission to the registrant as confirmation that a major broad-based black economic empowerment transaction has been registered in terms of section 13F (1) (f) of the Act;

(f) **"certified copy"** means a copy of a document certified by a Commissioner of Oaths;

(g) **"Codes of Good Practice"** means the generic codes or the sector codes, as the case may be;

(h) **"Chairperson"** means a chairperson of the Panel, and may include the Commissioner;

(i) **"Commissioner"** means the office holder appointed in terms of section 13B of the Act;

(j) **"Commissioner of Oaths"** means a person qualified and authorised to administer oaths on affidavits, solemn or attested declaration and other legal documents or certify documents of another, and designated as

such in terms of Justices of the Peace and Commissioners of Oaths Act, 1963 (Act 16 of 1963) as amended;

(k) **"complaint"** means either -

(i) a matter initiated by the Commissioner in terms of section 13J (1) of the Act; or

(ii) a matter that has been submitted to the Commission in terms of section 13F (1) (c) of the Act;

(l) **"Complainant"** means either -

(i) a person who filed a complaint with the Commission in terms of section 13F (1) (c) of the Act; or

(ii) the Commission in respect of a matter that it has initiated in terms of section 13J (1) of the Act;

(m) **"confidential information"** means information that belongs to a person and is not generally available to or known by others;

(n) **"Court"** means the Magistrates' Court established in terms of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as amended;

(o) **"day"** means calendar days unless prescribed otherwise;

(p) **"deliver"** depending on the context, means to serve, or to file, a document;

(q) **"deviation"** means a deviation of the organ of state or public entity from the Codes of Good Practice in terms of section 10(2) of the Act;

(r) **"exceed"** as contemplated in section 9(6) of the Act, in addition to the requirements of the Codes of Good Practice means -

(i) forty (40) percent sub-minimum targets set out in the Codes of Good Practice for each priority element of equity ownership, skills development and enterprise and supplier development; and

(ii) targets set out in each of the five (5) elements of the Codes of Good Practice;

(s) **"exemption"** means relief from implementing the Codes of Good Practice as granted by the Minister in terms of section 10(2) of the Act;

(t) **"file"** when used as a verb, means to submit or deposit with the Commission;

(u) **"major broad-based black economic empowerment transaction"** means a transaction that must be registered with the Commission in terms of section 13F (1) (f) of the Act, above a threshold determined by the Minister by notice in the Gazette;

(v) **"month"** means a calendar month;

(w) **"other economic activities"** means any business transaction involving individuals, groups of people or entities with the aim of gaining or granting a benefit or opportunity;

(x) **"Panel"** means a group of not more than five (5) persons that may be appointed by the Commission to preside in a formal hearing during an investigation in terms of section 13J(2) of the Act;

(y) **"public holiday"** means the days mentioned in Schedule 1 of the Public Holidays Act, 1994 (Act 36 of 1994); and

(z) **"Regulation"** includes any footnote to a Regulation, and any Table included within or referred to in a Regulation.

Division B – Commission Office Functions

3. Office hours and address of Commission

(1) The offices of the Commission are open to the public every Monday to Friday, excluding public holidays, from 08h30 to 15h30.

(2) Despite sub-regulation (1) in exceptional circumstances the Commission may accept documents for filing on any day and at any time.

(3) Any communication to the Commission, or to a member of the staff of the Commission, may be delivered to the address determined by the Commission from time to time in the Government Gazette.

4. Condonation of time limits

(1) On good cause shown, the Commissioner may condone late performance of an act or conduct in respect of which these Regulations prescribe a time limit, other than a time limit that is binding on the Commission itself.

5. Commissioner's functions

(1) The Commissioner, in writing, may delegate any function or power to a member of the staff of the Commission or any person contracted with the Commission, either generally or in connection with a particular matter, subject to section 13H of the Act.

6. Delivery of documents

(1) A notice or document may be delivered in any manner set out in **Table B-BBEE** 1.

(2) Subject to sub-regulation (4), a document delivered by a method listed in the second column of **Table B-BBEE** 1 will be deemed to have been delivered to the intended recipient on the date and time described in the column of that Table.

(3) If, in a particular matter, it proves impossible to deliver a document in any manner provided for in these Regulations, the person concerned may apply to a Court for an order of substituted service.

(4) Subject to Regulation (4), if the date and time for the delivery of a document referred to in **Table B-BBEE** 1 is outside of the office hours of the Commission as set out in the Regulations, that document will be deemed to have been delivered on the next business day.

(5) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must accompany a cover message, in either case setting out –

(a) the name, address, and telephone number of the sender;

(b) the name of the person to whom it is addressed, and the name of that person's representative, if it is being sent to the representative of a person;

(c) the date and time of the transmission;

(d) the total number of pages sent, including the cover page; and

(e) the name and telephone number of the person to contact if the transmission appears to be incomplete or otherwise unsuccessful.

7. Issuing documents

(1) If the Act or these Regulations require the Commission to issue a document, such document –

(a) will be deemed to have been issued by the Commission when it has been signed and served on any person to whom it is addressed; and

(b) may be signed and served at any time of day.

8. Filing documents

(1) The Commission must assign distinctive case numbers to each –

(a) complaint;

(b) report;

(c) registration; and

(d) advisory opinion.

(2) The Commission must ensure that every document subsequently filed in respect of the same proceedings is marked with the same case number.

(3) The Commission may refuse to accept a document subsequently filed in respect of the same proceedings that are not properly marked with the assigned case number.

(4) A person who files any document in terms of the Act or these Regulations must provide to the Commission that person's -

(a) legal name;

(b) address for service;

(c) telephone number;

(d) if available, email address and fax number; and

(e) if the person is not an individual, the name of the individual authorised to deal with the Commission on behalf of the person filing the document.

9. Fees

(1) The Commission may not charge a fee to any person for filing a complaint.

(2) The Commission may charge reasonable fees for services rendered by its office consistent with the Act and these Regulations.

(3) The Commission must publish a schedule of fees by notice in the Gazette, after consultation with the Minister.

10. Form of notices and applications

(1) Whenever a notice or application is required in terms of a provision of the Act, or an item of these Regulations, shown in column 1 of **Table B-BBEE** 2, for a purpose listed in column 2 of that Table, the document must be –

(a) substantially in the form of the annexure listed opposite that section number in column 3 of that Table; and

(b) produced subject to any conditions listed opposite that section number in column 4 of that Table.

