

B-BBEE FAQs

B-BBEE Gazette, Practice Note and Statement of Clarification questions and answers, finalised in consultation with the dtic.



1. Is YES NPC the only entity that a company can register with for B-BBEE recognition for job creation?

Yes. In terms of the Practice Note for B-BBEE recognition, this is explicit.

GG 1.1: The Youth Employment Service (YES) is to provide for, and institute, Broad-Based Black Economic Empowerment (B-BBEE) recognition for YES measured entities and qualification criteria applicable to the B-BBEE recognition for job creation.

PN 1.1: YES measured entities will need to register with the YES non-profit company (registration number: 2017/267641/08) in order to participate within the YES Initiative for monitoring and evaluation purposes of the initiative.

PN 1.2: B-BBEE recognition will only be awarded to YES measured entities that have registered with the YES non-profit company.

2. What happens if a company is unable to maintain or improve its B-BBEE level?

If at the time of B-BBEE verification, where all other elements have been assessed before awarding of YES B-BBEE recognition, it is identified that the YES measured entity has not maintained or improved their previous B-BBEE status level, they may approach the dti B-BBEE policy unit with justifiable evidence for participation.

GG 2.4: YES measured entities must ensure that they maintain or improve their B-BBEE status level and performance against the targets under the overall scorecard obtained in the year before participating in the YES initiative. Application of this process is done through Paragraph 1.5 of YES Practice Note and correspondence should be sent to B-BBEE_YES@thedti.gov.za

3. What is the B-BBEE status that needs to be maintained or improved by the company?

The B-BBEE status level that needs to be maintained or improved upon is the B-BBEE status level obtained in the first year of participating under the YES Initiative before YES B-BBEE recognition. This will be the base B-BBEE status level for the second and subsequent years of participation under the YES Initiative (i.e Level 4, Level 5 etc.)

SoC(dti)

4. What are “new positions” and new jobs?”

The intention behind YES is to create new jobs. While no measurement of this will take place, YES measured entities are expected to create 12-month quality workplace experiences for Black Youth.

GG 6.1: YES measured entities engaging eligible employees in new positions are subject to South African legislation governing Basic Conditions of Employment and Working Conditions.

5. Can youth be employed on a part-time contract?

Youth must be employed on a 12-month, fixed term employment contract that complies with the labour legislation, including the LRA and the BCEA. A measured entity may apply the hours of work as per the sectoral determination the entity is regulated by.

PN 1.7: The workplace experience for eligible employees needs to cover a full 12-month period.

6. Is a company obliged to use the employment contract template provided by YES?

An entity is not obliged to use the YES employment contract template. However, the employment contract must be a 12-month, fixed term employment contract that complies with the labour legislation, including the LRA and the BCEA.

PN 1.7: The workplace experience for eligible employees needs to cover a full 12-month period.

7. What is meant by a “quality work experience”?

Please refer to the YES quality work experience brochure for more information or contact us to request it.

GG 6.3: YES measured entities must commit to ensuring a quality work experience is provided to the eligible employee insofar as the entity is able to provide it.

PN 1.10: The 12-month quality workplace experience will be monitored by the YES non-profit company to ensure a consistent national standard.

PN 1.12: Placements of Black Youth can be for exempted micro enterprises (EMEs) and qualifying small enterprises (QSEs) including EME and QSE non-profit organisations. However, entities may place eligible employees in entities irrespective of size to ensure a quality work experience is achieved.

8. What salary should a youth be paid per month?

Employers are required to comply with the Minimum Wage Act, 2018, the relevant labour legislation (including the LRA PN 1.10 and BCEA), as well as any sectoral determination the entity is regulated by. Employers should take consideration of internal salary scales when employing YES Employees.

E.g. Where the NMW is R30.32 for each ordinary hour worked, then a youth working 40 hours per week will be entitled to a salary of R5 241.00.

Employers should take consideration of internal salary scales when employing YES employees.

PN 1.7: Sectors that are governed by specific employment conditions legislation should be taken into account, but ultimately the eligible employee needs to fulfil a 12-month workplace experience.

9. What happens if the company enters into a contract of employment with youth within the financial year being verified, but the period of employment of the youth at time of verification is less than 8 months?

