



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1557.

18 Julie 1979.

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

No. 115 van 1979: Maatskappywysigingswet, 1979.

No. 1557.

18 July 1979.

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

No. 115 of 1979: Companies Amendment Act, 1979.

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COMPANIES AMENDMENT ACT, 1979.

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 provisions of the Companies Act, 1973, so as to provide for the deregistration and, in certain cases, the registration as external companies of certain companies which are registered in the Republic and become registered in certain designated states; to further regulate the powers of the Minister to require certain information; and to further regulate the changing of the end of its financial year by a company; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 2 July 1979.)

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

Insertion of heading and sections 73A, 73B, 73C and 73D in Act 61 of 1973.

1. The following heading and sections are hereby inserted in the Companies Act, 1973 (hereinafter referred to as the principal Act), after section 73:

“Companies which cease to be registered in the Republic.

Designation of certain states for particular purposes.

73A. The Minister may by notice in the *Gazette* designate any state the territory of which formed part of the Republic and which became an independent state in terms of an Act of Parliament, as a state between the Government of which and the Government of the Republic an agreement exists relating to the registration in that state of certain companies incorporated and certain external companies registered in the Republic.

Effect of certain agreements entered into with designated states.

73B. The provisions of sections 73C and 73D shall apply in respect of any company incorporated, or external company registered, in the Republic, which has a registered office or place of business in a state designated in terms of section 73A and which, in accordance with the provisions of an agreement relating to such companies and external companies entered into between the Government of the Republic and the Government of that state, is registered as a company and deemed to be incorporated in, or is registered as an external company in, that state.

Deregistration of companies registered in designated state.

73C. (1) When the Registrar is notified by the proper officer of a state designated in terms of section 73A that—
(a) a company incorporated in the Republic has been registered and is deemed to be incorporated in that state, the Registrar shall, in accordance with

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die bepalings van die Maatskappywet, 1973, ten einde voorsiening te maak vir die deregistrasie en, in sekere gevalle, die registrasie as buitelandse maatskappye van sekere maatskappye wat in die Republiek geregistreer is en in sekere aangewese state geregistreer word; die bevoegdhede van die Minister om sekere inligting te vorder, verder te reël; en die verandering van die einde van sy boekjaar deur 'n maatskappy verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1979.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Die volgende opskrif en artikels word hierby in die Maatskappywet, 1973 (hieronder die Hoofwet genoem), na artikel 73 ingevoeg:

Invoeging van opskrif en artikels 73A, 73B, 73C en 73D in Wet 61 van 1973.

„Maatskappye wat ophou om in die Republiek geregistreer te wees.

- 10 Aanwysing van sekere state vir bepaalde doeleindes.
- 15 **73A.** Die Minister kan by kennisgewing in die *Staatskoerant* 'n staat waarvan die gebied deel van die Republiek uitgemaak het en wat ingevolge 'n Wet van die Parlement 'n onafhanklike staat geword het, aanwys as 'n staat tussen die Regering waarvan en die Regering van die Republiek 'n ooreenkoms bestaan met betrekking tot die registrasie in daardie staat van sekere maatskappye ingelyf en sekere buitelandse maatskappye geregistreer in die Republiek.

- 20 Uitwerking van sekere ooreenkomste aangegaan met aangewese state.
- 25 **73B.** Die bepalings van artikels 73C en 73D is van toepassing ten opsigte van 'n maatskappy wat ingelyf is, of 'n buitelandse maatskappy wat geregistreer is, in die Republiek, wat 'n geregistreerde kantoor of besigheidsplek het in 'n staat aangewys ingevolge artikel 73A en wat, ooreenkomstig die bepalings van 'n ooreenkoms aangegaan met betrekking tot sodanige maatskappye en buitelandse maatskappye tussen die Regering van die Republiek en die Regering van daardie staat, in daardie staat as 'n maatskappy geregistreer is en geag word ingelyf te wees of as 'n buitelandse maatskappy geregistreer is.

