

BEE codes cover only 13% of firms

THEBE MABANGA

THE newly promulgated codes of good practice on empowerment will affect only 13% of enterprises in South Africa.

The balance — 87% — will be exempt as they generate revenue of less than R5-million, the critical line of demarcation for companies to become subject to the codes.

This was confirmed by Tshediso Matona, director-general of the Department of Trade and Industry, this week. He was speaking at a media briefing on the release of the second part of the black economic empowerment Codes of Good Practice, following Cabinet approval — which insiders say was not an entirely smooth process.

The release of the codes, by Trade and Industry Minister Mandisi Mphahlela, completed a process that began two years ago this month. The final version is a significantly watered down version of what the drafters originally had in mind.

Multinationals will breathe a sigh of relief at being exempted from selling equity stakes to local partners.

The issue was first raised by information and communications technology firms during the drafting of that sector's charter. They argued that selling equity has intellectual property rights implications.

Now multinationals that can show their global business model is one of retaining complete control over subsidiaries will be allowed to do so in SA. They will have to compensate by doing more in other areas of the charter scorecard, such as skills development.

Multinationals also got clarity on procurement. Some had argued that they source goods from centralised global suppliers. Where this is the case, that procurement spending will not be counted as part of discretionary spending, which in terms of the codes would have to be directed towards empowerment companies.

Some multinationals have displayed innovation in areas of ownership and procurement. Daimler Chrysler is an example of a company prohibited from selling a stake to a local partner. Instead, it facilitated a deal where one of its global suppliers acquired a local partner to form Ikwezi Foxtech. This deal earned it empowerment points.

The codes recognise the "once empowered, always empowered" principle, which recognises a company's BEE status even after black shareholders have sold their stake. But the stake must have been held for at least three years.

The department has allowed that, in certain instances, ownership by pension funds can count towards empowerment — but only up to 40% of total points.

The department has taken a laissez faire approach to verification agencies. It will merely accredit these and set standards. Companies will then be free to choose whether to engage the services of an agency or perform a self-assessment.

The delay in finalising the codes has been seen by some as an example of Mphahlela's propensity to be indecisive in making important decisions.

Yesterday, he conceded that the codes "took too long" but noted that the delay "prepared the country psychologically" for the adoption of the codes and allowed the department to obtain a much wider buy-in.

Mphahlela took time to point out that his Cabinet colleagues are anxious to know how the department will deal with sectors that "do not show any sign of transformation" because they do not have government business and the resulting state pressure on them to transform. He did not provide examples, but such sectors could include transport and retail.

The codes are due to be gazetted early in the new year, as a process of harmonising them with existing sector charters gets under way.