

Inclusive Employment and BBBEE Essentials

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Disability and BBBEE: An Overview

BBBEE is very topical at present with new amendments being introduced in December 2019. The Broad-Based Black Economic Empowerment Act (Act 53 of 2003) essentially works on the understanding that years of systemic racism contributed to contemporary economic woes, and that government intervention can stem the results of past racist regimes.

Companies determine their BBBEE Scorecard points through their BBBEE level. There are eight levels with the desired level from Level 1 to Level 4. Government procurement is targeted at Level 4 and above.



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These points are scored across five elements: Ownership, Management, Skills Development, Enterprise and Supplier Development, and Socio-economic Development.

The BBBEE process is onerous on the company as it needs to provide the appropriate evidence when the BBBEE status is verified by an accredited verification agency. Points are mainly earned through element-specific spend, however, there are categories measured through nominal numbers such as how many black employees with disabilities are employed.

Disability has been a misnomer and at times misunderstood. The BBBEE Scorecard specifically talks about disability in the management element indicating two points

available if the at least two percent of the workforce is black individuals with disabilities.

If a company spends at least 0,3 percent of its payroll on black individuals with disabilities under the Skills Development element, the company earns four points, whether the individuals are employed by the company or not. However, the two instances described above are not the only areas where the disability community can benefit.

In the Ownership element, it speaks of Black Designated Groups and has disability as one of the five areas listed there. The points benefit for a company is three points if two percent of the company is owned by a black person with a disability.

Under the Enterprise and Supplier Development element, companies can score two points for procuring from Black Designated Groups, including the disability community.



Companies [can] score points when they provide funding to non-profit organisations.



The Socio-economic Development element allows companies to score points when they provide funding to non-profit organisations, which would include organisations for people with disabilities for a total of five points.

In summary, there are six points available where disability is specifically mentioned and

another 10 points available where disability is inferred. This is a total of 16 BBEE Scorecard points, which is a significant amount.



This is a total of 16 BBEE Scorecard points, which is a significant amount.

Furthermore, in many instances the value of disability intervention, such as a learnership project, would earn additional points on the BBEE Scorecard and could have additional benefits to the company such as tax benefits.

This series of articles on BBEE and disability will be looking at each of the elements and demonstrate how persons with disability may benefit from BBEE as an employee or entrepreneur, and how an organisation for people with disabilities can benefit through engagement with companies.

It is imperative that the disability community understand what is required from them to meet the criteria for which companies are looking. For disability organisations, BBEE can become a valuable income stream that contributes to their sustainability greatly.

BBEE is a great enabler that needs to be studied and understood by the disability organisations and the community at large so that people with disabilities may be part of society and contribute to the GDP of South Africa. 

About The Author

Rustim Ariefdien is a disability expert extraordinaire who assists businesses to “let the Ability of disAbility enAble their profitAbility” through BBEE, skills development, employment equity and socio-economic development. His purpose is the economic empowerment of persons with disability in Africa. As a person with a disability himself, he has extensive experience in the development and empowerment of persons with disability.





Disability in the Workforce

Employers can earn two BBBEE Scorecard Points if they meet the target of two percent black employees with a disability in the workforce. The points earned together with the Employment Equity Act, which puts the legal compliance target at 7,5 percent, provide a compelling reason for employers to employ people with disabilities.

Learnerships is very often the medium used by employers to engage people with disabilities. Since only a percent of the formal workforce in South Africa are persons with disabilities, there are more and more opportunities coming the way to persons with disabilities.



Disability organisations are in a pivotal position to facilitate the employment of persons with disabilities.

Disability organisations are in a pivotal position to facilitate the employment of persons with disabilities, which very often is their mandate anyway. They are able to generate funding in the process.

So, how does a person with a disability prepare themselves for being a candidate for employment? Having a matric or post-matric qualification helps; however, a lower level of education does not exclude persons with a disability.

There are programmes that accommodate lower levels of literacy and numeracy while still providing the learner with a disability with an opportunity that could lead to employment.

Another popular focus area for employers are persons with disabilities under the

age of 30 as they benefit from the Tax Allowances and Employee Tax Incentives. A black female with a disability, a matric or higher qualification under the age of 30 is a sought-after candidate.