11. Form of Certificates, Notices and Receipts

(1) Whenever the Commission is required to issue a Certificate, Notice or Receipt in terms of a provision of the Act, or an item of these Regulations, shown in column 1 of **Table B-BBEE** 2 and 3, for a purpose listed in column 2 of the Tables, the document must be –

(a) substantially in the form of the annexure listed opposite that section number in column 3 of that Table; and

(b) produced subject to any conditions listed opposite that section number in column 4 of that Table.

(2) Whenever the Commission is required, either in terms of the Act or these Regulations, to publish a notice in the Gazette, that notice must contain at least the following information:

(a) the name of any entity, or other person directly affected by the notice;

(b) the file number assigned by the Commission to the relevant matter;

(c) the provision of the Act or Regulation in terms of which the notice is required;

(d) a brief and concise description of the nature of the relevant matter;

(e) if the notice invites submissions, the last date on which submissions may be received;

(f) if the notice reports a decision –

(i) a brief and concise description of the nature of the relevant decision;

(ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and

(iii) a statement of any right of review of, or appeal from, that decision, including the period during which a review or appeal may be lodged;

(g) The name, address and contact numbers of the person in the Commission responsible for publishing the notice.

Part 2 – Reporting Duties

12. Reporting duties

(1) A compliance report required to be included annually in terms of section 13G (1) of the Act from a sphere of government, public entity or an organ of state must –

(a) be based on verified information as required in the Act, reflecting the state of compliance in respect of the following elements:

(i) ownership where applicable;

(ii) management control;

(iii) skills development;

(iv) enterprise and supplier development;

(v) socio-economic development; and

(vi) any other sector specific element.

(b) reflect how each element contributes to the outcome of the scorecard in terms of the Codes of Good Practice.

(2) The sphere of government, public entity or an organ of state must file the audited annual financial statements and annual report compiled in terms of section 13G(1), with the Commission, in the prescribed **FORM B-BBEE** 1 within thirty (30) days of the approval of such audited annual financial statements and annual report.

(3) A public company listed on the Johannesburg Stock Exchange must submit a compliance report required to be included annually, in terms of section

13G(2) of the Act, to the Commission in the prescribed **FORM B-BBEE 1** and must -

(a) be based on verified information as required in the Act, reflecting the state of compliance in respect of the following elements: -

(i) ownership;

(ii) management control;

(iii) skills development;

(iv) enterprise and supplier development;

(v) socio-economic development; and

(vi) any other sector specific element.

(b) reflect how each element contributes to the outcome of the scorecard in terms of the Codes of Good Practice.

(4) The report required in terms of section 13G (2) must be submitted to the Commission within ninety (90) days of the end of the financial year of the public company listed on the Johannesburg Stock Exchange.

(5) Where the public company listed on the Johannesburg Stock Exchange has included the annual compliance report required in terms of section 13G (2) of the Act in the audited annual financial statements and annual report, such company may file the audited annual financial statements and annual report with the Commission within thirty (30) days of the approval of the audited annual financial statements and annual report.

(6) A Sectoral Education and Training Authority must submit a report required in terms of section 13G(3) of the Act annually to the Commission, on the skills

development spending and programmes in the prescribed **FORM B-BBEE 2** and such report must -

(a) be based on verified information as required in the Act, reflecting the state of compliance in respect of the following elements: -

(i) skills training provided by member entities;

(ii) skills development services;

(iii) implementation of the scorecard;

(iv) critical and priority skills; and

(v) workplace skills plan.

(b) reflect how each element contributes to the outcome of the scorecard in terms of the Codes of Good Practice.

(7) The report required in terms of section 13G (3) must be submitted to the Commission within ninety (90) days of the end of the financial year of the Sectoral Education and Training Authority.

(8) Where the annual compliance report required in terms of section 13G (3) is already included in the audited annual financial statements and annual report of the Sectoral Education and Training Authority, such Sectoral Education and Training Authority may file with the Commission the audited annual financial statements and annual report within thirty (30) days of approval of the audited annual financial statements and annual report.

(9) Upon receipt of any report in terms of section 13G, the Commission must –

(a) within five (5) days acknowledge receipt of the report in writing;

(b) consider the report within ninety (90) days of receipt of the report; and

(c) respond in writing to the person who filed the report in respect of the state of compliance with the Act and highlight areas of improvement, if any.

(10) In the case of non-compliance with the Act, the Commission shall notify the sphere of government, public entity, the organ of state, listed company or Sectoral Education and Training Authority in writing by issuing the prescribed FORM **B-BBEE 3** of the apparent non-compliance and require such entity to correct its report and comply with the requirements of section 13G within thirty (30) days.

(11) In the event the entity fails to comply as contemplated in section 13(G) of the Act, the Commission must -

(a) reject the report by issuing the prescribed **FORM B-BBEE 4**; and

(b) indicate the reasons for rejecting the report, and the sphere of government, public entity, organ of state, listed company or Sectoral Education and Training Authority must then be considered to have not complied with the requirements of the Act.

(12) The Commission may allow the sphere of government, public entity, organ or state, listed company or Sectoral Education and Training Authority that submitted the report in terms of section 13G of the Act to appear before the Commission in a closed or open meeting to respond to questions by the Commission as part of the consideration of the report, and take advice where necessary.

(13) If upon consideration of the report submitted in terms of section 13G the Commission is of the view that the report complies with the requirements of the Act, the Commission must notify the entity concerned in a prescribed **FORM B-BBEE 5**, in accordance with sub-regulations (1), (3) and (5) above.

(14) Any misrepresentation of information submitted in the report required in terms of section 13G by a sphere of government, public entity, organ or state, listed company or Sectoral Education and Training Authority shall be dealt with in terms of the Act.

(15) The Commission may conduct a site visit to verify the correctness of the information submitted in the report or initiate an investigation in terms of section 13J(1) of the Act in respect of any non-compliance with the requirements of section 13G of the Act.

(16) The Minister shall, within thirty (30) days of receipt of reports by sector charter councils in terms of section 10(4) of the Act, submit such sector council reports to the Commission for consideration in terms of these Regulations.

(17) Upon receipt of any report of the sector charter council in terms of section 10(4) from the Minister, the Commission must –

(a) within five (5) days acknowledge receipt of the report in writing;

(b) consider the report within ninety (90) days of receipt; and

(c) respond to the Minister in writing regarding the state of compliance and highlight areas of improvement, if any.

(18) The Commission may publish reports submitted to it in terms of the Act in a manner it deems appropriate including, making a consolidated summary and publication on its website.

Part 3 – Access to information

13. Restricted or Confidential information

(1) For the purpose of this Part 3 of these Regulations, and in terms of section 13L of the Act, the following five classes of information are restricted:

(a) information -

(i) that has been determined to be confidential information in terms of section 13L (1) of the Act, or

(ii) that, in terms of section 13L (7) of the Act, must be treated as confidential information.

