
CODES COULD BRING BBEE TO A HALT

HAS Trade and Industry Minister Rob Davies set out to bring broad-based black economic empowerment (BBEE) to a shuddering halt? He will deny it, but a closer reading of the amended proposed BBEE codes of good practice, gazetted on October 5, points in exactly that direction.

The original intention of the government's BEE policy was to engage as many black South Africans in the country's economy as part owners of businesses as quickly as possible. A target of 25% equity ownership was the initial goal. But, since very few blacks possessed the wealth necessary to achieve that, private sector companies found it necessary to create a variety of vehicles through which to achieve the government's aim. Needless to say, this led on many occasions to existing shareholders complaining that they were being suckered into giving away a quarter of the value of their investment for no discernible return.

The government supported its policy plank with a large stick: companies that failed to comply would find it increasingly difficult to secure government contracts or participate meaningfully in its procurement programme. Codes of good practice were introduced that needed to be verified by approved agencies, thus creating a new industry and yet another level of bureaucracy and costs in a country supposedly dedicated to removing red tape.

These codes have now been significantly amended and, if accepted in the latest guise, will have the effect of ensuring that great swathes of companies (and maybe some parastatals) will be severely penalised. For example, a company seeking to qualify to tender for government work must demonstrate a category four compliance level. Everyone, says Paul Janisch, a specialist in the application of the codes, has forgotten that this process is entirely voluntary and depends on private sector goodwill for its success so far.

Taken at face value, the new codes will immediately condemn noncompliant companies to level-six status, thus making them ineligible for state work or to supply private sector companies reliant on state work. A company wanting to retain its level-four rating will have to execute remarkably smart actions.

The extent of racism evident in the amended codes is breath-taking. For example, they require that 100% of all socioeconomic development contributions go to black people. That means any company donating money to an orphanage that cares for whites and blacks must expect that contribution to be disallowed in its totality for the purposes of calculating its standing in BEE codes. Since it is estimated that between 450,000 and 600,000 South African whites (anecdotally 800,000 from some sources) now live below the poverty line (between 10% and 18% of the white population), the effect of this could be devastating.

Perhaps this is a good thing. Perhaps it is time the naked racism applied by a government that hides behind a veil of nonracism is finally exposed for what it is. But there are many other aspects deserving of equally searching examination. The starting point is to ask what

experience Davies has of working in commerce. From what I can gather, the answer is none. He's either been an extended university student or a paid party official. And he is, by the way, a dedicated communist which might explain why his knowledge of the real world is so myopic.

Does he, for instance, know how difficult it is to register for value-added tax (VAT) when your company falls below the VAT radar? It's pretty well impossible — but a VAT number is a requirement to qualify for government work of any kind.

Does he realise that he is encouraging "fronting", the practice so excoriated by the government? Black-owned companies whose turnover is less than R10m can now bid for work on behalf of white companies that would otherwise not even get on the scorecard.

Then there's the ownership issue, which counts for 25 points out of the 105. Many foreign-owned multinationals simply won't hear of diluting their control. Does Davies want them to pack up and leave?

What these amended codes will achieve if they aren't altered will be to bring the BEE programme to an end. Very few, if any, companies will qualify as a level-four participant. That will rule them out for most government work. So they will scale down or go out of business.

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