GOVERNMENT GAZETTE, 29 MARCH 2018

#### DEPARTMENT OF TRADE AND INDUSTRY

29 MARCH 2018

## DRAFT STATEMENT 300, CODE SERIES 300 OF 2018 FOR 60 DAY PUBLIC COMMENTARY

## CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

I, Dr Rob Davies, Minister of Trade and Industry:

- (a) Amend the following Draft Statement 300, Code Series 300 of 2018 for public commentary in terms of section 9 (5) of the Broad-Based Black Economic Empowerment Amendment Act 2003, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013; and
- (b) Invite interested persons and the public to submit inputs and comments on the Draft Statement 300, Code Series 300 of 2018 within 60 days from the date of this publication.

Interested parties are requested to forward their comments in writing for the attention of the B-BBEE Policy Unit to the following address (es):

E-mail: <u>JManus@thedti.gov.za</u> Or Jacques Manus The dti Campus 77 Meintjies street Sunnyside, Pretoria 0002 c/o BEE Unit

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Dr Rob Davies, MP Minister of Trade and Industry

23/3/2018

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#### **KEY AMENDMENTS**

- Introduction of Point Indicator 2.1.1.2 Spend on Bursaries for Black Students attending Higher Education Institutions
- 2. Splitting of the 6% Leviable Amount Target for Overall Skills Development Expenditure and Bursaries
- Increasing the Recognition for Category F & G Training Programmes from 15% to 25%

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#### **GENERAL EXPLANATORY NOTE**

[ ] Words in bold type in square brackets indicate deletions from existing enactments

\_\_\_\_ Words underlined with a solid line indicate insertions into existing enactments

# AMENDED CODE SERIES 300: FRAMEWORK FOR MEASURING BROAD-BASED BLACK ECONOMIC EMPOWERMENT

# STATEMENT 300: THE GENERAL PRINCIPLES FOR MEASURING SKILLS DEVELOPMENT

# Issued under section 9 of the Broad-Based Black Economic Empowerment Act of 2003, as amended

#### Arrangement of this statement

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#### **OBJECTIVES OF THIS STATEMENT**

- 1.1 Specify the scorecard for measuring the Skills Development Element of B-BBEE;
- 1.2 Define the key measurement principles associated with the Skills Development Element; and
- 1.3 Indicate the formula for measuring the Skills Development Element.

#### 2. THE SKILLS DEVELOPMENT ELEMENT SCORECARD

2.1 The following table represents the criteria used for deriving a score for Skills Development under this statement:

Category		Skills Development Element	Weighting points	Compliance Target
		elopment Expenditure on any progra ne Matrix for black people as a percer		
2.1.1.1	Learnir Learnir people Amoun	Development Expenditure on ng Programmes specified in the ng Programme Matrix for black as a percentage of Leviable at.	<u>[8] 6</u>	[6%] <u>3.5 %</u>
2.1.1.2	Bursar	Development Expenditure on ies for Black Students at Higher ion Institutions.	<u>4</u>	<u>2.5%</u>
2.1.1.3	Learnir Learnir employ percen	ng Programmes specified in the ng Programme Matrix for black vees with disabilities as a tage of Leviable Amount.	4	0.3%
2.1.2	Learne Interns	rships, Apprenticeships, and hips		
2.1.2.1	Learne	er of black people participating in erships, Apprenticeships and hips as a percentage of total vees.	<b>[4]</b> <u>3</u>	2.5%
2.1.2.2	particip Apprer percen	er of black unemployed people bating in Learnerships, hticeships and Internships as a tage of number of employees.	<b>[4]</b> <u>3</u>	2.5%
Bonus p				
2.1.3	Measu	of black people absorbed by the red and Industry Entity at the end of earnerships Programme]	5	100%

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Internship, Learnership and	
Apprenticeship programme under	
Paragraph 2.1.2.1 and 2.1.2.2	

- 2.2 The compliance targets for 2.1.1.1, **[2.1.1.2,]** 2.1.2.1, and 2.1.2.2 of the Skills Development scorecard are based on the overall demographic representation of black people as defined in the Regulations of the Employment Equity Act and Commission of Employment Equity Report as amended from time to time.
- 2.3 In determining a Measured Entity's score, the targets should be further broken down into specific criteria according to the different race sub-groups within the definition of black in accordance with the Regulations of Employment Equity Act and Commission of Employment Equity Report requirements on equitable representation and weighted accordingly.