(b) identity of a complainant, in the following circumstances:

(i) a person who provides information may request that the Commission treat their identity as restricted information, but that person may be a complainant in the relevant matter only if they subsequently waive the request in writing;

(ii) if a person has requested in terms of sub-regulation 1(b) (i) that the Commission treat their identity as restricted information –

(aa) the Commission must accept that request; and

(bb) that information is restricted unless the person subsequently waives the request in writing.

(c) information that has been received by the Commission in a particular matter, other than that referred to in paragraphs (a) and (b), as follows:

(i) the description of conduct attached to a complaint, and any other information received by the Commission during its investigation

of the complaint, is restricted information until the Commission issues its findings and recommendations if any, in respect of that complaint, but information provided in a completed **FORM B-BBEE 6** is not restricted information; and

(ii) any information received by the Commission during its consideration of a major broad-based black economic empowerment transaction registered with the Commission prior to the transaction being made public by any of the parties to the transaction, is restricted information only to the extent that it is restricted in terms of paragraph (a).

(d) A document -

(i) that contains -

(aa) an internal communication between officials of the Commission, or between one or more such officials and their advisors;

(bb) an opinion, advice, report or recommendation obtained or prepared by or for the Commission;

(cc) an account of a consultation, discussion or deliberation that has occurred including, but not limited to, minutes of a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed on the Commission by law; or

(dd) the disclosure of which could reasonably be expected to frustrate the deliberative process of the Commission by inhibiting the candid -

(i) communication of an opinion, advice, report or recommendation; or

(ii) conduct of a consultation, discussion or deliberation; or

(iii) the disclosure of which could, by premature disclosure of a policy or contemplated policy, reasonably be expected to frustrate the success of that policy.

(e) any other document to which a public body would be required or entitled to restrict access in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

14. Access to information

(1) Any person, upon payment of the prescribed fee, may inspect or copy any Commission record -

(a) if it is not restricted information; or

(b) if it is restricted information, to the extent permitted, and subject to any conditions imposed, by

(i) this Regulation; or

(ii) an order of a competent court of law.

(2) In a particular complaint the Commission may release otherwise restricted information, other than confidential information, relating to a possible agreement of terms of an appropriate order.

(3) In addition to the provisions of sub-regulation (1) and (2), the Commission may release restricted information to, or permit access to it by only the following persons:

(a) the person who provided that information to the Commission;

(b) the person to whom the confidential information belongs; and

(c) any other person, with the written consent of the person to whom the information belongs.

Part 4 – Complaint Process

15. Lodging a Complaint

(1) In terms of section 13J, the Commission has the power on its own initiative or on receipt of a complaint in the prescribed form to investigate any matter arising from the application of the Act, any B-BBEE initiative or category of B-BBEE initiatives.

(2) Any person may lodge a complaint with the Commission by filing a completed prescribed **FORM B-BBEE 7**, and specifically providing the following information: -

(a) a description of the conduct or practice alleged to be in contravention of the Act;

(b) particulars of a person, sphere of government, entity or organ of state alleged to be in contravention of the Act;

(c) name and contact details of any person that may provide information that is relevant to the complaint to the Commission;

(d) information on measures taken by the complainant to attempt to resolve the complaint, including alternative dispute resolution measures, prior to lodging the complaint; and

(e) the way in which the alleged contravention may in the opinion of the complainant be addressed.

(3) The Commission must acknowledge the complaint in writing within five (5) days of receipt of a complaint, allocate a distinctive case number, and notify the complainant of the case number.

(4) The Commission must within one (1) year of receipt of the complaint -

(a) conduct an assessment of the merit of the complaint;

(b) request any further information from the complainant by issuing **FORM B-BBEE 8**;

(c) investigate the complaint if it is justifiable to do so;

(d) notify the respondent of the complaint;

(e) issue summons in a prescribed **FORM B-BBEE 20**, in terms of section 13K of the Act, as may be necessary;

(f) hold a formal hearing in terms of section 13J (2) of the Act, as may be necessary, in accordance with the procedures of the Commission; and

(g) make a finding, with or without recommendations.

(5) Where the Commission has requested additional information from the complainant, the complainant must provide such information within fourteen (14) days of receipt of the notice of request for additional information.

(6) If the complainant fails to provide the additional information within the prescribed period, the Commission may close the complaint, or continue to investigate it as if the Commission initiated it.

(7) If the Commission has reasonable ground to believe that a document filed in respect of an investigation contains false information, the Commission may issue a demand for correct information in **FORM B-BBEE 9** to the person who filed the document, for such corrected information to be submitted to the Commission within fourteen (14) days of receipt of the notice of demand to correct information.

(8) Where the Commission initiates an investigation on its own, the Commission shall initiate an investigation by issuing a notice to investigate in the

prescribed **FORM B-BBEE 10** and follow the process in sub-regulation 4(d)-(f) above.

(9) The Commission shall issue a notice of non-investigation to the complainant in **FORM B-BBEE 11**, if the Commission is of the view that –

(a) it has no jurisdiction to hear the matter; or

(b) a complaint does not warrant an investigation.

(10) If the Commission is of the view that it is justifiable to investigate a matter, the Commission may in terms of section 13J (2) hold a formal hearing in accordance with the format and procedures of the Commission, before a Panel chaired by the Chairperson.

(11) If the Commission upon investigation is of the view that a complaint can be resolved through alternative dispute resolution mechanism, the Commission –

(a) may facilitate the resolution of the matter or refer, in a prescribed **FORM B-BBEE 12**, such a matter to any appropriate dispute resolution process or forum in terms of its procedures; and

(b) where the appropriate alternative dispute resolution process failed to resolve the dispute between the parties, the Commission may continue to investigate the matter if it is justifiable to do so.

(12) Any finding(s) or recommendation(s) made by the Commission in respect of an investigation in terms of the Act must be: -

(a) in writing;

(b) communicated to the complainant; and

(c) published in a manner it deems appropriate, including on its website subject to section13J (7) (b) of the Act.

(13) Before making its final finding(s) in term of section 13J(3) of the Act in respect of an investigation, the Commission must notify the respondent in writing of the details of any adverse finding against the respondent, and provide the respondent with thirty (30) days to respond to each or any of the findings against the respondent. The Commission may, based on the merit of a request from a respondent, extend the 30 days period by a further once off period not exceeding ten (10) days.

(14) If the respondent fails to respond to each or any adverse finding within the stipulated time after being notified of such by the Commission, the Commission shall proceed to make its finding(s) in terms of section 13J of the Act.

