



Grant Thornton

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# BEE in the Know

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# BEE in the KNOW chats to Stella Khumalo, CEO:

uShaka Marine World



Stella Khumalo, CEO of uShaka Marine World in Durban, is passionate about tourism, promoting her city and empowering communities. This teacher-turned-business-woman was recently recognised by the Business Woman's Association (BWA) for her achievements in her field and for the difference she has made.

Stella originally qualified with first class majors as a teacher specialising in science and did not take long to become a provincial department head for Arts, Culture and Tourism. Staying in the public sector, she moved to tourism where she eventually became the CEO of the KwaZulu-Natal Liquor Authority in 2012. In her current role as CEO of uShaka Marine World, she is responsible for ensuring business continuity and sustainability and she views people empowerment as a key contributor to achieving a sustainable tourism industry.

Still passionate about education, Stella is currently pursuing a PhD in Business Administration, after obtaining an MBA from the University of KwaZulu-Natal in 2004. Using her experience to inspire others, she has founded the Stella Educational Foundation which aims to empower, support and mentor young people, particularly those in grades 11 and 12.

**Grant Thornton Verification Services spoke to Stella as part of National Tourism Month in South Africa during September, to find out her thoughts on the industry and opportunities for greater participation.**

**You were recently acknowledged by the Business Women's Association as a regional business achiever in the government category. Tell us more about this award and what it means to you in your role at uShaka?**

It is an honour to have been acknowledged by the Business Women's Association for the work I do as CEO of uShaka Marine World, but the greater value of the Award for me was the opportunity it provided to me to conduct my very own self-assessment. I had to evaluate my leadership approach in ensuring business continuity and sustainability.

It also called for assessing the empowerment initiatives that I have introduced at uShaka, the nature of support I had given to others and the community upliftment role that I play. This enabled me to identify gaps in what I do and meant that I can improve on areas in which I realised I might not be doing enough.

**Durban successfully bid for the Commonwealth Games to be held in 2022. What sort of sustainable opportunities do you think this could create for local entrepreneurs and businesses in the tourism sector and others, in KZN?**

Durban has successfully hosted leading sports events in the past and has become one of Africa's premier sporting destinations. That in itself is a significant positive for the tourism industry and has made us confident that the city is more than ready to host a successful Commonwealth Games in 2022.

Major sporting events empower residents and communities, and bring welcome economic benefits to the region. We expect that there will be major infrastructure development – including the Games Village, increased empowerment of people in terms of general and specialised skills and knowledge.

Importantly, it also brings about social cohesion and unity, which is a major benefit for the tourism industry, as it leads to growth, job creation and improved service delivery. Furthermore, the benefits are spread beyond the participants and visitors to the bigger audience who will be experiencing the Games through various media channels.

**Tourism is undeniably a key industry in Durban. How do you think larger tourism organisations or companies could assist smaller starts ups in this industry?**

I believe larger tourism organisations have a key role to play in assisting start-up enterprises in venturing into this industry. Tourism is a very interesting field with diverse opportunities, e.g. operating tours, organising events in culture, arts and heritage. Our role is to ensure knowledge and understanding of the entire value chain, and to work with smaller businesses to obtain the relevant accreditation and development, so that standards are maintained. I believe we can achieve this by providing business with exposure, creating networks, giving mentorship and coaching, as well as assisting them with the right partnerships so that they can grow to full independence.

**The new amended tourism B-BBEE codes have a higher target for contributions towards supplier development and target that at least 51% of purchases must be from SA suppliers. What do you think some of the challenges and opportunities are for larger tourism entities, in finding or creating and supporting these local entities?**

Businesses should identify and categorise the opportunities where local entities can participate, and business chambers are valuable in helping to find the right partners.

At uShaka we are going through a full assessment of services, products and other opportunities, together with the Durban Business Chamber. We will use the Chamber's and City's databases to develop an Enterprise Development

Programme which will be well structured, focused and have clear deliverable growth objectives. The programme will make provision for training and will allow us to open opportunities for smaller local businesses, while not compromising on our standards.

I believe that empowerment and transformation make good business sense, as it brings innovation to the tourism sector through the introduction of new stakeholders. This will ultimately help us to attract new markets and stimulate new product development.