#### 3. KEY MEASUREMENT PRINCIPLES

- 3.1 The following criteria must be fulfilled in order for the Measured Entity to receive points on the Skills Development Element scorecard:
- 3.1.1 Workplace Skills Plan, an Annual Training Report and Pivotal Report which are SETA approved; and
- 3.1.2 Implementation of Priority Skills programme generally, and more specifically for black people.
- 3.2 The **[6%]** <u>3.5 %</u> compliance target under paragraph 2.1.1.1 includes external training expenditure for unemployed black people.
- 3.3 <u>Initiatives implemented under paragraph 2.1.1.1 cannot be counted</u> <u>under paragraph 2.1.1.2 and vice versa</u>.
- 3.4 <u>Initiatives implemented under paragraph 2.1.2.1 cannot be counted</u> <u>under paragraph 2.1.2.2 and vice versa.</u>
- 3.5 A trainee tracking tool has to be developed in order for the Measured Entity to score under paragraph 2.1.3.

3.6 If less than 100% of the trainees are absorbed under paragraph 2.1.3, the percentage achieved or absorbed will be recognised.

#### 4. SUBMINIMUM AND DISCOUNTING PRINCIPLE

- 4.1 A Measured Entity must achieve a minimum of 40% of the [targets] total weighting points excluding bonus points (40% of the 20 points) set out in the Skills Development Element.
- 4.2 Non-compliance to the threshold targets will result in the overall achieved B-BBEE status level being discounted in accordance in paragraph 3.4 of statement 000.

#### 5. GENERAL PRINCIPLES

- 5.1.1 Skills Development must contribute to the achievement of the country's economic growth and social development goals that will enrich the creation of decent work and sustainable livelihoods.
- 5.1.2 Promote the development of an industrial skills base in critical sectors of production and value-added manufacturing, which are largely labour-intensive industries.
- 5.1.3 Support 'Professional, Vocational, Technical and Academic Learning programmes, achieved by means of professional placements, work-integrated learning, apprenticeships, learnerships and internships, that meet the critical needs for economic growth and development.
- 5.1.4 Strengthen the skills and human resource base by encouraging the support of skills development initiatives with an emphasis on skills development and career pathing for all working people in order to support employment creation.
- 5.2 Skills Development Expenditure includes any legitimate expenses incurred for any Learning Programme offered by a Measured Entity to black people evidenced by an invoice or appropriate internal accounting record.
- 5.3 Skills Development Expenditure arising from Informal and workplace Learning Programmes, or from Category F and G Learning Programmes

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under the Learning Programmes Matrix cannot represent more than [15%] <u>25%</u> of the total value of Skills Development Expenditure.

- 5.4 Legitimate training costs such as accommodation, catering, travelling and the cost to the Measured Entity of employing a Skills Development facilitator or a training manager (non-exhaustive) cannot exceed more than 15% of the total value of Skills Development Expenditure. This does not apply to Skills Development Expenditure recognised in paragraph 2.1.1.2.
- 5.5 Salaries or wages paid to an employee participating as a learner in any Learning Programme only constitute Skills Development Expenditure if the Learning Programme is a Learnership, Internship and Apprenticeship (Category B, C and D) of the Learning Programme Matrix <u>or a stipend linked to a bursary programme in terms of paragraph</u> <u>2.1.1.2.</u>
- 5.6 Expenses on scholarships and bursaries for black people do not constitute Skills Development Expenditure if the Measured Entity can recover any portion of those expenses from the employee or if the grant of the scholarship or bursary is conditional. <u>A bursary or scholarship scheme is a grant made to or for students who are registered at educational institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training. Examples of legitimate training costs for a bursary or scholarship includes: payment of school, college or university fees, or a portion thereof; funding for textbooks or other learning materials; funding for subsistence or accommodation during the period of study. Despite the afore going, if the right of recovery or the condition involves either of the following obligations of the employee, the expenses are recognisable:</u>
- 5.6.1 the obligation of successful completion in their studies within the time period allocated; or
- 5.6.2 the obligation of continued employment by the Measured Entity for a period following successful completion of their studies is not more than the period of their studies.