(15) If the Commission is of the view that more time is warranted to conclude its process in respect of an investigation as contemplated in sub-regulation (8), the Commission must inform the complainant of the need to extend the time, the circumstances warranting a longer period, and the exact period required as an extension.

(16) The Commission may, if it has investigated a matter and justifiable reasons exist, refer any concern to the South African Revenue Services, or any regulatory authority, as the case may be, in terms of section 13J(6) of the Act by issuing a **FORM B-BBEE 13**.

(17) Any investigation conducted by the Commission shall be in accordance with its procedures that are in accordance with the Act, and conform to all the rules relating to fair administration of justice processes applicable to investigations.

16. Withdrawal of complaints

(1) At any time before the Commission has made its finding(s) and recommendation(s) in respect of a complaint, the complainant may withdraw the complaint.

(2) The Commission may continue to investigate a complaint after it has been withdrawn, as if the Commissioner had initiated it in terms of section 13J if it is justifiable to do so.

17. Multiple complaints

(1) At any time after a complaint has been initiated by the Commission, or submitted by another person, the Commission may publish a notice disclosing an alleged contravention and inviting any person who believes that the alleged practice has affected or is affecting a material interest of that person to file a complaint in respect of that matter.

(2) The Commission may consolidate or join two or more complaints under a common investigation if they concern the same person as potential respondent.

(3) If the Commission consolidates two or more complaints as permitted by sub-regulation (2) –

(a) each of those complaints must continue to be separately identified by its own complaint number;

(b) each person who submitted one of those complaints to the Commission remains the complainant with respect to the complaint that they submitted; and

(c) after making a decision to investigate one of those consolidated complaints, or issuing a notice that an investigation is not warranted, the Commission may continue to investigate any of the remaining consolidated complaints, subject to notifying the complainant and provided, the one year period of investigation has not lapsed.

(d) where the period to investigate has lapsed, the Commission must –

(i) send a notification to the complainant indicating the lapse of time;

(ii) request the complainant to extend the investigation period further by completing the prescribed **FORM B-BBEE 21**, within thirty (30) days; and

(iii) continue to investigate the matter as though it has initiated the investigation, where the complainant is unable or refuses to grant the extension.

Part 5 – Registration of a Transaction

18. Process for registration of a transaction

(1) A party that enters into a major broad-based black economic empowerment transaction that is above the threshold determined by the Minister by notice in the Gazette shall, within fifteen (15) days of concluding the transaction, submit the transaction to the Commission for registration in the prescribed **FORM B-BBEE 18** to comply with section 13F(1)(f) of the Act.

(2) Upon receipt of the registration of a major broad-based black economic empowerment transaction, the Commission must –

(a) immediately acknowledge receipt of the registration in writing to the party who submitted the transaction for registration; and

(b) within ten (10) days issue the certificate of registration to the party that submitted the transaction for registration if the requirements for registration set out in **FORM B-BBEE 19** have been met.

(3) The Commission may within ninety (90) days after the major broad-based black economic empowerment transaction has been registered with it, assess the transaction to determine adherence to the Act, and advise the party that submitted the transaction for registration in writing of any concerns about the transaction.

(4) The party issued with the written advice contemplated in sub-regulation (3) above must take steps to remedy the transaction within a reasonable period after receiving the advice from the Commission, failing which the Commission may proceed to initiate an investigation in terms of section 13F(1)(d) of the Act.

(5) The requirement to submit the transaction for registration in terms of these Regulations does not constitute the requirement to obtain approval from the Commission before the transaction can be implemented.

(6) The parties to a major broad-based black economic empowerment transaction must take steps to seek appropriate advice prior to concluding the transaction, including through advisory opinion services of the Commission provided for in the Act, as advice that may be provided by the Commission after registration does not substitute such prior advice before the transaction is concluded.

(7) The Commission may, subject to valid confidentiality claim, use the information submitted for the registration of the major broad-based black economic empowerment transaction in producing a report or trends that the Commission may publish as it deems appropriate, including on its website.

(8) The Commission must be notified of any material change to the broad-based black economic empowerment elements of the entity occurring after the transaction has been registered, if such material change does meet the threshold for the registration of a major broad-based black economic empowerment transaction.

Division C – Applications to the Minister

Part 6 – Permission to Exceed the Qualification Criteria

19. Procedure to Exceed the Qualification Criteria

(1) In terms of section 9(6) of the Act, an organ of state or public entity may, for purposes of accelerating transformation, apply to the Minister for permission to exceed the qualification criteria for procurement and other economic activities set by the Minister in the Codes of Good Practice, by:

(a) lodging an application with the Minister in writing in the prescribed **FORM B-BBEE 14**;

(b) attaching to the form a motivation for exceeding the set qualification criteria;

(c) providing a clear indication of the extent to which the set qualification criteria will be exceeded;

(d) adhering to the rules which define the proposed scorecards; and

(e) providing any additional information that may be relevant for the consideration of the Minister in support of the application.

(2) The organ of state or public entity applying for permission to exceed the qualification criteria must address the application to the Minister at the following head office or postal address –

(a) delivered by hand at:

Department of Trade and industry

77 Meintjies Street

Sunnyside

Pretoria

Republic of South Africa

(b) addressed by registered post to:

Department of Trade and Industry

Private Bag X84

Pretoria 0002

Republic of South Africa

(c) transmitted by Fax on 012 394 2577; or

(d) transmitted by electronic mail to BBBEEApplications@thedti.gov.za.

(3) The Minister must after receiving the application to exceed the qualification criteria –

(a) acknowledge receipt of the application;

(b) assess it within ten (10) days of receipt for compliance with the application requirements on the **FORM B-BBEE 14**;

(c) inform the applicant in writing within thirty (30) days of receipt of the application of any additional or outstanding information required, which the applicant must submit within fourteen (14) days of receipt of the notification;

(d) ensure that the application meets all the prescribed technical requirements; and

(e) satisfy himself or herself that the proposed scorecard exceeds the qualification criteria set in the Codes of Good Practice.

(4) The Minister must within three (3) months of receipt of the application to exceed the qualification criteria, or receipt of additional or outstanding information from the applicant, as the case may be –

(a) grant the permission to the applicant to exceed the qualification criteria; or

(b) refuse the application for permission to exceed the qualification criteria.

(5) If the Minister decides to refuse the application to exceed the qualification criteria, the Minister must –

(a) inform the applicant of the decision in writing; and

(b) provide reasons for refusing the application.

(6) Where the application to exceed the qualification criteria has been refused by the Minister, the applicant may re-apply.

