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# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 451.

17 Maart 1982.

No. 451.

17 March 1982.

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:—

No. 29 van 1982: Maatskappywysigingswet, 1982.

No. 29 of 1982: Companies Amendment Act, 1982.



## COMPANIES AMENDMENT ACT, 1982

Act No. 29, 1982

3. (1) Section 63 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- 5 “The fee for the registration of a company shall be a basic amount of **[fifteen] fifty** rand and an additional fee calculated at the rate of—”; and
- (b) by the deletion of the proviso to subsection (2).
- (2) Subsection (1) shall come into operation on 1 April 1982 and the amendment effected thereby shall apply in every case where
- 10 a memorandum and articles are on or after that date lodged for registration with the Registrar of Companies in accordance with section 63 (1) of the principal Act.
- Amendment of section 63 of Act 61 of 1973, as amended by section 4 of Act 76 of 1974.
4. (1) Section 73 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- 15 “(1) If a company has failed, for a period of more than **[two years] six months**, to lodge with the Registrar an annual return in compliance with the provisions of section 173 or when the Registrar has reasonable cause to believe that a company is not carrying on business or is not in
- 20 operation, he shall, in accordance with subsection (7), send to the company by certified post a letter enquiring whether it is carrying on business or is in operation.”
- (2) (a) Subject to the provisions of paragraph (b), subsection (1) shall come into operation on 1 January 1983.
- 25 (b) Any steps taken under section 73 of the principal Act by the Registrar of Companies before the commencement of subsection (1) shall remain of force and effect and may be continued as if the said subsection (1) did not come into operation.
- Amendment of section 73 of Act 61 of 1973, as amended by section 5 of Act 59 of 1978.
5. Section 135 of the principal Act is hereby amended by the substitution for paragraph (i) of the proviso to subsection (1) (b) of the following paragraph:
- 30 “(i) such broker’s transfer form shall be prepared—
- (aa) by a stock-broker as defined in section 1 of the
- 35 Stock Exchanges Control Act, 1947 (Act No. 7 of 1947); or
- (bb) by a banking institution registered otherwise than
- 40 provisionally under the Banks Act, 1965 (Act No. 23 of 1965), and authorized thereto in writing by the Registrar, at a branch thereof designated by the Registrar,
- and shall bear **[his] the signature of the stock-broker concerned or of a person in the service of the banking institution concerned or an authorized facsimile**
- 45 **[thereof] of that signature;”**.
- Amendment of section 135 of Act 61 of 1973, as amended by section 7 of Act 76 of 1974.
6. (1) Section 172 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for the words following upon paragraph (c) of the following words:
- 50 “and accompanied by the return prescribed by section 216 (2) **[and proof of payment of the annual duty referred to in section 174]**.”; and
- (b) by the deletion of paragraph (c) of subsection (3).
- (2) (a) Subject to the provisions of paragraph (b), subsection (1) shall come into operation on 1 April 1982.
- 55 (b) The provisions of section 172 of the principal Act as they existed immediately prior to the commencement of subsection (1) of this section, shall remain of force and effect in the case of every company having a share capital, incorporated before the said commencement, and in respect of which a certificate to commence
- 60 business has at that commencement not yet been issued under the said section 172.
- Amendment of section 172 of Act 61 of 1973, as amended by section 9 of Act 76 of 1974 and section 9 of Act 59 of 1978.

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7. (1) Section 173 of the principal Act is hereby amended—  
 (a) by the substitution for subsection (1) of the following subsection:

Amendment of section 173 of Act 61 of 1973, as amended by section 13 of Act 111 of 1976, section 13 of Act 64 of 1977 and section 21 of Act 114 of 1977.

