



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

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# GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 593.

23 Maart 1990

No. 593.

23 March 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

—o. 17 van 1990: Wysigingswet op Beslote Korporasies, 1990.

No. 17 of 1990: Close Corporations Amendment Act, 1990.

## CLOSE CORPORATIONS AMENDMENT ACT, 1990

Act No. 17, 1990

## GENERAL EXPLANATORY NOTE:

**[ ]** Words in bold type in square brackets indicate omissions from existing enactments.

       Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Close Corporations Act, 1984, so as to further regulate the legal position of a trustee of a trust *inter vivos* and any nominee of such trustee who in that capacity acquired a member's interest in a corporation before 13 April 1987 and any successor in title of such trustee or nominee; to further regulate the making of loans to, and the provision of security in connection with an obligation of, members or officers of corporations and corporations or companies controlled by them; to provide that a corporation may change its current financial year; and to further define the duties of an accounting officer of a corporation; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)  
(Assented to 9 March 1990.)

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 29 of Act 69 of 1984, as amended by section 3 of Act 64 of 1988**

1. Section 29 of the Close Corporations Act, 1984 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (1) of the following subsection:

- “(1A) The provisions of subsection (1) shall not apply to the membership of a corporation of a natural person who holds that membership for the benefit of a trust *inter vivos* if immediately before 13 April 1987 a natural person held membership of the corporation for the benefit of that trust: Provided that—
- 10 (a) no juristic person shall directly or indirectly be a beneficiary of that trust;
- (b) the member concerned shall, as between himself and the corporation, personally have all the obligations and rights of a member;
- 15 (c) the corporation shall not be obliged to observe or have any obligation in respect of any provision of or affecting the trust or any agreement between the trust and the member concerned of the corporation; and
- (d) if at any time the number of natural persons at that time entitled to receive any benefit from the trust shall, when added to the number of members of the corporation at that time, exceed 10, the provisions of, and exemption under, this subsection shall cease to apply and shall not again become applicable notwithstanding any diminution in the number of members or
- 20 beneficiaries.”.

## CLOSE CORPORATIONS AMENDMENT ACT, 1990

Act No. 17, 1990

## Amendment of section 55 of Act 69 of 1984

2. Section 55 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (3) of the following paragraph:
- 5 “(b) another company or another juristic person controlled by one or more directors or managers of the company’s holding company or of a company which is a subsidiary of its holding company,”; and
- (b) by the substitution for subparagraph (ii) of subsection (3) of the following subparagraph:
- 10 “(ii) another company or another juristic person controlled by one or more members of any such corporation, or by one or more directors or managers of a company which would be a subsidiary of the corporation were it a company.”.

## Amendment of section 57 of Act 69 of 1984, as amended by section 11 of Act 38 of 1986

15 3. Section 57 of the principal Act is hereby amended—

- (a) by the addition to subsection (2) of the following proviso:
- “Provided that the corporation may not change the date referred to in subsection (1) (a) more than once in any financial year.”; and
- (b) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- 20 “(b) in the case of a corporation which has in terms of subsection (2) changed the date referred to in subsection (1) (a), the financial year [following that current at the time of the registration of the required amended founding statement in terms of section 15 (2),] shall commence at the end of [that current] the previous financial year and shall end on the date as changed occurring not less than 3 or more than [15] 18 months after the end of that [current] previous financial year.”.
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## Amendment of section 62 of Act 69 of 1984, as amended by section 13 of Act 38 of 1986

4. Section 62 of the principal Act is hereby amended—

- 30 (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
- “(b) [determine] review the appropriateness of the accounting policies represented to the accounting officer as having been applied in the preparation of the annual financial statements; and”;
- 35 (b) by the addition of the following subsection to the said section 62:
- “(4) If an accounting officer of a corporation has in accordance with subparagraph (ii) or (iii) of paragraph (b) of subsection (3) reported to the Registrar that the annual financial statements of the corporation concerned indicate that as at the end of the financial year concerned the corporation’s liabilities exceed its assets or that the annual financial statements incorrectly indicate that as at the end of the financial year concerned the assets of the corporation exceed its liabilities, or that he has reason to believe that such an incorrect indication is given, and he finds that any subsequent financial statements of the corporation concerned indicate that the situation has changed or has been rectified and that the assets concerned then exceed the liabilities or that they no longer incorrectly indicate that the assets exceed the liabilities or that he no longer has reason to believe that such an incorrect indication is given, as the case may be, he may report to the Registrar accordingly.”.
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## 50 Short title

5. This Act shall be called the Close Corporations Amendment Act, 1990.