(7) Where the Minister decides to grant permission to the applicant to exceed the qualification criteria, the Minister must –

(a) grant the permission, with or without conditions, for a specified period not exceeding ten (10) years;

(b) issue the applicant with the certificate of approval in the prescribed **FORM B-BBEE 15**; and

(c) publish the decision by notice in the Gazette.

(8) The Minister shall, within thirty (30) days of making his or her decision to grant permission to exceed the qualification criteria, notify the Commission of such decision in writing.

(9) The permission granted by the Minister for the applicant to exceed the qualification criteria cannot be assigned, ceded or transferred to another person.

(10) An organ of state or public entity that has been granted permission to exceed the qualification criteria by the Minister shall ensure that the annual report required in terms of section 13G(1) of the Act is in accordance with the revised scorecard exceeding the qualification criteria, and reflects the impact of exceeding the qualification criteria.

(11) Where the permission is granted with conditions and the organ of state or public entity fails to comply with the conditions, the Minister may request a comprehensive report providing justification for non-compliance and how it will be remedied.

(12) The Minister may withdraw the permission for the organ of state or public entity to exceed the qualification criteria anytime if he or she is of the view that the organ of state or public entity has failed to meet the qualification criteria for procurement and other economic activities as specified in the Codes of Good Practice;

(13) If the Minister withdraws the permission to exceed the qualification criteria as contemplated in sub-regulation (12), the Minister shall notify the organ of state or public entity in writing of:

(a) the withdrawal of the permission;

(b) the reason for the withdrawal; and

(c) the date on which the withdrawal of the permission becomes effective.

(14) The Minister shall publish the withdrawal of the permission for the organ of state or public entity to exceed the qualification criteria by notice in the Gazette.

Part 7 – Application for Exemption or Deviation

20. Process for the application for exemption or deviation

(1) The organ of state or public entity may in terms of the Act, apply for exemption or deviation from applying the Codes of Good Practice, in writing, by -

(a) lodging an application with the Minister in the prescribed **FORM B-BBEE 17**; and

(b) providing a motivation setting out reasons or facts peculiar to the organ of state or public entity which necessitate an exemption or deviation as contemplated in section 10(2)(a) of the Act.

(2) In the case of an application for an exemption, the organ of state or public entity must in its application in terms of sub-regulation (1) above provide a plan indicating –

(a) the steps to be undertaken by the organ of state or public entity to comply with the Codes of Good Practice; and

(b) the time frame by when the organ of state or public entity will comply with the Code of Good Practice.

(3) In the case of an application for a deviation, the organ of state or public entity must in its application in terms of sub-regulation (1) above specify the element(s) of the Code of Good Practice the organ of state or public entity wishes to deviate from.

(4) The organ of state or public entity applying for exemption or deviation must -

(a) address the matters as specified in these Regulations above; and

(b) submit the application to the Minister at the following head office or postal address –

(i) delivered by hand at:

Department of Trade and industry

77 Meintjies Street

Sunnyside

Pretoria

Republic of South Africa

(ii) addressed by registered post to:

Department of Trade and Industry

Private Bag X84

Pretoria 0002

Republic of South Africa

(c) transmitted by Fax on 012 394 2577; or

(d) transmitted by electronic mail to BBBEEApplications@thedti.gov.za.

(5) The Minister must, upon receipt of the application for exemption or deviation by the organ of state or public entity –

(a) provide the applicant with a written acknowledgement of receipt of the application within ten (10) days;

(b) inform the applicant in writing of any outstanding information or documents required within thirty (30) days of receipt of the application;

(c) assess the application to determine compliance with the requirements set out in these Regulations;

(d) consult with the relevant organ of state or public entity; and

(e) determine if particular objectively verifiable facts or circumstances applicable to the organ of state or public entity, as provided in the application, necessitate an exemption or deviation in terms of the Act.

(6) The Minister must, within ninety (90) days of receipt of application, decide whether or not to grant the exemption or deviation.

(7) Upon consideration of the application for an exemption or deviation, and after consulting the organ of state of public entity concerned, the Minister must –

(a) in writing either grant or refuse the application for an exemption or deviation;

(b) give written reasons for his or her decision; and

(c) publish the decision by notice in the Gazette.

(8) Where the Minister decides to grant the exemption or deviation in terms of the Act, the Minister must –

(a) issue a certificate of approval in the prescribed **FORM B-BBEE 15**;

(b) stipulate conditions, if necessary, and set time lines for the organ of state or public entity to comply with the Codes of Good Practice; and

(c) require the organ of state or public entity to submit a progress report, as may be necessary, for compliance with the Codes of Good Practice.

(9) The exemption or deviation granted by the Minister to the organ of state or public entity shall –

(a) become effective on the date of publication in the Gazette; and

(b) be valid for the period specified when granting the exemption or deviation, and shall not exceed ten (10) years.

(10) The organ of state or public entity that has been granted a deviation or exemption must submit a report to the Minister as follows:

(a) in the prescribed **FORM B-BBEE 16**;

(b) as may be set out in the certificate of approval, granted in terms of sub-regulation 8 above;

(c) with accurate disclosure of relevant information concerning -

(i) goals, programmes, finances for procurement and economic activities in place for accelerating transformation;

(ii) governance structure, management, capacity and skilled leadership for purposes of accelerating transformation;

(iii) analysis of business culture, level of diversity, responsibility and equal respect for cultural groups in accelerating transformation;

(iv) development policies in place for purposes of achieving these Regulations; and

(v) the impact of exceeding the qualification criteria on the targeted beneficiaries as identified in the Codes of Good Practice.

(11) The Minister shall, within thirty (30) days of making his or her decision to grant or refuse an exemption or deviation, notify the Commission of such decision in writing.

(12) Where the application for an exemption or deviation has been refused by the Minister, the applicant may re-apply.

(13) The exemption or deviation granted by the Minister to the organ of state or public entity cannot be assigned, ceded or transferred to another person.

(14) The Minister may withdraw the exemption or deviation if he or she is of the view that the organ of state or public entity has failed to comply with the conditions set out for the exemption or deviation, or the reasons for granting the exemption or deviation no longer prevail.

(15) Where the Minister is of the view that the organ of state or public entity has failed to comply with the conditions stipulated by the Minister for the exemption or deviation, the Minister must before making the decision to withdraw the exemption or deviation –

(a) notify the organ of state or public entity in writing of the apparent non-compliance, and

(b) give the organ of state or public entity thirty (30) days to remedy the non-compliance.

(16) Where the Minister decides to withdraw the exemption or deviation, the Minister shall -

(a) notify the organ of state or public entity in writing of the decision to withdraw the exemption or deviation;

(b) give the reasons for the decision to withdraw the exemption or deviation; and

(c) give the date on which the decision to withdraw the exemption or deviation becomes effective.