5           “(1) Every company **[having a share capital], other than a company exempted in terms of any law from the payment of annual duty,** shall not later than **[one month after the end of its financial year, and, where any financial year is changed, also not later than one month after the end of that financial year]** the end of the month following upon the month within which the anniversary of the date of its incorporation occurs, lodge with the Registrar a return in the prescribed form **[specifying the particulars prescribed by the Minister by regulation, in regard to the company as at the date of the end of its financial year]:** Provided that if the Registrar notifies such a company in writing that the date of its incorporation cannot be established from the documents in the Companies Registration Office, the date of such anniversary shall for the purposes of this section be deemed to be 30 June.”; and

- 15           (b) by the deletion of subsections (2), (3), (4) and (5).  
 20       (2) (a) Subject to the provisions of paragraphs (b) and (c), subsection (1) shall come into operation on 1 April 1982.  
 25           (b) For the purposes of section 173 of the principal Act as amended by subsection (1) of this section, the month of July shall be deemed to be the month in 1982 within which the anniversary occurs of the date of incorporation of a company having a financial year ending upon or after 1 April 1982 but not later than 30 November 1982.  
 30           (c) Any company whose financial year ends or has ended on any date during the four months immediately preceding 1 April 1982, shall lodge its first annual return in compliance with the said section 173, as so amended, at the appropriate time after 30 November 1982.

- 35       8. (1) The following section is hereby substituted for section 174 of the principal Act:

Substitution of section 174 of Act 61 of 1973, as amended by section 10 of Act 76 of 1974, section 22 of Act 114 of 1977, section 10 of Act 59 of 1978 and section 10 of Act 99 of 1981.

40           **174. (1) Subject to the provisions of subsection (3), every company shall pay to the Registrar annual duty of eighty rand or such other annual duty as may be prescribed by regulation.**  
 45           (2) The first payment of annual duty shall be effected—  
 50           (a) in the case of a company not being an external company, upon lodgment in terms of section 63 (1) with the Registrar of the memorandum and articles concerned for registration; and  
 55           (b) in the case of an external company, upon lodgment in terms of section 322 (1) with the Registrar of a certified copy of its memorandum for registration,  
 and thereafter upon lodgment with the Registrar of the annual return of the company concerned.  
 (3) The provisions of subsection (1) shall not apply in respect of—  
 60           (a) a company which is in terms of any law exempt from the payment of annual duty;  
 (b) an association not for gain incorporated under section 21; and  
 65           (c) an external company operating a scheduled international air transport service as the designated carrier of another state in terms of an agreement between the Government of the Republic and the government of that state.

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5 (4) From the date upon which the Court makes an order for the winding-up of a company which is obliged to pay annual duty or a special resolution to wind up such a company is registered in terms of section 200 or such a company is deregistered, annual duty which was owing by such a company immediately prior to that date shall not be recoverable: Provided that if the said order is discharged or declared void, or the Court at any time sets aside all proceedings in relation to the winding-up of the company concerned or makes an order declaring the dissolution of the company concerned to be void or for the registration of the company concerned to be restored, or, in the case where the company concerned is an external company, that company again establishes a place of business in the Republic, as the case may be, that company shall, subject to the provisions of subsection (5), within twenty-one days thereafter pay the full annual duty which was so owing or such part thereof as the Court may direct.

10 (5) Subject to the provisions of subsection (6), subsection (1) shall not apply in respect of a company while it is being wound up.

15 (6) If a winding-up order is discharged or declared void or the Court at any time sets aside all proceedings in relation to the winding-up of a company or makes an order declaring the dissolution of a company to be void or for the registration of a deregistered company to be restored, the Court may direct that annual duty or such part thereof as the Court may deem just shall be paid by the company concerned in respect of each year during which the company was being wound up or was dissolved or deregistered, and that company shall within twenty-one days thereafter pay such annual duty or part thereof.

20 (7) A company which fails to pay annual duty payable by it, in full within the period of time prescribed by subsection (2), (4) or (6), shall be liable for the payment of the additional fees prescribed by section 178.

25 (8) For the purposes of this section 'company' shall include an external company."

30 (2) (a) Subject to the provisions of paragraphs (b) and (c), subsection (1) shall come into operation on 1 April 1982.

35 (b) The provisions of subsection (1) (a) of section 174 of the principal Act as they existed immediately prior to the commencement of subsection (1) of this section, shall remain of force and effect in the case of every company having a share capital, incorporated before the said commencement, and in respect of which a certificate to commence business has at that commencement not yet been issued under section 172 of the principal Act.

