

• NEWSFLASH

# THE ECONOMIC INCLUSION

ACT NO. 26 OF 2021

## INTRODUCING THE ECONOMIC INCLUSION ACT

The Economic Inclusion Act (the “Act”), which came into operation on 20 April 2022, provides, inter alia, for the implementation of existing economic empowerment laws and initiatives, as well as, perhaps most importantly, the effective participation of “targeted citizens” in the economic growth and development of the economy. The Act defines a “targeted citizen” as a citizen whose access to economic resources has been constrained by various factors as may be prescribed by the Minister of Investment, Trade and Industry (the “Minister”) from time to time.

Interestingly, the Minister has not as yet prescribed the criteria for identifying a targeted citizen. As such, the actual applicability and effectiveness of the Act is yet to be determined. It is our considered view that the prescription by the Minister, when it comes, will be significant, and significantly contentious.

The Act applies to all sectors of the economy and requires both public and private bodies to participate actively in the economic transformation that the Act seeks to achieve. This note seeks only to elaborate on the role of the private sector as prescribed by the Act.

## **A PRIVATE SECTOR ENTERPRISE WHICH IS NEITHER OWNED BY A CITIZEN, NOR BY A TARGETED CITIZEN, IS REQUIRED TO CONTRIBUTE TO THE ECONOMIC TRANSFORMATION AND EMPOWERMENT OBJECTIVE OF THE ACT BY:**

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1. Mentoring and sharing knowledge & technology on business development and market penetration with a targeted citizen or targeted citizen owned private sector enterprise;
2. Promoting economic empowerment of targeted citizens in its missions in order to foster entrepreneurial culture among the same;
3. Taking part in activities that build capacity of a targeted citizen and targeted citizen owned enterprise levels;
4. Acquiring goods and services from a targeted citizen and a targeted citizen owned enterprise within the private sector, including from small and medium sized enterprises;
5. Developing sector codes and codes of good practice for economic empowerment;
6. Fostering business relationships and entering constructive procurement partnerships through supplier development programmes with a targeted citizen or a targeted citizen enterprise;
7. Effecting inclusive ownership of the business through training, coaching, and mentoring of employees;
8. Facilitating economic transformation and empowerment of private sector enterprises owned and managed by targeted citizens;
9. Providing a system for the preparation of transformation charters and reporting on compliance with those charters and economic empowerment standards to Government; and
10. Putting in place appropriate or targeted citizen strategies and mechanisms for private sector capacity development of a targeted citizen and a targeted citizen enterprise to enhance and promote an export led economy, particularly a private sector enterprise operating in the sphere of export and import.



## A PRIVATE SECTOR ENTERPRISE IS FURTHER REQUIRED TO:

1. Allocate part of its profit to corporate social investment in communities comprising of disadvantaged targeted citizens;
2. Adhere to a point-based system (preferential scheme) aimed at empowering businesses owned by youth, women, and people with disabilities;
3. Ensure the promotion of a community based targeted citizen contractor through skills and technology transfer; and
4. Increase outsourcing of maintenance activities to targeted citizens of the prescribed locality where by non-compliance shall attract penalties.

## OFFENCES:

The Act provides for numerous offences in relation to compliance with the Act. The commission of any of the offences listed under the Act attracts a fine of between P 5,000.00 and P 1,000,000.00 (inclusive), or imprisonment for a period between 6 months and 10 years (inclusive) in respect of individuals. In the case of organizations, non-compliance with the Act attracts a fine of between P5,000.00 and P 10,000,000.00 (inclusive).

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