PROCLAMATION

by the

President of the Republic of South Africa

No. R. 86 31 August 1998

NONPROFIT ORGANISATIONS ACT, 1997 (ACT NO. 71 OF 1997)

In terms of section 36 of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), I hereby determine 1 September 1998 as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this 20th day of August One thousand Nine hundred and Ninety-eight.

N R Mandela
PRESIDENT

By Order of the President-in-Cabinet

G J Fraser-Moleketi
MINISTER OF THE CABINET
PROKLAMASIE
van die
President van die Republiek van Suid-Afrika

No. R. 86 31 Augustus 1998

WET OP ORGANISASIES SONDER WINSOOGMERK, 1997 (WET NO. 71 VAN 1997)

Kragtens artikel 36 van die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), bepaal ek hierby 1 September 1998 as die datum waarop genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede 20ste dag van Augustus Eenduisend Negehonderd Agt-en negentig.

N R Mandela
PRESIDENT
Op las van die President-in-Kabinet

G J Fraser-Moleketi
MINISTER VAN DIE KABINET

GOVERNMENT NOTICE

DEPARTMENT OF WELFARE

No. R. 1104 31 August 1998

REGULATIONS UNDER THE NONPROFIT ORGANISATIONS ACT, 1997

The Minister for Welfare and Population Development has under section 26 of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), made the regulations set out in the Schedule hereto and determined that the said regulations shall come into operation on 1 September 1998.
SCHEDULE

CONTENTS

Chapter 1: Application for registration

Chapter 2: Appeal against decision not to register and to cancel registration

Chapter 3: Certificate of Registration

Chapter 4: Register of Nonprofit Organisations

Chapter 5: Keeping constitutions and compiling, submitting and keeping accounting and other records, reports and documents

Chapter 6: Compliance notices

Chapter 7: Public access to constitutions, reports and documents

Chapter 8: Terms and conditions of employment of panel of arbitrators

Form 1: Application for Registration

Form 2: Certificate of Registration

Form 3: Compliance Notice

Form 4: Register of Nonprofit Organisations
CHAPTER 1

APPLICATION FOR REGISTRATION

Whenever an application is contemplated in terms of section 13(1) of the Act, the application must be made —

(a) in the format set out in Form 1; and

(b) subject to any conditions listed on that form.

CHAPTER 2

APPEALS AGAINST DECISION NOT TO REGISTER OR TO CANCEL REGISTRATION

DEFINITIONS

2. In this chapter, unless the context indicates otherwise —

"consider the appeal" means considering all documents and representations received, making the decision, and submitting a written notice to the parties to the appeal, stating the decision and the reasons for the decision.

OBJECTIVE OF THIS CHAPTER

3. The objective of this chapter is to specify the procedure in terms of which appeals may be submitted and considered.

PROCEDURE FOR NOTING AND CONSIDERING AN APPEAL

4. (1) When submitting the notice of appeal as contemplated in sections 14(1) and 22(1) of the Act, the nonprofit organisation —

(a) must state the grounds on which the appeal is based; and

(b) may request that the appeal be considered by a person from the panel of arbitrators with particular expertise or by more than one person from the panel, in which case the reasons for such request must be specified.

(2) Within two weeks after receipt of all the documents relevant to noting the appeal, the Directorate for Nonprofit Organisations—

(a) must submit the document to the chairperson of the panel of arbitrators; and
(b) may –

(i) request that the appeal be considered by a person from the panel of arbitrators with particular expertise or by more than one person from the panel, in which case the reasons for such request must be specified; or

(ii) comment on the request made in terms of subregulation (1)(b).

(3) Upon receipt of the documents referred to in subregulation (2), the chairperson must appoint a presiding officer(s) to constitute the Arbitration Tribunal from among those members of the panel of arbitrators who are available and able to consider the appeal. In making the appointment, the chairperson is not obliged to accede to the request of either party made in terms of subregulation (2). However, in the event that more than one person is appointed to constitute the Arbitration Tribunal, the chairperson must designate one of them as the convening presiding officer.

(4) Upon being appointed, the presiding officer or convening presiding officer, as the case may be, must send a written notice to the nonprofit organisation and the Directorate for Nonprofit Organisations. The written notice must specify –

(a) the date by which written submissions may be made and on which oral representations may be made by the parties to the appeal. This date must be –

(i) no later than two weeks before the expiry of the time period contemplated in sections 14(2) and 22(2) of the Act; and

(ii) at least one month after sending the written notice;

(b) the time and venue at which oral representations will be heard; and

(c) the person to whom or place at which written representations must be submitted.

(5) Subject to subregulation (6), the parties to the appeal are not obliged to make oral representations or submit written representations.
(6) If the nonprofit organisation fails to appear in person or through a representative to make oral representations, or fails to submit written representations on the date contemplated in sub-regulation (4)(a), the presiding officer or convening presiding officer, as the case may be, may dismiss the appeal or may make any other appropriate order.

(7) The Arbitration Tribunal, on good cause shown, may excuse any party from compliance with any procedure specified in this regulation and may give appropriate directions on matters of good practicce and procedure that it considers just and expedient.

(8) Subject to the Act and this regulation, the chairperson of the panel of arbitrators may determine supplementary rules for the proper noting and considering of appeals.