**Tourism is a crucial growth driver in our economy and communities. The new codes aim to drive growth in tourism related skills, by doubling the skills spend target and specifying that it be spent on qualifications related to accommodation, hospitality, and travel related services. What do you see as the challenges in recruiting staff with these qualifications?**

I do not see this as a challenge, as the implementation of the new codes will result in a skills development.

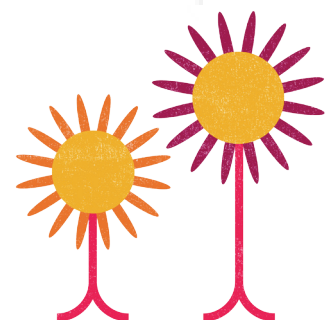
Importantly, as businesses participate in this development, they get to have a say in the kind of skills and competencies they would like to develop. At uShaka we have a staff complement of 500, more than half of which is categorised as youth, which currently generally provide low-skilled services such as cleaners and cashiers.

I believe we have a responsibility to develop programmes that will improve these workers' skills and so contribute to the skills base not only at uShaka, but for the benefit of the greater tourism industry.

We have worked with higher education institutions in developing a training programme for uShaka which includes bursaries for staff. We also provide workplace training for people not in our employment through internships and learnerships. We do not see challenges in recruiting people, as we currently take in about 200 casual workers per year; however, the challenge lies in ensuring we provide adequate training.

**You come from a teaching background and this is obviously still a passion of yours. Tell us more about the Stella Education Foundation and what its goals are?**

Stella Education Foundation is about bringing back hope and creating confidence-building opportunities through empowerment. The Foundation aims to position young people as best they can be and give them a competitive edge. This is my way of using my experience to the best of my ability to make a difference.



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# Amended Tourism Sector Scorecard: an overview

BY JENNI LAWRENCE: MANAGING DIRECTOR VERIFICATION SERVICES, GRANT THORNTON

**“Tourism’s contribution to the economy is measured by jobs created, contribution to GDP, and revenue generated from tourism activity. Furthermore, as a services export sector, tourism is a significant earner of foreign currency. In the South African context, this growth should be underpinned by the principle of inclusivity to drive tourism-sector transformation.”**

This extract from the Department of Tourism’s annual performance plan articulates so clearly why tourism is crucial as a growth driver in our economy and communities. A specific tourism sector scorecard is one measure towards ensuring that this growth benefits black people in our economy.

While the amended codes for B-BBEE came into effect for most companies effective April 2015 measurement periods, those companies that fall under specific sectors were given a reprieve.

Sector charter councils were given an extended deadline to align their specific scorecards to the amended codes. Both the Chartered Accountancy and Construction councils missed this deadline and these scorecards were repealed, due to failure of the various parties agreeing on the submission.

Tourism, forestry, ICT, transport, AgriBEE and the financial sector all submitted their amendments to the DTI in time for consideration and - while we are still awaiting most of them in their final effective form - out of all of these, only the tourism scorecard is currently in force, in its amended format.

The new scorecard is effective for all tourism related entities who are measuring a financial period ending after 20th November 2015, the date on which it was gazetted.

## **Why a sector charter?**

Section 12 of the BEE Act refers to the gazetting of Transformation Charters. These are also referred to as Sector Charters and have been developed by major stakeholders in the relevant industries, in the interests of achieving broad-based transformation.

The intention is to increase the pace of transformation within that specific sector, as well as taking into account any characteristics within that sector, which may need to be treated differently.





### Which scorecard applies to me?

Companies in the tourism sector which have a turnover under R5 million per annum will qualify as an **exempt micro enterprise (EME)**. These companies do not require a formal B-BBEE audit, they can declare their B-BBEE status by means of an affidavit confirming their turnover and percentage of black ownership.

With 100% black ownership, they would achieve a Level 1 BEE level, and with at least 51% black ownership, a Level 2 BEE level will be achieved.

If black ownership is below 51%, an automatic Level 4 is achieved.

### A qualifying small enterprise (QSE)

is one that has a turnover of between R5 million and R45 million per annum. If these businesses have at least 51% black ownership and turnover is below R45 million per annum, you may use an affidavit confirming turnover and percentage black ownership.

As with EMEs (above) at 100% black ownership, they would achieve level 1 BEE recognition, with at least 51%, a level 2. If black ownership is below 51%, a BEE audit would be required to determine the BEE level.

A **generic enterprise** is one that has a turnover exceeding R45 million per annum and in all cases, a BEE audit would be required to determine the BEE level.



