

REPUBLIC OF SOUTH AFRICA

---

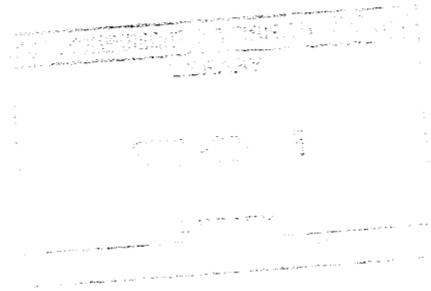
**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
BROAD-BASED BLACK  
ECONOMIC EMPOWERMENT  
BILL**

[B 27—2003]

---

*(As agreed to by the Portfolio Committee on Trade and Industry  
(National Assembly))*

---



[B 27A—2003]

ISBN 0 621 33878 8

No. of copies printed ..... 800

## AMENDMENTS AGREED TO

### BROAD-BASED BLACK ECONOMIC EMPOWERMENT BILL [B 27—2003]

#### PREAMBLE

1. On page 2, in the fourth line, to omit “fixed” and to substitute “productive”.
2. On page 2, from the eleventh line, to omit the paragraph and to substitute:

#### AND IN ORDER TO—

- promote the achievement of the constitutional right to equality, increase broad-based and effective participation of black people in the economy and promote a higher growth rate, increased employment and more equitable income distribution; and
- establish a national policy on broad-based black economic empowerment so as to promote the economic unity of the nation, protect the common market, and promote equal opportunity and equal access to government services,

#### ARRANGEMENT OF ACT

1. On page 2, after line 8, to insert:
  5. Functions of Council
2. On page 2, in line 9, to omit “Constitution” and to substitute “Composition”.
3. On page 2, after line 9, to insert:
  7. Constitution and rules of Council
4. On page 2, in line 10, to omit “Reimbursement” and to substitute “Remuneration and reimbursement”.
5. On page 2, in line 11, after “of” to insert “good”.
6. On page 2, in line 12, after the second “of” to insert “good”.
7. On page 2, after line 12, to insert:
  11. Strategy for broad-based black economic empowerment

#### CLAUSE 1

1. On page 3, in line 4, to omit “who are also South African citizens or permanent residents of the Republic”.

2. On page 3, after line 4, to insert:

“**broad-based black economic empowerment**” means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to—

- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
- (b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- (c) human resource and skills development;
- (d) achieving equitable representation in all occupational categories and levels in the workforce;
- (e) preferential procurement; and
- (f) investment in enterprises that are owned or managed by black people;

3. On page 3, from line 9, to omit “means an organ of state as defined in section 239 of the Constitution” and to substitute:

means—

- (a) a national or provincial department as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality as contemplated in the Constitution;
- (c) Parliament;
- (d) a provincial legislature; and
- (e) a constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);

4. On page 3, after line 11, to insert:

“**public entity**” means a public entity listed in Schedule 2 or 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**strategy**” means a strategy for broad-based black economic empowerment issued in terms of section 11;

5. On page 3, in line 12, after “of” to insert “good”.

## CLAUSE 2

1. On page 3, in line 14, after “to” to insert:

facilitate broad-based black economic empowerment by-

- 2. On page 3, in line 15, to omit “promote” and to substitute “promoting”.
- 3. On page 3, in line 17, to omit “achieve” and to substitute “achieving”.
- 4. On page 3, in line 18, after “structures” to insert “and in the skilled occupations”.
- 5. On page 3, in line 19, to omit “increase” and to substitute “increasing”.
- 6. On page 3, in line 19, after “workers,” to insert “cooperatives and other”.
- 7. On page 3, in line 19, to omit “and”.
- 8. On page 3, in line 20, to omit “cooperatives”.

9. On page 3, in line 20, after "enterprises" to insert:  
and increasing their access to economic activities, infrastructure and skills training
10. On page 3, after line 20, to insert:  
(d) increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;
11. On page 3, in line 21, to omit "promote" and to substitute "promoting".
12. On page 3, in line 23, to omit the second "and".
13. On page 3, in line 24, to omit "develop" and to substitute "empowering".
14. On page 3, in line 24, to omit "empower".
15. On page 3, in line 25, after "skills" to insert "; and".
16. On page 3, after line 25, to add:  
(g) promoting access to finance for black economic empowerment.

#### CLAUSE 4

1. On page 3, in line 32, to omit subsection (2).

#### CLAUSE 5

Clause rejected.

#### NEW CLAUSES

1. That the following be new Clauses:

##### **Functions of Council**

5. The Council must—
  - (a) advise government on black economic empowerment;
  - (b) review progress in achieving black economic empowerment;
  - (c) advise on draft codes of good practice which the Minister intends publishing for comment in terms of section 9(5);
  - (d) advise on the development, amendment or replacement of the strategy referred to in section 11;
  - (e) if requested to do so, advise on draft transformation charters; and
  - (f) facilitate partnerships between organs of state and the private sector that will advance the objectives of this Act.