40 (c) The Registrar of Companies may, on application in writing by a company contemplated in section 7 (2) (b) of this Act or that section as applied by section 14 (2) (b) of this Act and obliged to pay annual duty, for reasons stated in the application and considered by him to be adequate, exempt that company from the payment of additional fees prescribed by section 178 occasioned by the failure of that company to pay annual duty in full on lodgment with the said Registrar of an annual return contemplated in the said section 7 (2) (b).

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9. (1) Section 175 of the principal Act is hereby repealed.  
 (2) Subsection (1) shall come into operation on 1 April 1982.

Repeal of section 175 of Act 61 of 1973, as amended by section 14 of Act 111 of 1976, section 23 of Act 114 of 1977, section 11 of Act 59 of 1978 and section 11 of Act 99 of 1981.

10. (1) The following section is hereby substituted for section 178 of the principal Act:

Substitution of section 178 of Act 61 of 1973, as amended by section 15 of Act 64 of 1977 and section 7 of Act 84 of 1980.

- 5 "Additional fees in re- spect of late lodgment of returns and other docu- ments and late payment of annual duty.
- 10 178. (1) A company or an external company which has failed to lodge a return or other document required by section 93 (3), 200 (1), 216 (2) or 276, or to pay annual duty, as the case may be, within the period of time specified by the relevant provision, may thereafter, without derogating from any provi- sion of this Act, lodge such return or other docu- ment or pay that duty subject to the payment to the Registrar of additional fees—
- 15 (a) in the case of such return or other document, in the amount of twenty rand; and
- (b) in the case of that duty, in the amount of thirty rand,
- in respect of each such failure.
- 20 (2) For the purposes of subsection (1), the decision of the Registrar as to the period of time within which a return or other document contem- plated in that subsection was required to be lodged or annual duty was required to be paid, shall be final."

- 25 (2) Subsection (1) shall come into operation on 1 April 1982.

11. Section 179 of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (b) of subsection (1) of the following subparagraph:

Amendment of section 179 of Act 61 of 1973, as amended by section 16 of Act 64 of 1977.

- 30 "(ii) thereafter within not more than [six] nine months after the end of every ensuing financial year of that company; and".

12. (1) Section 285 of the principal Act is hereby amended by the deletion in paragraph (b) of subsection (2) of the words "and upon payment of the annual duty referred to in section 174 (5)".

Amendment of section 285 of Act 61 of 1973, as amended by section 12 of Act 76 of 1974 and section 3 of Act 115 of 1979.

- 35 (2) Subsection (1) shall come into operation on 1 April 1982.

13. (1) Section 322 of the principal Act is hereby amended by the deletion of paragraph (h) of subsection (1) as well as the word "and" immediately preceding that paragraph.

Amendment of section 322 of Act 61 of 1973, as amended by section 20 of Act 59 of 1978 and section 17 of Proclamation 234 of 1978.

- (2) Subsection (1) shall come into operation on 1 April 1982.

- 40 14. (1) The following section is hereby substituted for section 330 of the principal Act:

Substitution of section 330 of Act 61 of 1973, as amended by section 23 of Act 59 of 1978.

- 45 "External companies to lodge annual returns.
330. The provisions of section 173 (1) and (7) shall *mutatis mutandis* apply in respect of external com- panies, and in such application a reference to the date of incorporation of a company shall be con- strued as a reference to the date of registration

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under section 322 (2) by the Registrar of a certified copy of the memorandum of an external company.”.

- (2) (a) Subject to the provisions of paragraph (b), subsection (1) shall come into operation on 1 April 1982.
- 5 (b) For the purposes of section 330 of the principal Act as amended by subsection (1) of this section, the provisions of section 7 (2) (b) and (c) of this Act shall *mutatis mutandis* apply in respect of external companies.
- 10 15. (1) Section 333 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 333 of Act 61 of 1973.
- 15 “(2) Every external company which and every director and officer of such company who fails to comply with any requirement of section 173 (1) as applied by section 330 or of section 325, 326, 327, 328, 329 **[330]** or 331, shall be guilty of an offence.”.
- (2) Subsection (1) shall come into operation on 1 April 1982.
16. Sections 10, 11 and 12 of the Revenue Laws Amendment Act, 1981, are hereby repealed. Repeal of sections 10, 11 and 12 of Act 99 of 1981.
- 20 17. This Act shall be called the Companies Amendment Act, Short title. 1982.