Where possible, it is good for the candidate to improve their level of skill either through accredited courses or self-study. If a person can demonstrate that they have the skill being sought by the employer, then this would stand them in good stead for employment.

To become a candidate for employment, a person with a disability needs to have a CV. It is important to disclose their disability in the CV.

Indicate whether it is a physical or mental disability, provide the category of disability together with the diagnosis of the disability. Indicate any reasonable accommodation requirements.

For example, “I have a physical disability and my category of disability is Cerebral Palsy. My diagnosis is spastic diplegic and I use a wheelchair. In an office environment I need a working table that my wheelchair can comfortably go under, a lift in the building if I need to work on an upper level and an accessible toilet”.

Your CV should be accompanied by a medical practitioner’s certificate that clearly states that you have a disability that conforms with the definition of disability in the Employment Equity Act. **R**

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Skills development and BBBEE

Companies are required to spend 3,5 percent of their payroll on their skills spend to gain score six points on their BBBEE Scorecard. If they spend 0,3 percent of their payroll on a disability skills spend, they are able to earn four points out of a possible 25 BBBEE Scorecard Points in the Skills Development category. These disability points are probably the most sought after of all BBBEE points relating to disability.

If companies offer learnerships, apprenticeships and/or internships, they can earn an additional six points. Some companies focus on disability projects for persons with disabilities, mainly through learnerships, where they can earn the 16 points referred to in our overview; plus a potential five points for absorption when the learner is permanently employed after the learnership. This represents 21 of the total 25 points with the other four points being for bursaries.

Learnerships are typically a 12-month qualification made up of a 30 percent theoretical and 70 percent practical experience in the workplace. At the end of the qualification, the learner would have acquired the certificate for that particular qualification and valuable 12 months' work experience. The learner can then be employed or seek out other learnership opportunities to enhance their skills level and add to their work experience.

Besides the BBBEE Scorecard points listed above, companies can benefit from the Employee Tax Incentive when hiring individuals between the ages of 18 and 29 as well as the Learnership Tax Incentives. Employers can claim up to R120 000 per individual who successfully completes their learnership qualification.

When it comes to learnerships for persons with disabilities, the advantages extend beyond skills development. By participating in learnerships, employers gain access to a

pool of trained, experienced employees with critical skills, which give the company a clear competitive edge. Additionally, employers can shape learnerships to address their unique requirements. Whether it's technical skills, soft skills, or industry-specific knowledge, customisation ensures relevance.

So, what is required of people with disabilities for a learnership? Companies advertise quite widely on social media and some of them communicate directly with organisations in the disability field. Primarily, companies look for a Grade 9, but very often Grade 12, which is dependent on the learnership that they are offering. The candidate learner would need to provide a copy of their ID, a certificate from a medical practitioner to prove their disability, and their latest certificate of their education or schooling.

When starting a learnership, it is imperative that the learner disclose their disability fully so that they can be appropriately and reasonably accommodated. Transport is often a challenge and finding the right transport solution is imperative before signing up on to a learnership. Absenteeism can lead to dismissal, and a valuable opportunity lost as another person with a disability could have benefited.

For employers, embracing learnerships isn't just about compliance. It's about investing in the organisation's future. By participating in learnerships, employers contribute to skills development, job creation, and economic growth. It's a strategic move that benefits both the company and society at large. 

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Enterprise development and BBBEE

Enterprise and Supplier Development Element of the BBBEE Scorecard carries the most BBBEE Scorecard Points. There is a maximum of 44 points with an additional two bonus points. These include 20 points for Preferential Procurement, 10 points for Supplier Development, and five points for Enterprise Development with two bonus points when a supplier graduated from Enterprise Development to Supplier Development with at least one job created in either of the developmental processes.

Majority black, female-owned suppliers with a turnover of less than R10 million that falls within the designated group of suppliers, such as having a disability, is the combination that adds the most points value to the company.