There will be overlapping periods regarding the intake of Black Youth at different points in time, as well as all YES measured entities having different financial year ends.

In order to be eligible for B-BBEE recognition, YES Youth need to fulfil eight (8) months of work. Flexibility will be applied for the first year of uptake in order to drive participation. Entities will be able to receive B-BBEE recognition before the minimum 8 months have been completed. It's important to note that the uptake must take place in the financial year which is used for B-BBEE verification purposes.

Furthermore, entities still need to follow through, or else risk the potential of having B-BBEE recognition withdrawn.

PN 1.7: The workplace experience for eligible employees needs to cover a full 12-month period. In the event where the eligible employee does not complete a full 12-month period due to unforeseen circumstances, the YES measured entity needs to ensure that at least eight (8) full months have been completed in order to be eligible for B-BBEE recognition.

Furthermore, if any eligible employees fall out of the YES initiative due to any circumstances, the YES measured entity will have one (1) month to replace them in order to be eligible for B-BBEE recognition.

10. What would qualify as unforeseen circumstances?

Unforeseen circumstances may include resignation, death or misconduct by the Youth etc.

Constructive dismissal will not qualify.

PN 1.7: The workplace experience for eligible employees needs to cover a full 12-month period. In the event where the eligible employee does not complete a full 12-month period due to unforeseen circumstances, the YES measured entity needs to ensure that at least eight (8) full months have been completed in order to be eligible for B-BBEE recognition.

Furthermore, if any eligible employees fall out of the YES initiative due to any circumstances, the YES measured entity will have one (1) month to replace them in order to be eligible for B-BBEE recognition.

11. What do companies do in the case of maternity leave during the 12-month work experience?

In terms of BCEA the Youth is entitled to 4 months unpaid maternity leave. In the 4 months of maternity leave, the company can use their default maternity policy or allow the Youth unpaid maternity leave. The company does not have to extend the contract beyond the 12 months for the 4-month maternity leave not worked by the Youth.

However, they still need to remain employed until the end of the contract.

PN 1.7: The workplace experience for eligible employees needs to cover a full 12-month period. In the event where the eligible employee does not complete a full 12-month period due to unforeseen circumstances, the YES measured entity needs to ensure that at least eight (8) full months have been completed in order to be eligible for B-BBEE recognition.

Furthermore, if any eligible employees fall out of the YES initiative due to any circumstances, the YES measured entity will have one (1) month to replace them in order to be eligible for B-BBEE recognition.

12. Can Youth be absorbed prior to the completion of the 12-month employment term?

The workplace experience for eligible employees must cover a 12-month period. An eligible employee may enter into an employment contract (or simply an employment contract longer than a 12-month period) save that:

- The eligible employee must still complete the 12-month workplace experience on the YES initiative
- Absorption will only be measured after completion of the 12-month period of employment on the YES initiative. If an eligible employee is on a permanent contract and;
- A measured entity's YES target is calculated every 12 months and an eligible employee that has been absorbed will not count towards the measured entity's new YES target
- YES B-BBEE recognition can only be awarded based on Absorption Targets after the 12-month contract is completed and not before the 12 months have lapsed

PN 1.6: Due to uptake and difference in measurement periods for YES measured entities, the target for Absorption will not be verified for B-BBEE recognition during the first year of implementation of the YES initiative. Instead, the target for this will be verified when Absorption takes place in the following measurement period.

Absorption is based on the YES entity's target.

Absorption is defined in Schedule 1 of the Amended Codes of Good Practice and the same principles are applicable.

13. Can absorption be extended to Black youth establishing their own entity?

Yes.

SoC (dti): Absorption can be extended to Black Youth establishing their own entity with the measured entity providing support. The support will be proven by obtaining the company registration documents, procurement contracts, enterprise and supplier development agreements amongst others, to identify that absorption has been met in the form of the Black Youth establishing their own entity.

14. If Youth are being sponsored and placed at an SMME, which entity is required to absorb the Youth in order to qualify for B-BBEE recognition? The sponsoring company or the hosting SMME?

Absorption is based on principles embedded in the Amended Codes of Good Practice. Absorption can occur within the YES measured entity, or any other entity. The responsibility rests with the YES measured entity to provide documentation that proves that Absorption has taken place according to the prescribed targets set out in the Gazette.