**Does my business fall under the amended tourism scorecard?**

**The Amended Tourism B-BBEE Sector Code applies to all enterprises within the Tourism Sector and all parts of its value chain.**

**inter alia.:**

#### **9.1 Accommodation:**

- 9.1.1 Hotels;
- 9.1.2 Resort properties and timeshare;
- 9.1.3 Bed and breakfast (B&B's);
- 9.1.4 Guest houses;
- 9.1.5 Game lodges; and
- 9.1.6 Backpackers and hostels.

#### **9.2 Hospitality and Related Services:**

- 9.2.1 Restaurants (not attached to hotels);
- 9.2.2 Conference venues (unattached to hotels);
- 9.2.3 Professional catering;
- 9.2.4 Attractions, Casinos; and
- 9.2.5 Consulting and professional services companies.

#### **9.3 Travel and related services:**

- 9.3.1 Tour wholesalers;
- 9.3.2 Tour operators;
- 9.3.3 Travel agents;
- 9.3.4 Tourist guides;
- 9.3.5 Car rental companies; and
- 9.3.6 Coach Operators

## How many points do I need?

The weighting points per element have changed in the amended scorecard, as have the points required in order to reach each level of BEE compliance.

### QSE Element Weighting Code Series Reference

Ownership	26 points
Management Control	15 points
Skills Development	25 points
Enterprise & Supplier Dev.	30 points
Socio-Economic Dev.	5 points
<b>TOTAL</b>	<b>101 points</b>

### Generic Element Weighting Code Series Reference

Ownership	27 points
Management Control	19 points
Skills Development	20 points
Enterprise and Supplier Dev.	40 points
Socio-Economic Dev.	5 points
<b>TOTAL</b>	<b>111 points</b>



Level	B-BBEE Status	Qualification
Level One Contributor	≥100 points on the Scorecard	135%
Level Two Contributor	≥95 but <100 points on the Scorecard	125%
Level Three Contributor	≥90 but <95 points on the Scorecard	110%
Level Four Contributor	≥80 but <90 points on the Scorecard	100%
Level Five Contributor	≥75 but <80 points on the Scorecard	80%
Level Six Contributor	≥70 but <75 points on the Scorecard	60%
Level Seven Contributor	≥55 but <70 points on the Scorecard	50%
Level Eight Contributor	≥40 but <55 points on the Scorecard	10%
Non-Compliant Contributor	<40 points on the Scorecard	0%



### Priority elements

The Priority elements have been implemented in those areas which have been deemed to be slow to transform, and in terms of these priority elements, the following is required:

- Large Enterprises are required to comply with all the three Priority elements;
- Qualifying Small Enterprises (QSEs) are required to comply with at least two priority elements, which are Ownership AND either Skills Development OR Enterprise and Supplier Development.

If an entity does not comply with the 40% subminimum requirements of any of the priority elements, this will result in the measured entity's B-BBEE Status Level and corresponding B-BBEE Recognition Level being dropped down by one level until the next applicable verification period. At the next applicable verification period, the measured entity will be required to demonstrate compliance with the 40% sub-minimum requirements.

The priority element requirements for the amended tourism sector scorecard are as follows:

### Ownership:

The sub-minimum requirement for Ownership element is 40% of Net Value (40% of the 8 points).

### Skills Development:

The sub-minimum requirement for Skills Development element is 40% of the total weighting points (excluding bonus points).

### Enterprise and Supplier Development:

The sub-minimum requirement for Enterprise and Supplier Development element is 40% of the total weighting points of each of the three measuring categories within the Enterprise and Supplier Development element. These three measuring categories which are relevant for Enterprise and Supplier Development are Preferential Procurement, Supplier Development and Enterprise Development.

To prevent any confusion or doubt regarding the sub-minimum requirement, the measured entity must achieve at least:

- 10 points under the Preferential Procurement element;
- 4 points under the Supplier Development element; and
- 2 points under the Enterprise Development element.

### Empowering Supplier:

The tourism sector scorecard requires an entity to meet **at least four** of the following criteria if it is a generic **or two** if it is a QSE.