- 5.7 Mandatory sectoral training does not quality as skills development contribution i.e. health and safety in construction sector (non-exhaustive list)
- 5.8 Training outside the country in line with the Learning Programme Matrix under annexure 300 (A) is measurable if it meets the South African Qualification Authority requirement for recognition.

#### 6. LEGITIMATE RECOGNISABLE TRAINING EXPENSES

- 6.1.1 costs of training materials;
- 6.1.2 costs of trainers;
- 6.1.3 costs of training facilities including costs of catering;
- 6.1.4 scholarships and bursaries;
- 6.1.5 course fees;
- 6.1.6 accommodation and travel; and
- 6.1.7 Administration costs such as the organization of training including, where appropriate, the cost to the Measured Entity of employing a Skills Development facilitator or a training manager.

## 7. MEASUREMENT OF SKILLS DEVELOPMENT INDICATORS

The formula that explains the method of measurement of the criteria in the skills development scorecard is set out in formula "A" in Annexe 300(B).

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#### ANNEXE 300 (A) 8.

0.	Learning Programme Matrix							
Cat	Programme	Narrative	Delivery	Learning	Learning			
out	riogrammo	Description	Mode	Site	Achievement			
A	Bursaries <u>or</u> <u>scholarships</u>	Institution- based theoretical instruction alone – formally assessed by [the institution] educational institutions established by or registered with the Department of Basic Education or the Department of Higher Education & Training.	Institutional instruction	Institutions such as universities and colleges, schools, ABET providers	Recognised theoretical knowledge resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning			
В	Internships	Institution- based theoretical instruction as well as some practical learning with an employer or in a simulated work environment – formally assessed through the institution	Mixed mode delivery with institutional instruction as well as supervised learning in an appropriate workplace or simulated work environment	Institutions such as universities and colleges, schools, ABET providers and workplace	Theoretical knowledge and workplace experience with set requirements resulting in the achievement of a degree, diploma or certificate issued by an accredited or registered formal institution of learning			

C	Learnerships	Recognised or registered structured experiential learning in the workplace that is required after the achievement of a qualification – formally assessed by a statutory occupational or professional body	Structured learning in the workplace with mentoring or coaching	Workplace	Occupational or professional knowledge and experience formally recognised through registration or licensing
D	Learnerships or Apprenticeships	Occupationally- directed instructional and work- based learning programme that requires a formal contract – formally assessed by an accredited body	Institutional instruction together with structured, supervised experiential learning in the workplace	Institution and workplace	Theoretical knowledge and workplace learning, resulting in the achievement of a South African Qualifications Authority registered qualification, a certificate or other similar occupational or professional qualification issued by an accredited or registered formal institution of learning

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E	Work-integrated learning	Occupationally- directed instructional and work- based learning programme that does not require a formal contract – formally assessed by an accredited body	Structured, supervised experiential learning in the workplace which may include some institutional instruction	Workplace, institutional as well as ABET providers	Credits awarded for registered unit standards, continued professional development, improved performance or skills (e.g. evidence of outputs based on Performance Development Programme)
F	Informal training	Occupationally- directed informal instructional programmes	Structured information sharing or direct instruction involving workshops, seminars and conferences and short courses	Institutions, conferences and meetings	Continuing professional development, attendance certificates and credits against registered unit standards (in some instances)
G	Informal training	Work-based informal programmes	Informal training	Workplace	Increased understand of job or work context or improved performance or skills

#### ANNEXE 300 (B)

#### Formula 1

The skills development criteria provided for in paragraphs 2.1.1.1 is calculated by

following the sub calculations below.

