

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain uneven numbered pages as the other language is printed on even numbered pages.



STAATSKOERANT

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1260.

29 Junie 1988

No. 1260.

29 June 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee 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:—

Wet No. 63 van 1988: Maatskappywysigingswet, 1988.

No. 63 of 1988: Companies Amendment Act, 1988.

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 Companies Act, 1973, so as to provide that a retired judge may also be appointed as chairman of the standing advisory committee on company law; to regulate further the effect of the conversion of close corporations into companies; to extend the period for which a name may be registered as a defensive name; to authorize all the members of a company to waive notice of a general meeting at which a special resolution is to be passed; and to extend the powers of liquidators to open banking accounts; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 17 June 1988.)

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

Amendment of section 18 of Act 61 of 1973

1. Section 18 of the Companies Act, 1973 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

10 “(a) The Minister shall appoint a standing advisory committee on company law consisting of a judge, a retired judge or a senior advocate of the Supreme Court of South Africa as chairman, and such *ex officio* and other members as he may from time to time determine: Provided that the Minister shall consult the Minister of Justice before he so appoints a judge or retired judge.”

Amendment of section 29D of Act 61 of 1973, as inserted by section 3 of Act 70 of 1984

15 2. (1) Section 29D of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph:

 “(c) The juristic person which existed as a close corporation before the conversion shall notwithstanding the conversion continue to exist as a juristic person, but in the form of a company.”

(2) Subsection (1) shall be deemed to have come into operation on 1 January 1985.

COMPANIES AMENDMENT ACT, 1988

Act No. 63, 1988

Amendment of section 43 of Act 61 of 1973, as amended by section 2 of Act 84 of 1980 and section 7 of Act 83 of 1981

3. Section 43 of the principal Act is hereby amended by the substitution for subsection (2A) of the following subsection:

- 5 “(2A) If the Registrar grants any application referred to in subsection (2) he shall register the name in question as a defensive name for a period not exceeding **[one year] two years** or renew the registration of the name in question as a defensive name for a period not exceeding **[one year] two years**, as the case may be.”.

10 Amendment of section 199 of Act 61 of 1973, as amended by section 18 of Act 111 of 1976

4. Section 199 of the principal Act is hereby amended by the insertion after subsection (3) of the following subsection:

- 15 “(3A) Notwithstanding the provisions of subsection (1), a resolution may, with the written consent, on the prescribed form, of all the members of the company, be proposed and passed as a special resolution at a meeting of which notice as contemplated in subsection (1) has not been given. A copy of such consent, on the prescribed form, shall be lodged with the Registrar together with a copy of the special resolution.”.

20 Amendment of section 200 of Act 61 of 1973

5. Section 200 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
25 “(1) Within one month from the passing of a special resolution a copy of such resolution together with either a copy of the notice convening the meeting concerned or a copy of the consent contemplated in section 199 (3A), as the case may be, shall be lodged with the Registrar, who shall, subject to the provisions of subsection (2) and upon payment of the prescribed fee, register such resolution.”; and
30 (b) by the substitution for subsection (6) of the following subsection:
 “(6) If a company makes default in lodging with the Registrar a copy of any special resolution, and the notice or the consent, as required by subsection (1), the company, and every director or officer who knowingly permits or is a party to the default, shall be guilty of an offence.”.

Amendment of section 394 of Act 61 of 1973

35 6. Section 394 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The liquidator of a company—
40 (a) shall open a current account from which amounts are withdrawable by cheque in the name of the company in liquidation with a banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), within the Republic, and shall from time to time deposit therein to the credit of the company all moneys received by him on its behalf;
45 (b) may **[with the written consent of the Master]** open a savings account in the name of such company with such a banking institution, **[or]** a mutual building society registered under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), or a building society registered under the Building Societies Act, 1986 (Act No. 82 of 1986), within the Republic, and may transfer thereto moneys deposited in the account referred to in paragraph (a) and not immediately required for the payment of any claim against such
50 company;

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- 5 (c) may [with the written consent of the Master] place moneys deposited in the account referred to in paragraph (a) and not immediately required for the payment of any claim against such company, on interest-bearing deposit with such banking institution, [or such] mutual building society or building society within the Republic;
- (d) shall not withdraw any money from any account referred to in paragraph (b) or (c) otherwise than by way of a transfer to the said current account.”.

Short title

7. This Act shall be called the Companies Amendment Act, 1988.