- 30 Deregistrasie van maatskappye wat in aangewese state geregistreer is.
- 35 **73C.** (1) Wanneer die Registrateur deur die gepaste beambte van 'n staat aangewys ingevolge artikel 73A in kennis gestel word dat—
(a) 'n maatskappy wat in die Republiek ingelyf is, in daardie staat geregistreer is en geag word ingelyf te wees, moet die Registrateur, ooreenkomstig

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the provisions of section 73 (7), by certified post send to that company a notice in which the company is informed—

- (i) that the Registrar has been so notified;
- (ii) of the date with effect from which the company has been so registered and is deemed to be so incorporated; and
- (iii) that after the expiration of a period of 90 days as from the date of the notice the company will, subject to the provisions of subsections (2) and (3), be deregistered in the Republic; or

(b) an external company registered in the Republic has been registered in that state, the Registrar shall by certified post send to such external company at its postal address and at the address of its registered office, to the person authorized to accept service on behalf of the external company and to its auditor, a notice in which the external company is informed—

- (i) that the Registrar has been so notified;
- (ii) of the date with effect from which the external company has been so registered; and
- (iii) that after the expiration of a period of 90 days as from the date of the notice the external company will, subject to the provisions of subsections (2) and (4), be deregistered in the Republic.

(2) If any company or external company referred to in subsection (1) has failed to satisfy the Registrar, before the expiration of the period specified in a notice referred to in paragraph (a) or (b), as the case may be, of that subsection, or within such further period as the Registrar may on the written application of the company or external company allow, that the company or external company should not be registered in the state in question or that the company or external company has ceased to be so registered after the date referred to in subsection (1) (a) (ii) or (b) (ii), as the case may be, the provisions of section 73 (5) and (6) shall *mutatis mutandis* apply in respect of such company and the provisions of section 332 (4) shall *mutatis mutandis* apply in respect of such external company, but subject to, respectively, the provisions of subsections (3) and (4) of this section: Provided that in the application of section 73 (5) or 332 (4), as the case may be, the reference therein to any notice shall be construed as a reference to the notice sent in terms of subsection (1) (a) to the company in question or in terms of subsection (1) (b) to the external company in question, and the reference in section 332 (4) to a period of two months shall be construed as a reference to the period or further period (if such further period has been allowed by the Registrar under this subsection) referred to in this subsection.

(3) If a company satisfies the Registrar before the expiration of the period of 90 days referred to in subsection (1) (a) (iii) or within such further period as the Registrar may on the written application of the company allow, that such company has been registered and is deemed to be incorporated in a state designated in terms of section 73A, but that the said company has a place of business in the Republic, the Registrar shall—

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die bepalings van artikel 73 (7), per gesertifiseerde pos aan die maatskappy 'n kennisgewing stuur waarin die maatskappy verwittig word—

- (i) dat die Registrateur aldus in kennis gestel is;
- (ii) van die datum met ingang waarvan die maatskappy aldus geregistreer is en geag word ingelyf te wees; en
- (iii) dat na verstryking van 'n tydperk van 90 dae vanaf die datum van die kennisgewing die maatskappy, behoudens die bepalings van subartikels (2) en (3), in die Republiek gederegistreer sal word; of

(b) 'n in die Republiek geregistreerde buitelandse maatskappy in daardie staat geregistreer is, moet die Registrateur per gesertifiseerde pos aan daardie buitelandse maatskappy by sy posadres en by die adres van sy geregistreerde kantoor, aan die persoon gemagtig om betekening namens die buitelandse maatskappy te aanvaar en aan sy ouditeur, 'n kennisgewing stuur waarin die buitelandse maatskappy verwittig word—

- (i) dat die Registrateur aldus in kennis gestel is;
- (ii) van die datum met ingang waarvan die buitelandse maatskappy aldus geregistreer is; en
- (iii) dat na verstryking van 'n tydperk van 90 dae vanaf die datum van die kennisgewing die buitelandse maatskappy, behoudens die bepalings van subartikels (2) en (4), in die Republiek gederegistreer sal word.