A prerequisite in order to qualify is that the entity be B-BBEE compliant and must comply with all regulatory requirements of the Employment Equity Act, Skills Development Act, Skills Development Levies Act:

1. At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local suppliers in South Africa (SA);
2. At least 85% of total labour cost should be paid to SA employees by service industry entities;
3. At least 50% of jobs created during the Measurement Period are required to be for Black People provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained;
4. At least 51% of Total Measured Procurement Spend must be from SA suppliers;
5. Skills transfer by Senior and Top Management (as defined by the Employment Equity Regulations) spend at least 12 days per annum in assisting 51% Black Owned EMEs and QSEs to increase their operational and/or financial capacity.

**APPROVED**



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### Economically Active Population (EAP) targets

Under the “old” targets, the adjusted recognition for gender (ARG) calculation determined the target for black female representation across the scorecard, where specific targets for women were not indicated.

Under the amended codes, targets for women are based on specifically aligned economically active population (EAP) targets, which give specific recognition to African, Coloured and Indian people, which are then broken down further into male and female targets.

The EAP targets apply to the generic scorecard for junior, middle and senior employees under management control, as well as targets for skills development. They do not apply under other targets such as ownership or board recognition. Also, the targets do not apply under the QSE scorecard, where “black” is not broken down further into “sub” race groups, but instead, “black” is treated as a whole.

Major differences in the elements between general amended codes and tourism amended codes: ([click here](#) to see the specific scorecards for each of the five elements for the tourism amended codes).

The information below relates to the generic scorecard. The QSE scorecard generally has slightly lower targets but is now also required to be measured under all five scorecard elements.

### Ownership

Ownership is a priority element and as such, a sub-minimum applies. In this case the sub-minimum of 40% applies to net value, which refers to the accumulated net economic interest in the hands of Black People after the deduction of monies owed on the debt.

The target for black representation under the ownership element is higher than the general amended codes, at 30% for voting rights and economic interest and there is a target of 15% for representation amongst black women.

### Management control

While the target for black board members remains the same at 50%, the target for black female representation under tourism is 30%, rather than the 25% target under the general codes.

Under the amended codes, the employment equity element is now combined under management control. The targets under senior, middle and junior management are similar to those under the general amended codes, with lower targets for junior management and bonus points for exceeding the target for employees with disabilities.

The EAP targets apply to junior, middle and senior employment only, and not to board participation.



**40%**  
sub-minimum applies  
to ownership

**30%**  
black representation  
for voting rights  
& economic interest

**15%**  
black women  
representation



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### Skills Development

This is a priority element with 40% of the points (excluding bonus) to be achieved to avoid a penalty level drop.

As well as a larger target (6% instead of 3% under the old codes), there is a significant focus on skills expenditure which is specifically aimed at tourism related qualifications.

These are listed as spend related to skills and qualifications related to:

- Accommodation;
- Hospitality and related services; and
- Travel and related services.

As with the general amended codes, recognition for spend on learners is based on specifically aligned economically active population (EAP) targets which give specific recognition to African, coloured and Indian people, and these targets are broken down further into male and female targets.

Unemployed learners are now counted under the scorecard and this creates an opportunity to recognise points under any demographic target where you do not employ sufficient staff, to allow you to achieve the skills points per category.

### Enterprise and supplier development

This element is a combination of 2 elements from the “old” codes, procurement and enterprise development, with the addition of a new sub-element - supplier development.

Important differences to be aware of:

- Only purchases from empowering suppliers can be counted towards the procurement total;
- There is a major shift in importance of procurement from 51% black owned and 31% black women owned suppliers;
- The supplier development target under the general amended codes is 2% net profit after tax (NPAT) but it is increased to 3% NPAT in the tourism sector. This relates to contributions similar in nature to enterprise development but here they are specifically for 51% black owned or 31% black women owned suppliers with a turnover under R50 million; and
- The enterprise development target is 0.50% NPAT and is required to be sector specific.

### Socio economic development (SED)

The target for SED remains at 1% NPAT and the TOMSA levy requirement remains. TOMSA refers to a levy collection initiative administered by the Tourism Business Council of South Africa (TBCSA) to raise additional funds for the marketing of SA as a preferred tourist destination.

It is interesting to note that “social wages” are specifically outlined and included in this section. These are costs related to items such as medical costs, which are paid to employees. However, it is a requirement that these costs can only be allocated towards SED if not part of the normal remuneration package.



