

LEGAL SERVICES CHARTER NATIONAL
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**MEASURING TOOLS FOR THE
LEGAL PROFESSION**

**Ms M. J. Ramagaga
BLACK LAWYERS ASSOCIATION**

**ECONOMIC EMPOWERMENT OF
HISTORICALLY DISADVANTAGED INDIVIDUALS**

**DRAFT LEGAL SERVICES CHARTER
CHAPTER 4**

- Constitution
- Broad-based Black Empowerment Act
- Skills development Act
- Employment Equity Act
- DTI broad-based BEE codes of good practice

The Broad-Based Economic Empowerment Act 53 of 2000 is based on many of the principles contained in the constitution.

- The aim of the Act- effective participation of black people in the economy
- The Act is an enabling legislation, in that it is designed to facilitate the promulgation and issuing of Transformation Charter and codes of good practice

Promulgation and Issuing of Transformation Charter and codes of good practice .

- The Minister must be satisfied that the charter **complies with the objective of the Act** before it can be promulgated.
- Sector codes of good practice must be in line with the code of good practice of the enabling Act.

Instruments of the Implementation of the Act

- The Transformation Charter
- The codes of good practice

Codes of Good Practice :

The purpose of the codes of good Practice is to provide principles and guide lines to assist and advise both the public and private sectors in their implementation of the objectives of the broad-based Black Economic Empowerment

Balanced Scorecard:

- Is used in interpreting and measuring broad-based BEE
- Components are:-
 1. Direct empowerment
 2. Human resources development
 3. Indirect empowerment

Seven elements of broad-based BEE

- Equity ownership
- Management
- Skills development
- Preferential procurement
- Employment equity
- Enterprise development
- Other residual elements.

The effectiveness of the Act will be determined by the ability of the instruments of implementation to ensure the achievements of the act's objective.

It thus become necessary to develop a balanced score card that would accelerate the achievement of the Act's objectives.

SCORECARD

Legal Services Charter

Ownership and Control

Legal Profession 35% minimum

Management

Government: accelerate board app.

Legal prof: promote board app

Promote management

Promote faculty and school of law

Employment Equity

Government- target set by cabinet

Legal prof and Academia; Employment Equity Act

Skills Development

Government- Invest minimum 5% payroll

Design and fund programs

Publicise scholarships

Develop existing structures e.g state attorneys

Legal profession

Invest minimum 5% payroll

Identify pool of black professionals and candidate attorneys

Legal Academia

Promote development teaching and writing skills etc.

Preferential procurement

Government: Identify black lawyers (tenders and services).

Legal prof : Proactively identify and implement targeted

procurement strategies

Report periodically on all procurement spent.

Brief at least 40% black

ENTERPRISE DEVELOPMENT

Government : utilise SOE's to create fund to finance legal services structure.

Legal prof: Partner with or promote collaborative relationships.

Service Specific Targets

Government : Legal aid and campaigns

Legal prof : Human resources pro bono work

Legal academia : Street law

Paralegal training

Legal advise

Reasons for failure of Broad Based BEE.

Lack of effective integration: How does it happen and why it is so?

Divergent strategic objective: What is the cause?

Excessive imbalance between the partners: How can this be bridged?

Lack of trust between the partners: Cause?

Potential clients requirements

The approach towards meaningful mentoring-How can this be monitored?

More focus on fusing the small firm with the big firm- Why try the super-glue instead of developing the HDI firms' reluctance to develop

Verification Agencies

The success or failure of the legislation will depend on the regulation of verification agencies.

Who qualifies to be a verifying agency? Especially BEE status.

Are the required qualifications in order?

How challenges that are posed by the failure hereabove can be overcome

- Let us answer questions under each question.

Other challenges

- Black listing
- Disclosure of black listing or enquiry
- Right of the first option by government to buy back e.g. shareholding.