(2) Indien 'n maatskappy of buitelandse maatskappy bedoel in subartikel (1) die Registrateur nie voor die verstryking van die tydperk vermeld in 'n kennisgewing bedoel in paragraaf (a) of (b), na gelang van die geval, van daardie subartikel, of binne die verdere tydperk wat die Registrateur op skriftelike aansoek deur die maatskappy of buitelandse maatskappy toelaat, oortuig het dat die maatskappy of buitelandse maatskappy nie in die betrokke staat geregistreer behoort te wees nie of dat die maatskappy of buitelandse maatskappy na die datum bedoel in subartikel (1) (a) (ii) of (b) (ii), na gelang van die geval, opgehou het om aldus geregistreer te wees nie, is, behoudens die bepalings van onderskeidelik subartikels (3) en (4) van hierdie artikel, die bepalings van artikel 73 (5) en (6) ten opsigte van daardie maatskappy en van artikel 332 (4) ten opsigte van daardie buitelandse maatskappy *mutatis mutandis* van toepassing: Met dien verstande dat by die toepassing van artikel 73 (5) of 332 (4), na gelang van die geval, die verwysing daarin na 'n kennisgewing uitgelê word as 'n verwysing na die kennisgewing wat ingevolge subartikel (1) (a) aan die betrokke maatskappy of ingevolge subartikel (1) (b) aan die betrokke buitelandse maatskappy gestuur is, en die verwysing in artikel 332 (4) na 'n tydperk van twee maande uitgelê word as 'n verwysing na die tydperk of verdere tydperk (indien so 'n verdere tydperk kragtens hierdie subartikel deur die Registrateur toegelaat is) bedoel in hierdie subartikel.

(3) Indien 'n maatskappy voor verstryking van die tydperk van 90 dae bedoel in subartikel (1) (a) (iii) of binne die verdere tydperk wat die Registrateur op skriftelike aansoek deur die maatskappy toelaat, die Registrateur oortuig dat daardie maatskappy geregistreer is en geag word ingelyf te wees in 'n staat aangewys ingevolge artikel 73A, maar dat bedoelde maatskappy 'n besigheidsplek in die Republiek het, moet die Registrateur—

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- (a) provided the company has complied with such of the provisions of section 322 (1) as the Registrar may determine, adjust the registration in respect of that company in the register kept by him under section 5 accordingly, and such adjustment shall be of force and effect as from the date referred to in paragraph (b); and 5
- (b) after compliance with the provisions of paragraph (a), by notice in the *Gazette* make known that the company in question— 10
- (i) has, with effect from a date specified in the notice, been registered and is deemed to be incorporated in a state designated in terms of section 73A and likewise specified in the notice; and 15
- (ii) has, with effect from the date referred to in subparagraph (i), been registered in the Republic as an external company. 20
- (4) If an external company satisfies the Registrar before the expiration of the period of 90 days referred to in subsection (1) (b) (iii) or within such further period as the Registrar may on the written application of the external company allow, that such external company has been registered in a state designated in terms of section 73A, but that the said external company has a place of business in the Republic, the Registrar shall, provided the external company has complied with such of the provisions of section 322 (1) as the Registrar may determine, adjust the records kept in respect of that external company in the Companies Registration Office accordingly. 25 30

Savings.

73D. (1) The provisions of section 73C shall not apply in respect of any company or external company of which the winding-up has commenced, or a company placed under judicial management, at any time before such company or external company could be deregistered in terms of the provisions of section 73C (2). 35

(2) The provisions of section 335 (5), (6) and (7) shall *mutatis mutandis* apply in respect of a company or an external company which has been deregistered in terms of the provisions of section 73C or a company which has been registered as an external company in terms of the last-mentioned provisions. 40

(3) Notwithstanding anything to the contrary contained in this Act, no fee shall be payable in respect of anything done by virtue of the provisions of sections 73B and 73C in connection with the registration of any company or external company.”. 45

Amendment of
section 255 of
Act 61 of 1973.

2. Section 255 of the principal Act is hereby amended— 50

- (a) by the substitution for subsection (1) of the following subsection:

“(1) When **[it appears to]** the Minister **[that there is good reason]** deems it necessary to investigate **[the ownership of]** any interest in shares or debentures of a company **[and that it is unnecessary to appoint an inspector for the purpose]**, he may by written notice require— 55

(a) any director or officer of the company; or

(b) any person whom he has reason to believe— 60

[(a)] (i) to **[be]** have or to have [been] had any [interested] interest in those shares or debentures; or