(17) The Minister shall, within thirty (30) days of making his or her decision to withdraw an exemption or deviation, notify the Commission of such decision in writing.

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION RULES

REGULATING THE FUNCTIONS OF THE B-BBEE COMMISSION

Annexure 1 - Tables

Table B-BBEE 1 – Methods and times for delivery of Documents

Nature of Person	Method of Delivery	Date and Time of Deemed delivery
ANY PERSON	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.

	If the person is a participant in any proceedings of the Commission, and is represented by a representative, by delivering the notice, or handing a certified copy of the document to that representative; or	On the date and at the time recorded on a receipt for the delivery.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.
ANY NATURAL PERSON	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.

	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
THE COMMISSION	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.

	By handing the document, or a computer disk containing the document in electronic form, to the Commissioner, or a responsible employee who is apparently in charge of the Commission's office.	On the date and at the time noted in a receipt issued by the Commissioner, unless the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
A COMPANY OR SIMILAR BODY CORPORATE	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.
	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A STATUTORY BODY OTHER THAN THE COMMISSION	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.

THE STATE OR A PROVINCE	By handing the notice or a certified copy of the document to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.
A MUNICIPALITY	By handing the notice or a certified copy of the document to the municipal manager or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.

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1 **Table B-BBEE 2 – Notices and Applications**

Section #	**Purpose of notice or Application**	FORM #	**Conditions**
S 13(G)(1)	Compliance report by sphere of government, organs of state and public entities	**B-BBEE** 1	
S 13(G)(2)	Compliance report by companies listed on the Johannesburg Stock Exchange	**B-BBEE** 1	
S 13(G)(3)	Compliance report by Sectoral Education and Training Authorities	**B-BBEE** 2	
Reg 12(10)	Notice of non-compliance by sphere of government, public entity, organ of state, listed company or Sectoral Education and Training Authority	**B-BBEE** 3	
Reg 12(11)(a)	Notice of rejection of report for failure to comply with the requirements of a compliance report	**B-BBEE** 4	
Reg 12(13)	Notice of compliance with the requirement of the compliance report	**B-BBEE** 5	
S 13L	Restricted/Confidential information	**B-BBEE** 6	
S 13J	Application for lodging of a complaint	**B-BBEE** 7	
Reg 15(4)(b)	Notice of request for further information in relation to a complaint	**B-BBEE** 8	
Reg 15(7)	Notice of demand for correct	**B-BBEE** 9	

	information		
S 13J	Notice to investigate a complaint	**B-BBEE** 10	
Reg 15(9)	Notice of non-investigation of a complaint	**B-BBEE** 11	
S 9(6)	Application for permission by organ of state or public entity to exceed the qualification criteria	**B-BBEE** 14	
S 10(2)	Application for exemption or deviation	**B-BBEE** 17	
S 13F(1)(f)	Application to submit a major broad-based black economic empowerment transaction above the threshold determined by the Minister	**B-BBEE** 18	
Reg 20(10)(a)	Submission of a deviation or exemption report	**B-BBEE** 16	
S 10(2)	Application for exemption or deviation from Codes of Good Practice	**B-BBEE** 17	

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1 **Table B-BBEE 3 – Certificates, Reports and Notices of Referral**

Section #	**Purpose of Certificate or Notice**	FORM #	**Conditions**
Reg 15(11)(a)	Notice of referral of a Complaint to alternative dispute resolution	**B-BBEE** 12	
S 13J(5) and (6)	Notice of referral of a Complaint to the National Prosecuting Authority, South African Receiver of Revenue or regulatory authority	**B-BBEE** 13	
Reg 19(7)(b) and 20(8)(a)	Certificate of approval for exceeding, deviation or exemption	**B-BBEE** 15	
Reg 18(2)(b)	Certificate of registration of major broad-based black economic empowerment transactions above the threshold determined by the Minister	**B-BBEE** 19	
S 13K	Commissioning of Summons	**B-BBEE** 20	
Reg 17(3)(d)(ii)	Notice of extension of time for further investigation	**B-BBEE** 21	

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SCHEDULE

FORMS TO REGULATIONS

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 1

COMPLIANCE REPORT BY SPHERE OF GOVERNMENT, PUBLIC ENTITIES, ORGANS OF STATE OR COMPANY LISTED ON THE JOHANNESBURG STOCK EXCHANGE

(in terms of Section 13G (1) and 13G (2) of the Act)

SECTION A: DETAILS OF ENTITY

Name of Entity/Organisation
Registration number:
Physical address:
Telephone number:
Email address:
Indicate Type of Entity/Organisation:
Industry/Sector:
Relevant Code of Good Practice:
Name of verification agency:
Name of Technical Signatory:

SECTION B: INFORMATION AS VERIFIED BY THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT VERIFICATION PREOFESSIONAL AS PER SCORECARDS

B-BBEE Elements	Target Score Including	Bonus Points	Actual Score Achieved
Ownership	**e.g. 25 points**		
Management Control	**e.g. 19 points**		
Skills Development	**e.g. 20 points**		
Enterprise and Supplier Development	**e.g. 40 points**		
Socio Economic Development	**e.g. 5 points**		
Total Score	**e.g. 109 points**		
Priority Elements Achieved	**YES/NO and specify them**		
Empowering Supplier Status	**YES/NO and**		

	specify them		
Final B-BBEE Status Level			

***indicate how each element contributes to the outcome of the scorecard**

SECTION C: FINANCIAL REPORT

1. BASIC ACCOUNTING DETAILS:

- Accounting officer's name:
- Address:
- Accounting policy: (*are your accounts done weekly, monthly, other: specify)*
- Has the attached financial statements and annual report been approved by the entity?

2. PLEASE ATTACH THE FOLLOWING:

i) COPY OF ANNUAL FINANCIAL STATEMENT INCLUDING BALANCE SHEET AND INCOME AND EXPENDITURE REPORT

ii) ANNUAL REPORT

Entity Annual Turnover:

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 2

COMPLIANCE REPORT BY SECTORAL EDUCATIONAL AND TRAINING AUTHORITIES

(in terms of Section 13G (3) of the Act)

SECTION A: DETAILS OF ENTITY

Name of Entity/Organisation
Registration number:
Physical address:

Telephone number:
Email address:
Indicate type of Entity/Organisation:

SECTION B: SKILLS DEVELOPMENT REPORT

Programmes on skills development	**Implementation of scorecard**	**Weight**	**Comment**
Skills development service			
Skills training provided by entity			
Critical and priority skills			
Work place skills plan			
Others: Please specify			

SECTION C:

Entity Turn Over in Previous Financial Year:

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 3

NOTICE OF NON-COMPLIANCE

(in terms of Regulation 12(10))

Date:

To:

The Commission believes on reasonable grounds that the entity named above has contravened the B-BBEE Act, 2003, as amended. In particular, the Commission states that the entity has failed to comply with section , or Regulation or both. Specifically:

(*insert details of the nature and extent of the conduct that is the subject of this Notice)*

You are required to take the steps set out in the attached statement to bring the entity's conduct into compliance with the Act within 30 days.

