

# Indian population compromised by new BEE Codes

 By [Deon Oberholzer](#)

5 Jun 2013

The proposed racial demographic representation clause in the new draft BEE Codes will have a dramatic impact on the business world and the people most affected by this will be the Indian population. The amendment requires the overall demographic representation of Black people in the staff compliment to be further broken down into specific criteria. This breakdown must be executed in accordance with the different race sub-groups within the definition of "Black" as guided by the Employment Equity Act, as well as the targets for each group of the Economically Active Population in the new BEE Codes.

According to national demographics, the Economically Active Population (EAP) of South Africa is 74.1% Black, 11.1% Coloured, 2.9% Indian and 11.9% White. Fifty-four percent are male and 45.4% female. The statistics vary substantially by province with the Indian population rising to 10.9% in KwaZulu-Natal and the Coloured population in the Western Cape is 52.5% of the population.

According to research conducted by Statistics SA, top management is still dominated by White representation, having stood at above 60% from 2007 to 2011. Very little progress was made towards representation of Black or Coloured at top management level, but the growth of the Indian population at top management level has been substantial. While the Indian population represents 2.9% of the demographics of the country, Indian representation at top level is at 9.6%. The Black population, representing 74.1% of the South African population has only 21.8% representation in senior management.

Effectively, the statistics show that Indian employees are more than three times over-represented in the workplace at top management level. Any implementation of demographic ratios will result in their jobs becoming threatened immediately.

While the draft codes are not specific on the issue of national or local demographics, the general assumption is that national demographics will apply to any company that is represented in more than one province. Whether the demographics clause in the new draft BEE Codes is applied according to the national or regional population will, therefore, also have a huge effect on employment equity. If the demographics clause is applied according to national demographics, an Indian-owned company that has previously enjoyed "all-Black-owned" status and was, therefore, a Level 1 BEE certified company, will now have to exchange Indian management and employees for 11.1% Coloured and 74.1% Black employees. There is no clarification on the rounding of figures. If 11.1% of senior managers should be Coloured and you only employ four, how will that decimal be interpreted, as half a person cannot be employed?

## A return to race classification?

The future of the labour force in South Africa is now race based. When mixed-race people are considered for a position, there is now pressure on the person to obtain some form of official race classification. This could also result in an obligation on the verification agency to make a determination on race classification, opening up a traumatic process that should have been left behind in the previous regime.

A further consideration that will have a profound impact on the effectiveness of the BEE Codes to benefit its intended portion of the population is that there is also a second generation of Black, Indian and Coloured people that were born in South Africa from parents that are excluded from the BEE definition of Black. This second generation will be benefitting from BEE, but were never intended to be included in the definition of historically disadvantaged people and neither they, nor their parents, were supposed to be included.

BEE compliance has the potential to be used as a marketing tool and a tool to grow a business. The new BEE Codes will, unfortunately, but probably, have the dramatic consequence of business people giving up on BEE compliance, divesting from the South African economy by moving manufacturing plants to neighbouring countries or stunting company growth in order to stay under the new R10 million threshold, thus affecting job creation. In South Africa, 95% of businesses have a turnover of less than R10 million and are, therefore, absolved of the responsibility to comply. There is no incentive to adopt at least some elements in support of transformation and upliftment. According to the new codes, if an employee is looking for skills or career development opportunities he will have to make sure to work for one of the less than 5% of companies turning over R10m in revenue.

BEE came into existence in the first place to correct imbalances for those people who were disadvantaged in the previous dispensation. In other words, those people who were unable to vote prior to 1994. The question remains whether the new BEE Codes will work towards the achievement of total equality, or whether it will detract from it.

## ABOUT DEON OBERHOLZER

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