PN 1.8: Absorption can only take place after the 12-month completion of the workplace experience and the target is based on the YES Targets for YES measured entities. If Absorption is identified at the time of the B-BBEE verification, B-BBEE recognition will be awarded. Absorption is defined in Schedule 1 of the Amended Codes of Good Practice and the same principles are applicable.

15. What is the consequence for B-BBEE recognition if neither the sponsor or the SMME absorb the Youth?

YES measured entities still need to follow through, or else risk the potential of having B-BBEE recognition withdrawn.

PN 1.8: Absorption can only take place after the 12-month completion of the workplace experience and the target is based on the YES Targets for YES measured entities. If Absorption is identified at the time of the B-BBEE verification, B-BBEE recognition will be awarded. Absorption is defined in Schedule 1 of the Amended Codes of Good Practice and the same principles are applicable.

16. If Youth are employed as part of a learnership, internship or apprenticeship can the same Youth qualify as part of a company's YES target headcount?

No. The youth in such a scenario would not be unemployed and as such does not qualify for YES registration. Also no double counting.

PN 1.9: The 12-month workplace experience is not a learnership, internship or apprenticeship programme.

17. Can Youth employed as part of a company's participation in YES also participate in a learnership, internship or apprenticeship?

No. The Practice Note is explicit regarding this. Initiatives for YES are separate from learnerships, internships or apprenticeships. No double counting is permissible.

PN 1.9: The 12-month workplace experience is not a learnership, internship or apprenticeship programme.

18. If Youth are employed as part of a learnership, internship or apprenticeship can the company convert the Youth to count as a YES Youth?

No. the Practice Note is explicit regarding this. Initiatives like YES are separate from learnerships, internships or apprenticeships.

PN 1.9: The 12-month workplace experience is not a learnership, internship or apprenticeship programme.

19. Must Youth remain unemployed from the time of registration with YES until time of placement?

Black Youth need to be unemployed at the time of registration by the Black Youth. This is a self declaration by the Black Youth.

PN 1.14: B-BBEE recognition will only be applicable for the creation of jobs under the YES initiative for eligible employees who are unemployed at the time of registering with the YES initiative.

20. What happens if youth find employment one day after registering with YES but still wants the option to be placed in a YES job?

At the time of registration, the Black Youth needs to be unemployed.

PN 1.14: B-BBEE recognition will only be applicable for the creation of jobs under the YES initiative for eligible employees who are unemployed at the time of registering with the YES initiative.

21. If at verification when the 12-month work experience is still unfolding and the company cannot demonstrate absorption, what happens?

In the event that a measured entity has met the uptake target at the time of verification, but has not met the absorption target due to the 12-month quality workplace experience still unfolding, the entity needs to provide verification evidence that indicates commitment to absorb youth once the YES employees complete the 12-month workplace experience and are absorbed. Once absorption takes place, the entity will provide the verification evidence to the agency within one month to show absorption has been met. Failure to do so may lead to the retracting of the B-BBEE certificate and report by that B-BBEE verification agency. The responsibility of ensuring that absorption is met, lies with the measured entity and the B-BBEE verification agency.

SoC(dti): Verifiable evidence would include, but is not limited to, samples of certified ID copies, samples of employee contracts that meet the definition of absorption and interviews.

22. What evidence is required to confirm that youth are unemployed?

This is a self-declaration by the Black Youth

PN 1.14: B-BBEE recognition will only be applicable for the creation of jobs under the YES initiative for eligible employees who are unemployed at the time of registering with the YES initiative.

23. Is YES a verification agency?

No.

24. What evidence must a measured entity gather for verification?

The YES Practice Note provides a broad overview of the types of documentation that will be required at the time of B-BBEE verification (not limited to).

Verification is however not static, the quality of evidence presented would determine whether or not additional evidence is required. Please see the YES verification checklist, or contact us to request it.

PN 5: Please refer to Paragraph five of the YES Practice Note.

25. If a company is participating for the second year, must the previous year or new year's headcount be used?

The measured entity must use the headcount as at the last financial year-end.

PN 4: Please refer to Paragraph four of the YES Practice Note.