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- (a) mits die maatskappy voldoen het aan daardie bepalings van artikel 322 (1) wat die Registrateur bepaal, die registrasie ten opsigte van daardie maatskappy in die register deur hom gehou kragtens artikel 5 aanpas, en sodanige aanpassing is van krag met ingang van die datum bedoel in paragraaf (b); en
- (b) na voldoening aan die bepalings van paragraaf (a), by kennisgewing in die *Staatskoerant* bekend maak dat die betrokke maatskappy—
- (i) met ingang van 'n datum wat in die kennisgewing vermeld word in 'n staat aangewys ingevolge artikel 73A en wat insgelyks in die kennisgewing vermeld word, geregistreer is en geag word ingelyf te wees; en
- (ii) as 'n buitelandse maatskappy in die Republiek geregistreer is met ingang van die datum bedoel in subparagraaf (i).
- (4) Indien 'n buitelandse maatskappy voor verstryking van die tydperk van 90 dae bedoel in subartikel (1) (b) (iii) of binne die verdere tydperk wat die Registrateur op skriftelike aansoek deur die buitelandse maatskappy toelaat, die Registrateur oortuig dat daardie buitelandse maatskappy geregistreer is in 'n staat aangewys ingevolge artikel 73A, maar dat bedoelde buitelandse maatskappy 'n besigheidsplek in die Republiek het, moet die Registrateur, mits die buitelandse maatskappy voldoen het aan daardie bepalings van artikel 322 (1) wat die Registrateur bepaal, die rekords wat met betrekking tot daardie buitelandse maatskappy in die Registrasiekantoor vir Maatskappye gehou word dienoreenkomstig aanpas.

Voorbehoud. **73D.** (1) Die bepalings van artikel 73C is nie van toepassing nie ten opsigte van 'n maatskappy of buitelandse maatskappy waarvan die likwidasië begin het, of 'n maatskappy wat onder geregtelike bestuur geplaas is, op 'n tydstip voordat daardie maatskappy of buitelandse maatskappy ingevolge die bepalings van artikel 73C (2) gederegistreer kon word.

(2) Die bepalings van artikel 335 (5), (6) en (7) is *mutatis mutandis* van toepassing met betrekking tot 'n maatskappy of 'n buitelandse maatskappy wat ingevolge die bepalings van artikel 73C gederegistreer is of 'n maatskappy wat ingevolge laasgenoemde bepalings as 'n buitelandse maatskappy geregistreer is.

(3) Ondanks andersluidende bepalings van hierdie Wet, is geen gelde betaalbaar ten opsigte van enigiets uit hoofde van die bepalings van artikels 73B en 73C in verband met die registrasie van 'n maatskappy of 'n buitelandse maatskappy gedoen nie."

2. Artikel 255 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Wanneer **[dit vir]** die Minister **[voorkom dat daar gegronde rede is]** dit nodig ag om ondersoek in te stel na **[die besit van]** enige belang in aandele of skuldbriewe van 'n maatskappy **[en dat dit onnodig is om 'n inspekteur vir die doel aan te stel]**, kan hy by skriftelike kennisgewing—

- (a) 'n direkteur of beampte van die maatskappy; of
- (b) 'n persoon omtrent wie hy rede het om te glo—
- [(a)] (i)** dat hy in daardie aandele of skuldbriewe 'n belang het of gehad het; of

Wysiging van
artikel 255 van
Wet 61 van 1973.

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[(b)] (ii) to be acting or to have acted in relation to those shares or debentures as the **[attorney]** trustee or agent or nominee of someone **[interested]** having any interest therein,

to **[give]** furnish the Minister in writing, within twenty-one days after the date of the said notice, with any information which he has or can reasonably be expected to obtain as to **[the]** any present **[and]** or past **[interests]** interest in those shares or debentures and the **[names]** name and **[addresses]** address of the **[persons]** interested person concerned and of any **[persons]** person who **[are]** is acting or **[have]** has acted, on **[their]** his behalf in relation to **[the]** those shares or debentures.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) For the purposes of this section, a person shall be deemed to have an interest in a share or debenture of a company if he has any right as against any member of or any holder of a debenture of the company in respect of dividends, interest or capital received from the company by such member or holder, or if he has any right to acquire or dispose of the share or debenture or any interest therein or to vote in respect thereof or is able materially to influence the exercise of such voting right, or if his consent is necessary for the exercise of any of the rights of a member or any other **[persons]** person **[interested]** having an interest therein, or if a member or any other **[persons]** person **[interested]** having an interest therein can be required or **[are]** is accustomed to exercise **[their]** his rights in accordance with his instructions, or if he is a beneficiary, of whatever nature, in relation to such share or debenture.”;

Amendment of section 285 of Act 61 of 1973, as amended by section 12 of Act 76 of 1974.