Failure to comply with this Notice may result in the report being rejected.

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 4

NOTICE FOR REJECTION OF REPORT

(in terms of Regulation 12 (11) (a))

Date:

CONCERNING

Name:	File Number:

The Commission informs the entity who filed the report in terms of section 13G of the Act, shown above that their Report has been rejected, because:

□ it fails to comply with B-BBEE Act or Code of Good Practice

□ information supplied in the report is false in a material way

□ other (specify)

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 5

NOTICE OF COMPLIANCE

(in terms of Regulation 12(13))

Date:

To:

(Insert name and registration number of the entity, or name and identity number of individual)

On , the Commission issued a compliance notice in this matter citing a failure to comply with section , or Regulation , or both.

The Commission is satisfied that the requirements set out for compliance have been met.

OR

The Commission is satisfied with the report submitted.

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 6

RESTRICTED INFORMATION/ CONFIDENTIAL INFORMATION

(in terms of Section 13L of the Act)

To:

Concerning:

Name and File Number:

On a separate sheet of paper, please list the following information, and set out the facts and contentions supporting your claim that the identified information is restricted or confidential.

Column 1 - Name of the document that contains the restricted/confidential information

Column 2 - The page and line number at which the restricted/confidential information begins and ends

Column 3 - The name of the entity that owns the particular information

Column 4 - The nature of the economic value of the information

Column 5 - The existing restrictions on access of information

STATEMENT OF CONFIDENTIALITY:

I _____compiled and supervised the person's information identified in the list as confidential information as defined in section 13L of the Act.

TITLE AND NAME OF A PERSON AUTHORISED TO SIGN:

Authorised signatory Date:

_____ _____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 7

CASE NUMBER:

(For Office Use Only)

COMPLAINT FORM

(in terms of Section 13J of the Act)

COMPLAINANT PERSONAL DETAILS

Title:

Surname: Full Names:

Name of the entity:

Registration number:

Complainant's address:

Telephone number:

Fax number:

Email address:

Indicate if complaint is against: *(Organ of State/Private/Public Entity/Sphere of Government)*

Name of the Organ of State/Private/Public Entity/Sphere of Government:

THE COMPLAINT

Description of the complaint (*Please provide nature of complaint including section of the Act or Codes infringed if applicable and all information which you think is important. You may use addition paper and attach to this form*)

Mechanism employed to address the Complaint:

Proposed remedy:

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM: **B-BBEE** 8

REQUEST FOR ADDITIONAL INFORMATION

(in terms of Regulation 15(4) (b))

Date:

To:

CONCERNING:

(*Name and File Numbe*r of complaint being Investigated)

Name:……File No:……

The Commission has begun an investigation into the complaint referred to above.

The Commission requests that you provide the following information relating to that matter, within 14 days after the date of this Notice

(Insert a statement of the particular information requested.)

……

……

……

……

……

……

Name and Title of person signing on behalf of Commission:

_____

Authority Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 9

DEMAND FOR CORRECTED INFORMATION

(in terms of Regulation 15(7))

Date:

To:

Concerning:

*(Name and File Number of complaint being investiga*ted) Name: …… File No …….

The Commission has begun an investigation into the complainant referred to above. You have previously provided information to the Commission, which appears to be incorrect. The Commission requires that you provide the following corrected information relating to that matter, within 14 days after the date of this Notice.

(*Insert a statement of the particular information being demanded.)* …… …… …… …… …… …… …… …… …… …… …… ……

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 10

NOTICE TO INVESTIGATE COMPLAINT

(in terms of Section 13J of the Act)

Name of entity:
Address:

Date:

CONCERNING:

(Name and Registration number of entity whose conduct is the subject of complaint)	
Name:	Registration Number:

PLEASE TAKE NOTICE that on the _____, the complainant _____ _____ filed a complaint against the entity named above.

The Broad-Based Economic Empowerment Commission intends to conduct an investigation in terms of Section 13J of the Broad-Based Black Empowerment Act.

The investigation may include an on-site visit to the entity, any other related entities and interviews of parties concern.

_____

THE COMMISSION

I acknowledge receipt of the notification from the Broad-Based Black Economic Empowerment Commission, to conduct an investigation on the above mentioned entity.

Signature of an authorised person: _____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 11

NOTICE OF NON-INVESTIGATION OF COMPLAINT

(in terms of Regulation 15(9))

Date:

To: (insert name of Complainant)

Concerning:

(*Name and Registration number of entity whose conduct is the subject of the complaint)*
Name: *Registration Number:*

On , the complainant filed a complaint against the entity named above.

The Broad-Based Black Economic Commission advises in terms of Regulation 9 of the B-BBEE that it will not investigate the complaint because:

- the Commission does not have jurisdiction to hear the matter; or
- it believes the complaint to be frivolous, vexatious, or does not allege any facts which, if proven, would constitute grounds for a remedy under the Broad-Based Black Economic Empowerment Act, 2003, as amended.

Name of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 12

NOTICE OF REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION

(in terms of Regulation 15(11) (a))

Date:

To: (insert name of complainant)

And

To: (insert name of respondent)

Concerning:

(Name and registration number of entity

Date and Number of Commission Notice

The Commission, having investigated the complaint is of the opinion that the matter can be resolved by an Alternative Dispute Resolution mechanism in terms of Regulation 15 (11).

The dispute arises in terms of

(*insert the section of the Act or the Regulation that is most relevant to the dispute)*

And from the following conduct, action or facts:
(*insert a concise statement of the circumstances and the particulars of the request)*

……
……
……
……
……
……
……

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 13

NOTICE OF REFERRAL OF COMPLAINT

(in terms of Sections 13J (5) and (6) of the Act)

Date:

To: NPA/SARS/ Other Regulatory Authority [*Specify*] and

…….

(Name, registration number and address of respondent(s).Use additional sheet if required)

Concerning:

(Name and File Number of complaint referred)	
Name:	File No:

The Commission, having investigated the complaint, seeks the following order(s) against the respondent

..... *(insert the relief or order sought)*

In terms of *(insert the section of the Act or the Regulation that provides for the order or relief sought)*

For the following reasons:

(*Insert a concise statement of the circumstances, and the particulars of the conduct)*

……

……

……

……

…… …… …… …… ……

In support of the Notice, the Commission has attached an affidavit setting out the relevant facts.

