

Reporting Duties?

The Broad-Based Black Economic Empowerment (B-BBEE) Commission is established as an entity within the administration of the Department of Trade and Industry (“the dti”) by the Broad-Based Black Economic Empowerment Act 53 of 2003 (as amended by Act 46 of 2013) (“the Act”) to oversee the implementation of the Act, which includes to receive and analyse reports as prescribed concerning B-BBEE compliance of organs of state, public entities and private sector enterprises.

Who can you report to?

The B-BBEE Commission:

has jurisdiction throughout the Republic entrusted by law to act with impartiality and perform its functions without fear, favour or prejudice and must exercise the functions assigned to it in terms of the Act and exercise such powers which are not in conflict with the Act as may be conferred in writing by the Minister.

What are the powers of the B-BBEE Commission?

It has the power to:

Accept the report, reject the report, initiate an investigation and refer matters to other regulatory and enforcement entities.

Who must report to the B-BBEE Commission?

1. A 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) of the Act annually to the B-BBEE Commission in the prescribed **FORM B-BBEE 1**, within (thirty) 30 days of the approval of such audited financial statements and annual report.
2. 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 annually to the B-BBEE Commission in the prescribed **FORM B-BBEE 1**, within 30 days of the approval of the audited financial statements and annual report **OR** ninety (90) days at the end of the financial year.
3. A Sectoral Education Training Authority (SETA) 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**, within 30 days of the approval of the audited financial statements and annual report **OR** 90 days at the end of the financial year.

4. The Minister of Trade and Industry must within 30 days of receipt of reports by Sector Charter Councils in terms of section 10(4) of the Act, submit such sector report to the B-BBEE Commission for consideration.

What is the Process?

5. The B-BBEE Commission will in writing within five (5) days acknowledge receipt of the report.
6. The B-BBEE Commission has 90 days to consider the report, and respond to the person who filed in respect of the state of compliance with the Act.
7. The B-BBEE Commission may conduct site visits to verify the correctness of the information submitted in the report or initiate an investigation in terms of the Act.
8. In the case of non-compliance with the Act, the B-BBEE Commission may notify the sphere of government, public entity, organ state, listed company or SETA by issuing the prescribed **FORM B-BBEE 3** of the apparent non-compliance and require the entity to correct the report within 30 days.
 - i. The B-BBEE Commission may hold with the affected entity a closed or open meeting to respond to the questions raised by the B-BBEE Commission in relation to the report.
 - ii. If the entity fails to comply within the 30 days timeframe the B-BBEE Commission must reject the report by issuing the prescribed **FORM B-BBEE 4** with reasons.
9. If the B-BBEE Commission is satisfied that the report complies with the Act, the B-BBEE Commission will notify the entity concerned in a prescribed **FORM B-BBEE 5**.
10. In terms of section 13L of the Act, when submitting information to the B-BBEE Commission, a person may claim that all or part of that information is confidential and the claim must be supported by a written statement explaining why the information is confidential.
11. The B-BBEE Commission may publish the reports in a manner that it deems appropriate.

Conclusion

12. The B-BBEE Commission offers advice to any entity that wishes to clarify the process. Should you wish to obtain advice, please submit clarification. The B-BBEE Commission encourages all entities to take up this service where they are unclear.

Schematic Reporting Process Flow



B-BBEE Commission
420 Witch-Hazel Avenue
Eco Glades 2
Block C, Eco Park
Centurion
0144

the dti Postal Address
Private Bag X84
Pretoria
0144

Tel: (+27) 12 649 0910

Email: MRamare@beecommission.gov.za

the dti customer Contact centre: 0861 843 384

Website: www.bbbeecommission.co.za