Therefore, a business or NPO that is run or owned by people with disabilities present a unique value proposition to companies who wish to earn BBBEE points. These organisations can secure up to 26 points for Preferential Procurement and 10 points for Supplier Development, totalling 36 points. Critically, it is the two points available for Designated Group Suppliers that suppliers owned by people with disabilities present to a company.

The point tally can increase even further through the bonus points available should the NPO start out under Enterprise Development and progress through to becoming a supplier and benefiting from Supplier Development spend. If jobs are created through this process, then there is even more value to the company. Each of these scenarios presents a bonus point, each taking the potential point tally up from 36 points to 38 points.

This is particular significant for the Protective Workshop Industry where there is quite a bit of economic activity and continually evolving to remain viable and relevant. In many instances the primary income of a Protective Workshop

is obtained through the sale of products or the provision of services. However, Protective Workshops find themselves in a competitive market with enterprises that are not part of the disability community, competing for the available slice of the pie.

The Public Finance Management Act (PFMA) dictates that disability organisations cannot obtain funding from state departments such as the Departments of Trade and Industry and Economic Development, citing that funds are made available to organisations through the Department of Social Development. However, the Protective Workshops run by disability organisations are economic enterprises in the true sense of the word and could greatly enhance their service and efficiency if they just had the additional investment of funds.

BBBEE spend from companies do not have this PFMA restriction. They are able to build capacity in a Protective Workshop through Enterprise Development and, in the next year of assessment, invest even further when they engage the services of the organisation through Supplier Development. All spend from the company on the protective workshop counts towards the company's Preferential Procurement. If the organisation is a Level One Contributor, the company will obtain the highest value in BBBEE Scorecard Points.

Enterprise and Supplier Development is a significant lever that can significantly impact growth and development for disabled owned enterprises and protective workshops. **R**

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Ownership, disability and BBBEE

The intrinsic benefits of the Ownership element of the BBBEE Scorecard may be the most misunderstood element from a disability perspective. Disability can be a direct benefit to a company as a Black Designated Group who are defined as black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act

If a company does not meet the sub minimum threshold of 40 percent of the eight realisation points under the Ownership element, the company will be discounted by one BBBEE level. This is a huge negative for a company. Points are available as follows:

- **Voting Rights:** Up to four points
- **Economic Interest:** Up to 13 points
- **Realisation:** Up to eight points

To avoid this, a company can, for example, have a black female with a disability own at least 10 percent (debt free) of the company to avoid being discounted. Additionally, the company would earn over 20 of the 25 ownership points. Furthermore, if this black female with a disability is part of the management structure, points would be scored there as well. If the black female with a disability holds a position on the company board, and is employed as an executive manager, another four points out of 15 for the Management element would be scored.

Furthermore, if other companies are procuring from the company in question then they would earn additional points on their BBBEE Scorecard. This is a significant benefit for the company. Of course, this benefit would relate to any black person with a disability, but the points may vary due to gender and thus be less lucrative for the company.

In order to work towards the above scenario, companies need to identify candidates that

they would like to provide with shares in their company either as a “gift” or through some sort of sale agreement. It is unlikely that a company would simply give away 10 percent of its equity; however, should the candidate be in a position to add value to the company then an amicable arrangement can be made.

So how does a candidate demonstrate themselves to a company as a BBBEE investment? The areas in which you could add value to the company is in the following areas:

- **Marketing:** Are you able to use your profile as a black person with a disability to generate leads?
- **Sales:** Are you able to close sales for the company?
- **Operations:** Are you able to add value to the company’s value chain?
- **Human Resources:** Are you able to add to the body of knowledge of disability towards ensuring the company’s compliance with Employment Equity Act legislation?

Needless to say, having skills in entrepreneurship, commerce or management including marketing, sales, finance, operations or human resources could be advantageous. Should a person with a disability wish to prospect towards the ownership of a company then acquiring these skills would be paramount.