**To discuss your BEE certification requirements according to the amended tourism codes, or for further information, please contact:**  
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# Employee Share Ownership schemes hold the key to true transformation

Companies and fiduciaries to blame for failures of empowerment schemes

BY RIAAZ ESSA: TRANSFORMATION MANAGER, GRANT THORNTON



“  
Until there is a significant change in mind set and acceptance about the value of true BEE, complaints will continue to mount on the steps of the Commission.  
”

Since the implementation of the Amended Codes of Good Practice in 2013 there has been a flurry of Black Economic Empowerment (BEE) deals taking place within all industries. Government has sent a clear message to businesses, either to create more ownership in the hands of black people, or suffer an automatic drop in the company's Broad-Based BEE (B-BBEE) level, regardless of the score attained.

However, as Business Day reported on 16 August 2016 there has been an influx of cases that have reached the Broad-Based Black Economic Empowerment Commission – most of these related to disgruntled employees in Employee Share Ownership Schemes.

According to the article, since being established in September last year, the Commission had already received about 100 complaints about fronting and other abuses.

Most of the complaints were from shareholders - most often employees - who were allocated significant shareholdings in order for their companies to achieve higher empowerment scores and a greater over all level of empowerment in terms of the codes of good practice.

Subsequently, the employees were sidelined, denied access to financial information, not informed about meetings and did not derive any benefit from their stakes.

In some cases, the employees had no idea what they were required to sign, while in others, the shareholders were forced to exit the company once it had been awarded the desired licences or contracts on the basis of its enhanced BEE status.

This slew of complaints begs the questions – are these employee share ownership schemes risky to implement due to their susceptibility to fronting? Secondly, are these share schemes still useful to transformation?

In my opinion these schemes are certainly relevant and hold the key to true broad-based empowerment – as long as appropriate and sustainable oversight mechanisms are in place, as well as the required policies needed.

The requirements for a valid employee share ownership scheme are strictly defined to ensure that participants receive their claim and distributions. The rules stipulate the requirements for the appointment and conduct of fiduciaries as well as the rights and responsibilities of participants.



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### **Fiduciaries failing transformation**

So who is to blame for the current state of affairs? In my experience, schemes of this nature have failed because of poor management on the part of fiduciaries.

In many cases fiduciaries have not presented the financial reports of the scheme to participants or they have not explained the contents adequately enough to participants so that they can make informed decisions about the management of the scheme

Alternately, fiduciaries have denied participants an active role in the shareholder management of the company; and not adequately represented the interests of the participants at shareholder meetings to ensure that their investment was fruitful.

The question then becomes just how do we create meaningful transformation while still addressing the ownership requirement?

The answer lies with companies first acknowledging that BEE is an economic and social imperative. Secondly, companies must understand and appreciate the value that their own employees can bring to such relationships.

Finally, fiduciaries need to face greater penalties – monetary fines as an example – if found to have neglected their duties to the schemes.

### **The benefits of Employee Empowerment**

Employee Ownership Schemes are designed to reward black employees with an opportunity to own shares in the company they work for. By implementing such a scheme, black employees are able to enjoy the fruits of their hard work and contributions in addition to their remuneration.

The benefits of these schemes include increased productivity; greater employee retention; attracting future talent which could result in increased scoring on management control; and businesses are saved from the difficulties of finding a suitable BEE partner.

Critics could argue that implementing an employee share ownership scheme has the same effect as merging with a small black-owned company because the scheme would have minority voting rights and therefore employees of the scheme have little say in the decision making powers.

This isn't the case. Employees who are beneficiaries and recipients of economic interest through an Employee Ownership Scheme will ensure that they contribute to the success of the business through their individual skills that they were hired to perform in the first place.

Even if the shareholding was a mere 25%, these employees' voices would be heard

at shareholder meetings and companies would be wise to listen. A scheme of this nature is also an investment in the business itself as a result of the additional potential revenue that can be generated from a higher B-BBEE score.

For the system to work fiduciaries elected to look after the interests of their participants must do just that, look after their interests. In addition, companies that wish to form such schemes need to do so with the intention of enabling real transformation and not simply as a front through which to increase profits.

Directors and owners of companies would be wise to familiarise themselves with section 130 of the Broad Based Black Economic Empowerment Act 52 of 2003 as amended - because this section clearly outlines that fronting will lead to a fine and/or to imprisonment for a period of up to ten years.

Until there is a significant change in mind set and acceptance about the value of true BEE, complaints will continue to mount on the steps of the Commission. Until then, the only winners will be those unscrupulous companies that will continue to abuse the system at the expense of the majority of disenfranchised black South Africans.





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