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## BEE Cause this is serious....

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<https://www.pressportal.co.za/industry-and-real-estate/story/12542/bee-cause-this-is-serious.html>



As we approach the middle of 2017, it might be a good moment just to stop and take stock of what has happened so far this year.

We have seen the release of the Amended Forest Sector Code. It is now added to the growing list of Sector Codes that have concluded their revisions to align with the Amended B-BBEE Codes gazetted in 2013. (Yes, you read that right, 2013). At present, we have Sector Codes in Tourism, Media, Advertising and Communications (MAC) and ICT that have been gazetted. The Construction, Transport, Property, Financial, Agri-BEE and CA Sectors have drafts that were released for public comment, some as far back as October 2015. They have yet to be finalised, but the informal feedback is that most of them will be released shortly.

We also have not yet seen the final Verification Manual, a critically important document that guides the verification industry on how they should measure compliance. The draft has been around since November 2015, and the lack of clear guidance on some of the requirements is a serious concern. Perhaps the book on Radical Economic Transformation should have a chapter in about speeding up transformation by signing off on the legislation that governs it. Just saying.

Our prediction from last year came true and each new Sector Code now comes with the “damned if you didn’t” clause, effectively making the Sector Code retrospective to the last financial year you have not yet been verified on. This effectively means that companies with a financial year at the end of December 2016 or February 2017 would be measured for their next verification on a Sector Code that may not yet have been gazetted. The



fact that this flies against the principles established in terms of effective dates, seems not to be a consideration.

There are still companies that are using EME Certificates issued in terms of the Amended Codes, even though everyone that matters is on record stating that they are invalid. What is happening now is that these companies that were either knowingly or unknowingly taken for a ride by whomever issued these invalid certificates, is nicely making it their clients problem. Our clients are forced to discard up to 25% of BEE certificates from their suppliers because they were invalidly issued.

QSE ownership fronting has been blocked, sort of. Some of the popular scams that have been going around since the Amended Codes came to life, include the use of the "Modified Flow Through" Principle to elevate a company with an effective 26% ownership to become a 51% Black Owned Level 2 Company that is exempt from complying with the Codes. The B-BBEE Commissioner is on record saying that it is a misinterpretation of the Amended Codes to allow this and anyone that advises clients to do this should end up in jail. Unfortunately this will not have the desired effect yet, because the entire document is called a "non-binding guide". Only the Minister may change the Codes, and that appears not to be a priority.

Will we see a revamp to the Amended Codes? Apparently there are some rumours flying around that a complete revamp of the Codes is on the cards. According to this, we may see a complete revision of the Codes before the end of 2017. This will apparently clear up all the confusion, close the loopholes, define the grey areas and provide the missing bits.

In the meantime, we urge the leadership of businesses to engage with the Codes, flawed as they may be, to implement transformation that is real, cost effective and in the interest of your bottom line. Denial is only a solution if you are in politics, or in love

**Article References:**

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