

QUESTION AND ANSWER

1. WHAT IS THE CURRENT SITUATION WITH REGARD TO THE AGRI BEE CODE AND VERIFICATIONS?

- 1.1. A new set of Generic BEE (black economic empowerment), or so-called BBBEE Codes came into effect, which is applicable to all businesses that are not subject to a specific sector code.
- 1.2. The majority of businesses in the wine value-chain, including wine farms and cellars, are however subject to the existing Agri BEE Code that applies to farms, agricultural businesses or any other businesses that are directly dependent on agricultural products for their livelihood.
- 1.3. Legislation stipulates that all sector codes, including the Agri BEE Code, must be aligned with the Generic Code by 30 October 2015.
- 1.4. This amended Agri BEE Code is currently being drawn up and might be published within the next month for comment. An expected 60 day commenting period will be granted, after which any final amendments will be made and the Code will come into effect.
- 1.5. In terms of BEE verification of businesses that are subject to the sector codes, the Department of Trade and Industry (DTI) provided the following guidelines:
 - Should the period of verification of a business (usually the financial year) end before the date on which the amended Agri BEE Code is implemented, the business would be verified according to the previous Agri BEE Code.
 - Should the verification period end after the new code comes into effect, the new Agri BEE Code should be used for verification.
- 1.6. It would therefore be beneficial for companies to finalise their verification while the current Agri BEE scorecard applies, as the requirements of the new scorecard is expected to be much stricter.

2. WHAT CAN WE EXPECT IN THE NEW AGRI BEE CODE?

- 2.1. The Government Gazette 38776 stipulated the following:
 - *"3.1.2 the proposed Sector Code must fully address all the elements in the Generic Scorecard"*
 - *"3.1.4 the proposed Sector Code must use the same calculation methodologies to measure compliance as those used in the Codes"*
 - *"3.1.6 a Sector Code developed in terms of this statement must set targets which are over and above the minimum targets set out in the Generic Codes of Good Practice."*
- 2.2. These guidelines therefore require that the new Agri BEE Code address all 5 elements of the amended Generic Code, while the targets should at least remain the same.
- 2.3. It is expected that the Agri Scorecard will be closely aligned with the new Generic Scorecard, and that the only possible differences would be in the weights allocated to each element.

3. MOST IMPORTANT AMENDMENTS TO THE GENERIC SCORECARD (also expected in the new Agri scorecard)

- 3.1. The turnover threshold for verification have changed:
- Businesses with an annual turnover of less than R10 million (previously R5 million) are exempted of verification and automatically acquire a level-4 status.
 - The turnover threshold for QSE (Qualifying Small Enterprise) businesses has increased to a turnover of between R10 million and R50 million. This was previously from R5 million to R35 million.
 - Businesses with a turnover of more than R50 million are measured according to a stricter scorecard for larger enterprises.
- 3.2. The new scorecard will only contain 5 elements (compared to the previous 7), while amendments have been made to the weight of each element. The Generic and QSE scorecards have been summarised as follows:

Element	Generic Scorecard	QSE Scorecard
Equity Ownership	25	25
Management Control	15	15
Skills Development	20	25
Enterprise and Supplier Development	40	30
Socio-Economic Development	5	5
Total	105	100

- 3.3. It is important to note that businesses are measured according to all elements of the QSE scorecard and do not have the option to choose only the 4 best elements anymore.
- 3.4. Businesses with 100% black ownership and a turnover of less than R50 million automatically qualify for a level-1 status, while QSE businesses with a minimum of 51% black shareholding qualify for a level-2 status. These businesses do not require formal verification.
- 3.5. The BEE recognition levels have been adjusted upward (see table), which makes it more difficult to retain or improve on the existing BEE status.

B-BBEE Status	Current Scorecard	New Scorecard	B-BBEE recognition level
Level One	≥100 points	≥100 points	135%
Level Two	≥85 but <100 points	≥95 but <100 points	125%
Level Three	≥75 but <85	≥90 but <95	110%
Level Four	≥65 but <75	≥80 but <90	100%
Level Five	≥55 but <65	≥75 but <80	80%
Level Six	≥45 but <55	≥70 but <75	60%
Level Seven	≥40 but <45	≥55 but <70	50%
Level Eight	≥30 but <40	≥40 but <55	10%
Non-Compliant	<30	<40	0%

- 3.6. Three of the five elements should be regarded as priority elements, for which a minimum of 40% of the target should be achieved. These are: Ownership, Skills Development and Business and Supplier Development. Generic enterprises should reach all three minimum targets, while QSE businesses should adhere to Ownership and one other priority element. If they do not, these businesses will be penalised by being shifted down by one BEE level.

4. WHAT ARE THE CONSEQUENCES OF A REVISED AGRI SCORECARD FOR WINE PRODUCERS, CELLARS AND BUSINESSES IN THE SECTOR?

- 4.1. The increase in the minimum turnover threshold for compliance to R10 million will assist smaller enterprises to still acquire a level-4 BEE status without having to undergo formal verification.
- 4.2. However, the following amendments will have a negative impact on scorecards:
 - The upward adjustment of the BEE status levels
 - The upward adjustment of specific targets
 - The penalisation by one level should a business not comply with the priority elements.The reality is that the BEE status of businesses could decrease substantially if they are not proactive.
- 4.3. It is clear that Government will start implementing specific BEE scorecard requirements when it comes to issuing and renewing liquor licenses. The Department of Trade and Industry (DTI) recently published a Liquor Policy Review which proposes that *“non-compliance to the BBEE Codes should result in the suspension or revocation of the registration certificate”*. Although no indication has been provided as to which level of compliance is needed, it is generally presumed that it will be set at the minimum of level 8. This document is currently open for public comment and VinPro will collaborate with other industry organisations to submit comment.
- 4.4. Specific BEE compliance is already a prerequisite when new water rights are issued. According to this, Government requires that a certain percentage of new water rights should be beneficial to black beneficiaries. No policy has been finalised in this regard; however it is expected that the Agri scorecard of a new applicant will play an increasingly important role in future allocations.
- 4.5. Businesses with a turnover of more than R10 million should proactively work towards acquiring points on all five of the QSE scorecard elements, as the option to select only specific elements will no longer apply.
- 4.6. Businesses that are not yet in a position to obtain points under Ownership should place a larger emphasis on Skills Development, as well as Business and Supplier Development. These two elements have been classified as priorities and carry a greater weight.

5. WHICH STEPS CAN ALREADY BE TAKEN?

- 5.1. While the wine industry is awaiting the new Agri scorecard, VinPro encourages role-players to ensure that they are duly informed of the new basic guidelines as stipulated in the Generic BEE scorecard, as it will form the foundation for the Agri scorecard.
- 5.2. Businesses should proactively plan for their next BEE verification and be aware of the deadline on which the new Agri code takes effect.
- 5.3. Formulate a basic BEE plan that is aligned with the business strategy of the enterprise, and share it with staff members. This plan should provide clear targets with regard to progress according to the BEE status levels.
- 5.4. Consult with BEE specialists in the industry about more technical aspects, specifically Ownership and Business Development.
- 5.5. Avoid any plans with regard to Ownership that pose the risk of so-called “fronting”.

VinPro will continue to discuss practical solutions for the implementation of BEE and land reform in the wine industry with partners such as Agbiz and AgriSA and will give feedback on a regular basis with regard to new developments.

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