The measurement criteria targets for 2.1.1.1 are broken down according to the

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#### relevant EAP statistics i.e. splitting the compliance target and points in proportion

to the EAP statistics.

The EAP Statistics are reported on the following race groups:

Statistic	African	African	Coloured	Coloured	Indian	Indian	White	White
	Male	Female	<u>Male</u>	<u>Female</u>	Male	Female	Male	Female
Abbreviation	AM	AF	<u>CM</u>	<u>CF</u>	IM	IF	WM	WF

The maximum points per race group needs to be adhered to in order to achieve

the outcomes of the code. These calculations will need to be repeated for every

race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of spend on black employees

in the measured entity as a percentage of the Leviable Amount. The formula to

calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

% Spend $AM = \frac{Spend \text{ on } AM \text{ Emplo}}{Leviable \text{ Amoun}}$	t
% Spend $AF = \frac{Spend \text{ on } AF \text{ Employ}}{Leviable \text{ Amount}}$	
% Spend $CM = \frac{Spend \text{ on } CM \text{ Emplo}}{Leviable Amount}$	yees t
% Spend $CF = \frac{Spend \text{ on } CF \text{ Employ}}{Leviable Amount}$	nees
% Spend $IM = \frac{Spend \text{ on } IM \text{ Employ}}{Leviable \text{ Amount}}$	rees
% Spend IF = $\frac{Spend \text{ on IF Employe}}{Leviable Amount}$	
Where:	
<u>RG:</u>	Race Group
RG: %SpendRG:	Race Group Percentage of spend on black employees in
	Percentage of spend on black employees in
%SpendRG:	Percentage of spend on black employees in
<u>%SpendRG:</u> group	Percentage of spend on black employees in the measured entity for the specific race
<u>%SpendRG:</u> group	Percentage of spend on black employees in the measured entity for the specific race Rand value of Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for the specified Race Group for

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race groups, the EAP statistics need to be adjusted to exclude the white

categories. The following formula shows how this is accomplished:

#### <u>Let</u>

$ADJ \ EAP \ AM = \frac{EAP(AM)}{EAP(Sum)}$	i de la constante d
$ADJ \ EAP \ AF = \frac{EAP(AF)}{EAP(Sum)}$	
$ADJ \ EAP \ CM = \frac{EAP(CM)}{EAP(Sum)}$	
$ADJ \ EAP \ CF = \frac{EAP(CF)}{EAP(Sum)}$	
$ADJ \ EAP \ IM = \frac{EAP(IM)}{EAP(Sum)}$	
$ADJ \ EAP \ IF = \frac{EAP(IF)}{EAP(Sum)}$	
Where:	
ADJ EAP RG:	Adjusted EAP for a specific race group
<u>EAP (RG):</u>	EAP statistic for the calculated race group
EAP (Sum):	Sum of published EAP statistics for all black race groups

(AM+AF+CM+CF+IM+IF)

Since the calculation for each of the race groups need to be done individually,

the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

<u>Let</u>

SCT AM = ADJ EAPAM	$x \frac{Compliance\ target}{100}$
SCT AF = ADJ EAPAF x	Compliance target 100
$SCT \ CM = ADJ \ EAPCM$	$x \frac{Compliance\ target}{100}$
$SCT \ CF = ADJ \ EAPCF \ x$	Compliance target
SCT IM = ADJ EAPIM x	Compliance target 100
SCT  IF = ADJ  EAPIF  x	Compliance target 100
Whoro:	

Where:

SCT RG: Split Compliance Target for race group

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ADJ EAP RG: Ac	djusted EAP for the race group as
	ove
Compliance target: Comp	bliance Target as specified for 2.1.1.1
The points allocated for the measurement criteria	a will also be split in proportion to
the EAP statistics. The split points for the measu	rement criteria represent the
maximum allowable points for the race groups, a	ind must be enforced as such.
The formula for calculating the maximum allowal	ole points is shown below:
MAP AM = ADJ EAPAM x Points	
MAP AF = ADJ EAPAF x Points	
$MAP \ CM = ADJ \ EAPCM \ x \ Points$	
$MAP \ CF = ADJ \ EAPCF \ x \ Points$	
MAP IM = ADJ EAPIM x Points	
MAP IF = ADJ EAPIF x Points	
Where:	
MAP: Maximum allowable points for a race grou	<u>0</u>
Points: Weighting points as specified for 2.1.1.1	
The achieved score per race group (ScoreRG) w	ill be calculated using the above
four equations. The formula must be completed	for each race group using the
four results from above for each race group. This	<u>s formula is shown below:</u>
$ScoreAM = \left(\frac{\%Spend AM}{SCT AM}\right) x MAP AM$	
$ScoreAF = \left(\frac{\% Spend \ AF}{SCT \ AF}\right) x \ MAP \ AM$	
$ScoreCM = \left(\% \frac{Spend CM}{SCT CM}\right) x MAP CM$	
$ScoreCF = \left(\frac{\% Spend CF}{SCT CF}\right) x MAP CF$	
$ScoreIM = \left(\frac{\% Spend IM}{SCT IM}\right) x MAP IM$	

 $ScoreIF = \left(\frac{\%Spend IF}{SCT IF}\right) x MAP IF$ 

Note that the score per race group may not exceed the maximum allowable points for that race group. The following shows how the total score for 2.1.1.1 is calculated:

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Total Score = ScoreAM + ScoreAF + ScoreCM + ScoreCF + ScoreIM + ScoreIF

#### Formula 2

The Skills Development criteria provided for in paragraphs 2.1.2.1 and 2.1.2.2, is calculated by following the sub calculations below. The measurement criteria targets for 2.1.2.1 and 2.1.2.2 are broken down according to the relevant EAP statistics i.e. splitting the compliance target and points in proportion to the EAP statistics. The maximum points per race group needs to be adhered to in order to achieve the outcomes of the code. These calculations will need to be repeated for every race group due to the maximum score for each race group.

The first parameter to be defined is the percentage of black employees in the measured entity for the measurement criteria (Number of black people

participating in Learnerships, Apprenticeships and Internships OR Number of

black unemployed people participating in the learning programme matrix). The

formula to calculate this will need to be repeated six times, for each of the six black EAP statistics.

Let

% Black AM	= <u>Number of AM Learners</u> Total of all employees in all race groups
	Number of AF Learners Total of all employees in all race groups
% Black CM =	= <u>Number of CM Learners</u> Total of all employees in all race groups
% Black CF =	Number of CF Learners Total of all employees in all race groups
% Black IM =	Number of IM Learners Total of all employees in all race groups
% Black IF =	Number of IF Learners Total of all employees in all race groups
Where:	
RG:	Race Group
% BlackRG:	Percentage of black employees in the measured
	Entity for the specific race group

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Number of RG learners:	Number of people participating in Learnerships,			
<u>/</u>	Apprenticeships and	Internships OR number of		
unemployed people participating in training specified in the				
<u> </u>	learning programme matrix			

Total of all race groups: Total of all employees in the measured entity

(AM+AF+CM+CF+IM+IF+WM+WF)

Due to the codes not awarding points for meeting the EAP statistics for the white

race groups, the EAP statistics need to be adjusted to exclude the white

categories. The following formula shows how this is accomplished:

Let

$ADJ EAP AM = \frac{EAP(AM)}{EAP(Sum)}$
$ADJ \ EAP \ AF = \frac{EAP(AF)}{EAP(Sum)}$
$ADJ \ EAP \ CM = \frac{EAP(CM)}{EAP(Sum)}$
$ADJ \ EAP \ CF = \frac{EAP(CF)}{EAP(Sum)}$
$ADJ \ EAP \ IM = \frac{EAP(IM)}{EAP(Sum)}$
$ADJ \ EAP \ IF = \frac{EAP(IF)}{EAP(Sum)}$
Where:
ADJ EAP RG:
<u>EAP (RG):</u>

EAP (Sum):	Sum of published EAP statistics for all black race
	groups (AM+AF+CM+CF+IM+IF)

Adjusted EAP for a specific race group

AP statistic for the calculated race group

Since the calculation for each of the race groups need to be done individually, the compliance target also needs to be split in proportion to the EAP statistics.

This formula is defined below:

Let

 $SCT AM = ADJ EAP AM x \frac{Compliance target}{100}$  $SCT AF = ADJ EAP AF x \frac{Compliance target}{100}$  $SCT CM = ADJ EAP CM x \frac{Compliance target}{100}$  $SCT CF = ADJ EAP CF x \frac{Compliance target}{100}$ 

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SCT $IM = ADJ EAP IM x \frac{Compliants}{2}$	ance target 100
SCT IF = ADJ EAP IF $x \frac{Complian}{10}$	nce target
Where:	
SCT RG:	Split Compliance Target for race group
ADJ EAP RG: calculated	Adjusted EAP for the race group as
	above
Compliance target:	Compliance Target as specified for 2.1.2.1 OI 2.1.2.2
The points allocated for the me	asurement criteria will also be split in proportion to
the EAP statistics. The split poi	ints for the measurement criteria represent the
maximum allowable points for t	the race groups, and must be enforced as such.
The formula for calculating the	maximum allowable points is shown below:
MAP AM = ADJ EAP AM x Point	nts
$MAP \ AF = ADJ \ EAP \ AF \ x \ Point$	ts
$MAP \ CM = ADJ \ EAP \ CM \ x \ Point$	<u>its</u>
$MAP \ CF = ADJ \ EAP \ CF \ x \ Point$	ts
MAP IM = ADJ EAP IM x Point	ts
$MAP \ IF = ADJ \ EAP \ IF \ x \ Points$	5
Where:	
MAP: Ma	aximum allowable points for a race group
Points: We	eighting points as specified for 2.1.2.1 OR 2.1.2.2
The achieved score per race gr	roup (Score RG) will be calculated using the above
four equations. The formula mu	ust be completed for each race group using the
four results from above for eacl	h race group. This formula is shown below:
$ScoreAM = \left(\frac{\%Spend AM}{SCT AM}\right) x MAP$	AM
$ScoreAF = \left(\frac{\%Spend AF}{SCT AF}\right) x MAP A$	AF
$ScoreCM = \left(\frac{\%Spend\ CM}{SCT\ CM}\right) x\ MAP$	СМ
$ScoreCF = \left(\frac{\%Spend CF}{SCT CF}\right) x MAP C$	<u>CF</u>

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$$ScoreIM = \left(\frac{\% Spend IM}{SCT IM}\right) x MAP IM$$

 $ScoreIF = \left(\frac{\% Spend IF}{SCT IF}\right) x MAP IF$ 

Note that the score per race group may not exceed the maximum allowable points for that race group. The following shows how the totals score for 2.1.2.1 **OR** 2.1.2.2 is calculated:

Total Score = ScoreAM + ScoreAF + ScoreCM + ScoreCF + ScoreIM + ScoreIF

#### Formula 3

This equation explains the method of measurement of the criteria under

paragraph 2.1.1.2 and 2.1.3

$$A = \frac{B}{c} x D$$

Where

A is the score for measurement category indicator

**B** is the percentage of spend in the measurement category that are black disabled people

**B** is the percentage of absorbed people in the measurement category that are black people

 ${\pmb C}$  is the target for the applicable criteria as referred to in the scorecard under statement 300

**D** is the Weighting points for the applicable criteria as referred to in the scorecard under statement 300