### Composition of Council and appointment of members

6. (1) The Council consists of—
- (a) the President, who is the chairperson of the Council;
  - (b) the Minister, with the Minister's Director-General as an alternate;
  - (c) three other Cabinet Ministers, appointed by the President, with their respective Directors-General as alternates;
  - (d) no fewer than 10 and no more than 15 other members appointed by the President.
- (2) When appointing members in terms of subsection (1)(d), the President shall have regard to the need for the Council—
- (a) to have appropriate expertise;
  - (b) to represent different relevant constituencies including trade unions, business, community-based organisations and academics.
- (3) In appointing members in terms of subsection (1)(d), the President shall follow an appropriate consultative process.
- (4) The President shall appoint a Cabinet Minister who is also a member of the Council to act as chairperson of the Council in the President's absence.

### Constitution and rules of Council

7. (1) The Minister must establish a constitution for the Council.
- (2) The Minister may amend the constitution of the Council from time to time, after consultation with the Council.
- (3) The Council may, by resolution, and after consultation with the Minister, make rules to further regulate the proceedings of the Council.

### CLAUSE 6

Clause rejected.

### NEW CLAUSE

1. That the following be a new Clause:

#### Remuneration and reimbursement of expenses

8. Council members will not be remunerated for their services, but will be reimbursed for expenses incurred by them in carrying out their duties, as determined by the Minister, with the concurrence of the Minister of Finance.

### CLAUSE 7

1. On page 3, in line 43, after "of" to insert "good".
2. On page 3, in line 44, to omit "The" and to substitute:  
In order to promote the purposes of the Act, the
3. On page 3, in line 44, after "of" to insert "good".

4. On page 3, in line 46, after "the" to insert "further".
5. On page 3, in line 46, after "of" to insert "broad-based".
6. On page 3, in line 46, after "empowerment" to insert:  
     and the interpretation and definition of different categories of black empowerment entities
7. On page 3, in line 49, after "measure" to insert "broad-based".
8. On page 4, in line 1, after the second "to" to insert "broad-based".
9. On page 4, from line 5, to omit paragraph (f).
10. On page 4, after line 7, to insert:  
     (2) A strategy issued by the Minister in terms of section 11 must be taken into account in preparing any code of good practice.
11. On page 4, after line 10, to insert:  
     (4) In order to promote the achievement of equality of women, as provided for in section 9(2) of the Constitution, a code of good practice issued in terms of subsection (1) and any targets specified in a code of good practice in terms of subsection (2), may distinguish between black men and black women.
12. On page 4, in line 11, after "of" to insert "good".
13. On page 4, in line 13, after "of" to insert "good".
14. On page 4, in line 15, to omit "30" and to substitute "60".
15. On page 4, in line 16, after "of" to insert "good".

#### CLAUSE 8

1. On page 4, in line 17, after the second "of" to insert "good".
2. On page 4, in line 18, after "state" to insert "and public entity".
3. On page 4, in line 18, after "account" to insert:  
     and, as far as is reasonably possible, apply
4. On page 4, in line 18, after the second "of" to insert "good".
5. On page 4, in line 20, after "licences," to insert "concessions".
6. On page 4, in line 21, to omit "and".
7. On page 4, after line 22, to insert:  
     (c) determining qualification criteria for the sale of state-owned enterprises; and  
     (d) developing criteria for entering into partnerships with the private sector.

## NEW CLAUSE

1. That the following be a new Clause:

**Strategy for broad-based black economic empowerment**

- 11.** (1) The Minister—
- (a) must issue a strategy for broad-based black economic empowerment;
  - (b) may change or replace a strategy issued in terms of this section.
- (2) A strategy in terms of this section must—
- (a) provide for an integrated co-ordinated and uniform approach to broad-based black economic empowerment by all organs of state, public entities, the private sector, non-governmental organisations, local communities and other stakeholders;
  - (b) develop a plan for financing broad-based black economic empowerment;
  - (c) provide a system for organs of state, public entities and other enterprises to prepare broad-based black economic empowerment plans and to report on compliance with those plans; and
  - (d) be consistent with this Act.

## CLAUSE 9

1. On page 4, in line 24, to omit “may” and to substitute “must”.
2. On page 4, in line 25, after “economy” to insert “, if the Minister is satisfied”.
3. On page 4, in line 25, after “that” to insert “the charter”.

## CLAUSE 10

1. On page 4, in line 34, after “plan” to insert “on broad-based black economic empowerment”.

## LONG TITLE

1. On page 2, in the second line, after “of” to insert “good”.