Name and Title of person signing on behalf of the Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 14

APPLICATION TO EXCEED QUALIFICATION CRITERIA

(in terms of Section 9(6) of the Act)

(Please complete the application in full. Use additional paper if necessary)

SECTION A: APPLICANT INFORMATION

Name:

Identity/Registration Number:

Address:

Telephone Number:
Email Address:
Indicate if Public entity/Private/Organ of state:

SECTION B: SCORE CARD

Tick target set

□ Priority Elements

□ Management Control and Socio-Economic development

Indicate proposed scorecard:

Ownership	Skills development	Enterprise and supplier development	Proposed scorecard	Subminimum target (over 40%)

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM: **B-BBEE** 15

CERTIFICATE OF APPROVAL

(Issued in terms of Regulations 19(7) (b) and 20(8) (a))

To:

Name and file number:

You applied to the Minister of Trade and Industry for:

□ Permission to exceed qualification criteria in terms of section 9(6) of the Act

□ Deviation in terms of section 10(2) of the Act

□ Exemption in terms of section 10(2) of the Act

The Minister hereby issues a **CERTIFICATE OF APPROVAL** for a period of _

ending on _____ for_____

This approval is subject to:

- **No conditions**
- **The conditions listed on the attached sheet**

_____

THE MINISTER

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 16

SUBMISSION OF DEVIATION OR EXEMPTION REPORT
(in terms of Regulation 20(10) (a))

SECTION A: BASIC DETAILS ABOUT THE ENTITY

1. Name of entity:

2. Registration number:

3. The twelve month period this report covers:

4. Contact person:

- Contact person designation:
- Telephone number:
- Fax number:
- Email address:

5. Physical Address of Entity:

6. INDICATE PROGRAMMES AIMED AT ACCELERATING TRANSFORMATION:

Name of Programme	**Targeted Beneficiaries**	**Financial Implication**	**Comments**

7. GIVE DETAILS ON THE LEVEL OF DIVERISTY OF THE ENTITY:

Positions	**Total Number**	**Race**	**Gender**
Executive members			
Senior management			

Middle management			
Skilled leadership			

8. B-BBEE rating:

SECTION B: THE IMPACT OF EXEMPTION OR DEVIATION

9. GIVE ACCURATE INFORMATION ON THE FOLLOWING:

State the conditions in the Certificate of Approval	**Indicate measures taken by entity to meet conditions/comply with the Codes of Good Practice.**	**Indicate impact of the Exemption/Deviation**

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 17

APPLICATION FOR DEVIATION/EXEMPTION

(in terms of Section 10(2) of the Act)

(Please complete the application in full. Use additional paper if necessary)

SECTION A: APPLICANT INFORMATION

Name:

Identity/Registration Number:

Address:

Telephone Number:
Email Address:
Indicate if Public entity/Private/Organ of state:

SECTION B: DETAILS FOR DEVIATION

INDICATE:

- the elements that an organ of state or public entity requires to deviate from:
- the extent of deviation:
- proposed scorecard:

B-BBEE Element	Required scorecard	Scorecard below target	Proposed scorecard 1

SECTION C: DETAILS FOR EXEMPTION

INDICATE:

- what an organ of state or public entity requires to be exempted from:

- Give verifiable facts for exemption**:**

SECTION D: STATEMENT OF INTENT

(Briefly describe why deviation/exemption is needed)

SECTION E: ADDITIONAL REQUIRED INFORMATION

(Attach Business Plan or Motivation for exemption or deviation)

SECTION E: SIGNATURE(S)

(By signing below, you attest that the information is true and correct:

(1) Full Names:_____Signature_____Designation_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 18

MAJOR B-BBEE TRANSACTION

(in terms of Section 13F (1) (f) of the Act)

To: THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

From:

(*Name, address and contact numbers of the entity to be registered*
Name:
Address:
Contact details:

PLEASE TAKE NOTICE the parties seek the transaction to be registered in terms of section 13F (1) (f) of the B-BBEE Act

(insert details of parties to the transaction)

Name: Name:

Registration Number: Registration Number:

Name of the transaction:

Value of the transaction:

Notices and other documents concerning this registration may be served on the following person at the address and contact number shown:

For office use only	**Commission File Number:**	**Date Filed**
	_____	_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 19

REGISTRATION CERTIFICATE

(in terms of Regulation 18(2) (b)

Date:

From: THE COMMISSION

To:

(*Name and Registration number of Entity)*	
1.Name:	Registration Number:
2.Name:	Registration Number

The above named entities have filed the registration for a major B-BBEE transaction in terms of section 13F (1) (f) of the Act.

The Commission hereby confirms that the transaction has registered as from the date of this certificate.

Name and Title of person signing on behalf of Commission:

_____

Authorised Signature:

_____

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 20

SUMMONS

(in terms of Section 13K of the Act)

Case Number:

(For Office Use Only)

IN THE MATTER BETWEEN

……..Complainant

and

……Respondent

To the Commissioner or his/her deputy:

INFORM……,of……(state gender and occupation)……..(hereafter called respondent) that ……,of……(state gender and occupation)…….(hereafter called the complainant), hereby lodge a complaint against him or her in which the complainant claims:

(Here set out in concise terms complainants cause of action)

INFORM the respondent that he or she is hereby required to appear before this Commission at……on the day…….....of ……..20……

in the above mentioned hearing to give evidence or to produce books, documents or other object that has bearing to this hearing.

(*Where documents are required to be produced, add:)* AND to bring each one of, and then produce to the Commission, the several books or documents specified in the list below.

Dated at……..on the day…….of……..20…..

_____

THE COMMISSION

LIST OF BOOKS OR DOCUMENTS TO BE PRODUCED (if applicable)

DATE	DESCRIPTION	ORIGINAL/CERTIFIED COPY

BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

FORM**: B-BBEE** 21

NOTICE OF EXTENSION OF TIME FOR FURTHER INVESTIGATION

(In terms of Regulation 17(3)(d)(ii))

Date:

From: (insert Complainant's details)

CONCERNING:

(Name and file number of matter being investigated)
Name: File Number:

For the reasons set out below the Complainant hereby grants the Commission an extension of time for a period of_____ for further investigation.

The particulars, circumstances and reasons for the extension of time by Commission are -

(insert a concise statement of the circumstances, and particulars of the request)
……
……
……
……
……

Name and Title of Complainant or person signing on behalf of Complainant:

_____

Authorised Signature:

_____

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