In the endeavour to acquire the skills, the individual could seek Skills Development funding from the company towards their upskilling. The opportunities are endless. **R**

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Socio-economic development, disability and BBBEE

The Socio-economic Development (SED) element of the BBBEE Scorecard is mainly for the benefit of Non-Profit Organisations (NPOs) that ideally service more than 75 percent of black beneficiaries with disabilities. Companies can obtain five BBBEE Scorecard Points if they spend one percent of Net Profit, after tax, as SED spend with NPOs. The NPO must have a sworn affidavit that shows their BBBEE level if they are classified as an Emerging Micro Enterprise or Qualifying Small Enterprises if they have more than 51 percent black beneficiaries. These two categories cover NPOs that fall under the R50 million threshold. The BBBEE Commission provides a list as a guideline on how an NPO can benefit from SED:

- Sustainable livelihood initiatives, limited to economic activities.
- Building of vocational, literacy and work related (including self-employment) skills.
- Providing opportunities for adult education.
- Income generating skills and knowledge.
- Improvement of capacity to work, including self-employment.
- Generation of income from productive activities.
- Increased employability and earning power.
- Providing training or mentoring to beneficiary communities.
- Maintaining a SED unit by the Measured Entity.

Training and mentoring are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out the initiatives. A clear justification must support any claim for time costs incurred, commensurate with the seniority and expertise of the trainer or mentor.

Contributions to the SED unit of a NPO includes only the portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to, promoting and implementing the unit. Furthermore, the Commission states:

“Any support of initiatives outlined, through SED contributions cannot be charitable in nature such as mere donations that are not linked to income generation. Further, SED is not necessarily tantamount to Corporate Social Investment (CSI). CSI is mostly used to promote good will in communities where the measured entity operates, but does not necessarily meet the income generation test. This is usually in form of handouts, for example, donation of school uniform, building repairs, donation of food parcels, etc.

“In justifying the conversion of CSI programmes into SED contributions, it is usually argued that the manner in which the Codes have been drafted makes it easy for entities to blur the lines between SED and SCI. Nonetheless, it must always be remembered that SED places less reliance on donations and rather enable income generation for beneficiaries in order to create and maintain sustainable access to the economy.”

Fundraising has become a challenging space for NPOs. BBBEE SED provides the NPO with alternative funding options to the traditional CSI that is governed by the Tax Act. Furthermore, the benefit that the NPO can present to the business is in the other elements of the BBBEE Scorecard. For example, a Protective Workshop that manufactures a product and supplies it to a company, would contribute to the procurement spend. A disability organisation that has a Placement Programme can recruit people with disabilities for permanent or learnership placements. 

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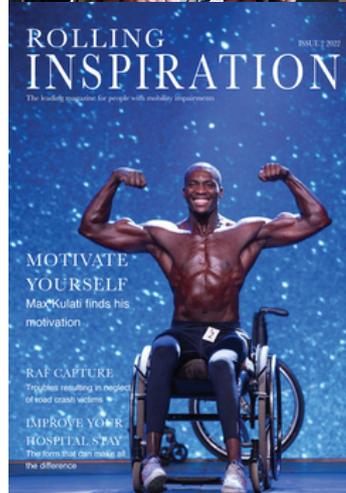
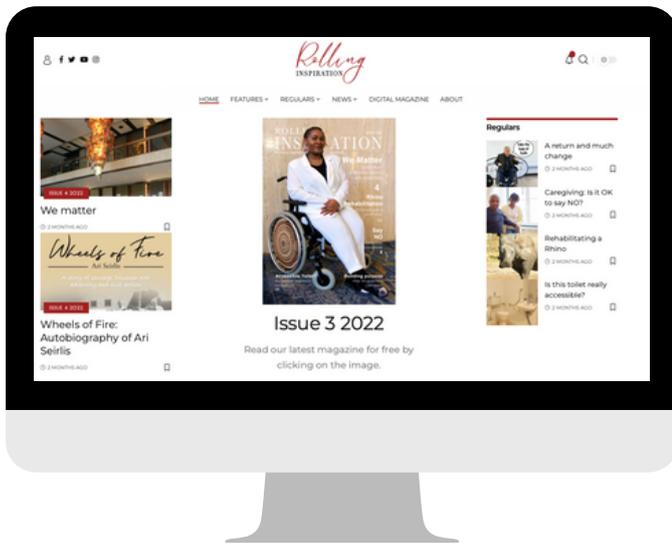
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