26. If, for operational reasons, a company's headcount decreases in the year of participation in YES, how will this affect its target?

The measured entity's headcount provided at the time that it registers to participate in the YES initiative, being the headcount as at the last financial year-end, is used to determine target for B-BBEE recognition. A change in the headcount during the period of participation in the YES Initiative will not affect the target for B-BBEE recognition.

A change in the headcount during the period of participation in the YES Initiative will not affect the target for B-BBEE recognition.

27. Can you participate in the YES programme if you have zero net value ownership?

Yes. This is possible based on the Average Sub-minimum being met by the measured entity.

PN 3: Refer to paragraph three of the YES Practice Note for the calculation of sub-minimums.

28. Can Youth participate in YES multiple times if they have completed one 12-month quality workplace experience?

No. The objective is to provide as many Black Youth as possible with a full 12-month quality workplace experience.

29. What happens if a Youth participates for less than 8 months and wants to participate in the YES programme at another organisation?

This is possible as each Black Youth should be afforded an equal opportunity for a full 12-month quality workplace experience. This means that the first company will not get recognition if the youth spend less than 8 months with them?

A new 12-month quality workplace experience contract will be signed.

30. If a company was using a sworn affidavit and their status moves from an EME to a QSE or QSE to a Generic what level do they need to maintain or improve upon?

The measured entity needs to maintain its previous B-BBEE Status Level irrespective of measurement changes brought about by thresholds or sector codes. The practice notes provide for the dti to approve for company participation if the BEE level changes due to e.g jump from EME to Generic.

31. If a company is non compliant can they participate?

The measured entity would need to at least achieve a Level 8 before YES B-BBEE recognition is awarded.

PN 1.5

32. Can Youth be 35 at the time of participating?

Yes, provided that the YES-contract commences before his/her 35th birthday.

GG 4: 4.1 Only individuals who meet the below criteria are eligible for participation under the YES Initiative for B-BBEE recognition:
4.1.1 are between the ages of 18 and 35.
4.1.2 meet the definition of "Black."

33. What happens if a Company has a negative NPAT?

The target can still be calculated by utilising the industry norm calculation.

PN 4: Refer to paragraph four of the Practice Note.

34. What happens if a company is a specialised entity and does not have an NPAT?

The target will then be calculated based on the higher between the Target of Headcount or Table 1 of the Annexure as per gazette 41866.

PN 4: Refer to paragraph four of the Practice Note.

35. Can a Company participate if they have been trading for less than a year?

Yes.

PN 4: Refer to paragraph four of the Practice Note.

36. Is there an acceptable margin/buffer for drop offs on completion?

In the event that the participating YES Youth do not complete the programme, a 5% margin will be acceptable in order for the measured entity to receive YES B-BBEE recognition.

SoC (dti): For example, if the measured entity has a target of 3 of 200 YES employees and if 10 (200 x 5%) of the YES employees do not complete the 12-month period due to any unforeseen circumstances, the measured entity will still be able to receive B-BBEE recognition, provided that the target was met in the beginning of participation under the YES initiative.

It is important that the YES measured entity meets the calculated targets with consideration of the 5% allowance in order to receive B-BBEE recognition.

If any YES Youth employees fall out of the YES initiative due to any circumstances and above the 5% margin and before completing 8 months of employment, the YES measured entity will have one (1) month to replace them in order to be eligible for B-BBEE recognition.

37. Can Companies that fall under the Scope of the Transport Sector Codes participate in YES?

Yes.

SoC (dti): It is clarified that the requirements under 2.1, 2.2 and 2.3 of the YES Initiative Gazette issued under Amended Code Series 000, Statement 000 of the Amended B-BBEE Codes of Good Practice Gazette Notice Number 41866 is not applicable to measured entities that fall under the scope of the 2009 Transport Sector Codes of Good Practice Gazette Notice Number 32511.

38. Can the salaries of the YES Employees be claimed under skills development or relevant sector codes?

No.

SoC (dti)

GG :Y.E.S Gazette Notice Number 41866 (Published 28/08/2018)

PN :Y.E.S Practice Note Gazette Number 41975 (Published 12/10/2018)

SoC :Statement of Clarification (Issued by the dti on 24/02/2020)

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