3. Section 285 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A company may at any time before the end of its current financial year [—

(a)] on payment of the prescribed fee and on lodgement with the Registrar of the prescribed form—

(a) change the end of **[its]** that financial year to a date being not more than six months earlier; or

(b) with the approval of the Registrar given on good cause shown and upon payment of **[the prescribed fee and]** the annual duty referred to in section 174 (5), change the end of **[its]** that financial year to a date being not more than six months later,

and in such a case every subsequent financial year of the company shall end, subject to the provisions of this section, on the date as so changed.”;

Short title.

4. This Act shall be called the Companies Amendment Act, 1979.

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5 **[(b)]** (ii) dat hy met betrekking tot daardie aandeel
 of skuldbriewe optree of opgetree het as
 die **[prokureur]** trustee of agent of
 genomineerde van iemand wat daarin 'n
 belang het,
 10 aansê om aan die Minister binne een-en-twintig dae na
 die datum van bedoelde kennisgewing skriftelik inligting
 te verstrek wat hy het of wat hy redelikerwys verwag
 kan word om te verkry aangaande **[die]** enige huidige
 15 **[en]** of voormalige **[belange]** belang in daardie
 aandeel of skuldbriewe en die **[name]** naam en
 [adresse] adres van die betrokke belanghebbende
 [persone] persoon en van **[persone]** enige persoon
 wat ten behoeve van **[hulle]** hom met betrekking tot
 20 **[die]** daardie aandeel of skuldbriewe optree of
 opgetree het.”;

(b) deur subartikel (2) deur die volgende subartikel te
 vervang:
 20 „(2) By die toepassing van hierdie artikel word 'n
 persoon geag in 'n aandeel of skuldbrief van 'n
 maatskappy 'n belang te hê as hy 'n reg teenoor 'n lid
 van of 'n houer van 'n skuldbrief van die maatskappy
 het ten opsigte van dividende, rente of kapitaal wat deur
 25 daardie lid of houer van die maatskappy ontvang word,
 of as hy 'n reg het om die aandeel of skuldbrief of 'n
 belang daarin te verkry of van die hand te sit of ten
 opsigte daarvan te stem of in staat is om die uitoefening
 van sodanige stemreg wesenlik te beïnvloed, of as sy
 30 toestemming nodig is vir die uitoefening van enige van
 die regte van 'n lid of 'n ander **[persone]** persoon wat
 daarin 'n belang het, of as 'n lid of 'n ander **[persone]**
 persoon wat daarin 'n belang het, aangesê kan word of
 gewoond is om **[hul]** sy regte ooreenkomstig sy
 opdragte uit te oefen, of as hy 'n bevoordeelde van
 35 watter aard ook al is met betrekking tot so 'n aandeel of
 skuldbrief.”.

3. Artikel 285 van die Hoofwet word hierby gewysig deur
 subartikel (2) deur die volgende subartikel te vervang:

40 „(2) 'n Maatskappy kan te eniger tyd voor die einde van
 sy lopende boekjaar **[—]**
 (a) teen betaling van die voorgeskrewe geld en by indiening
 by die Registrateur van die voorgeskrewe vorm—
 (a) die einde van **[sy]** daardie boekjaar verander na 'n
 45 datum wat nie meer as ses maande vroeër is; of
 (b) met die goedkeuring van die Registrateur, verleen om
 gegronde redes aangevoer en teen betaling van **[die]**
 voorgeskrewe geld en die jaargeld in artikel 174 (5)
 bedoel, die einde van **[sy]** daardie boekjaar verander
 na 'n datum wat nie meer as ses maande later is nie,
 50 en in so 'n geval eindig elke daaropvolgende boekjaar
 van die maatskappy, behoudens die bepalinge van hierdie
 artikel, op die datum soos aldus verander.”.

Wysiging van
 artikel 285 van
 Wet 61 van 1973,
 soos gewysig deur
 artikel 12 van
 Wet 76 van 1974.

4. Hierdie Wet heet die Maatskappywysigingswet, 1979.

Kort titel.