COSTS

5. The Arbitration Tribunal may make an order for costs if a party to the appeal, or person who represented that party in the appeal, –

(a) acted in a frivolous, vexatious or unreasonable manner –

(i) by proceeding with or opposing the appeal; or

(ii) in conducting the appeal; or

(b) without good cause, fails to attend or remain in attendance during the receipt of oral representations.

CHAPTER 3

CERTIFICATE OF REGISTRATION

6. Whenever the issuing of a certificate is contemplated in terms of section 15(1)(a) of the Act, the certificate must be issued in the format set out in Form 2.

CHAPTER 4

REGISTER OF NONPROFIT ORGANISATIONS

7. The register of nonprofit organisations contemplated in section 24(1) of the Act must be kept in the manner set out in Form 4.
8. For purposes of section 18(1)(a) of the Act, the annual narrative report must:

(a) specify the period under review;
(b) describe the organisation’s major projects, and more particularly—
   (i) name the projects;
   (ii) indicate which objectives of the organisation’s constitution were met by the projects;
   (iii) indicate which activities were embarked upon to achieve these objectives;
   (iv) describe the benefits of the projects;
   (v) describe the beneficiaries of the projects;
(c) in respect of administrative matters, set out—
   (i) how many meetings of the office-bearers were held;
   (ii) indicate whether all these meetings were quorate;
   (iii) whether the annual general meeting held and whether it was held timeously, and if not, why not;
   (iv) whether special general meetings were held, and if so, in respect of what issues; and
   (v) whether the organisation’s constitution, address or composition of office-bearers has changed, and if so, whether the organisation has complied with the provisions of the Act in this regard;
(d) in respect of financial matters—
   (i) state the name of the accounting officer appointed as contemplated in section 17(2);
(ii) provide details of the organisation’s accounting policies; and

(iii) specify whether the financial statements submitted in terms of section 18(1)(a) have been approved by the office-bearers;

(iv) specify what percentages of the organisation’s budget were spent on administrative costs (salaries, rentals, etc) and on the organisations projects;

(e) in respect of fundraising, specify –

(i) the types of funding the organisation received;

(ii) whether the organisation engaged in any major fund raising from the general public and businesses;

(iii) whether the organisation was assisted in its fundraising by a staff member, a member of the organisation or a person outside the organisation, and whether this was done on a voluntary basis or for a fee;

(f) in respect of staff-related matters, briefly describe –

(i) the gender, race and skill profile of the organisation; and

(ii) any changes in staffing compliment during the period under review.

9. For purposes of section 25(1)(a) and (b) of the Act, the constitutions of all nonprofit organisations that have voluntarily de-registered, have been wound up or dissolved, and all accounting records and reports submitted to the Director of Nonprofit Organisations as contemplated in section 17(3) of the Act, must be kept by the Director for a period of five years in their original or reproduced form.
CHAPTER 6

COMPLIANCE NOTICE

10. Whenever the sending of a compliance notice is contemplated in terms of section 20(1)(a) of the Act, the notice must be issued in the form as set out in Form 3.

CHAPTER 7

PUBLIC ACCESS TO CONSTITUTIONS, REPORTS AND DOCUMENTS

11. Any person may inspect any constitution, report or document submitted to the Directorate of Nonprofit Organisations in terms of the Act, at the office of the Director of Nonprofit Organisations between the hours of 08:30 and 12:00, and 13:30 and 15:30, from Monday to Friday.

12. The Director of Nonprofit Organisations must charge the fees shown in the table below for the services listed.

TABLE OF SERVICE FEES

<table>
<thead>
<tr>
<th>Column 1 Service</th>
<th>Column 2 Fee</th>
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<tbody>
<tr>
<td>Inspecting a constitution, report or Document</td>
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<tr>
<td>Providing a certified copy or certified extract from a document, constitution or report</td>
<td>R1 per page</td>
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<tr>
<td>Providing a certified copy of a certificate of registration</td>
<td>R10</td>
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13. All fees referred to in regulation 12 must be paid in advance in revenue stamps.
CHAPTER 8

TERMS AND CONDITIONS OF APPOINTMENT OF PANEL OF ARBITRATORS

DEFINITIONS

14. In this chapter, unless the context indicates otherwise -
   
   "day" means a day calculated from midnight to midnight;

   "panellist" means a member of the panel of arbitration established in terms of Section 9 of the Act.

FUNCTION AND RESPONSIBILITIES

15. In addition to any other function or responsibility conferred in terms of the Act -

   (a) the chairperson is responsible for -

      (i) administering the affairs of the panel of arbitrators;

      (ii) ensuring that the burden of considering appeals and arbitrations is distributed equitably among the panellists; and

      (iii) setting adequate standards of performance for panellists and the maintenance thereof;

   (b) all panellists must perform their functions with due regard to -

      (i) maintaining and raising the standard of integrity of the panel of arbitrators;

      (ii) respecting the confidentiality of all parties to an appeal or arbitration;

      (iii) generally accepted standards of professionalism;

   (c) the national department must provide the chairperson and panel of arbitrators with the administrative and human resources reasonably required to enable them to adequately discharge their responsibilities.
VACANCIES AND REMOVAL OF OFFICE OF PANELLIST

16. (1) A vacancy will arise in the Panel of Arbitrators if —

(a) pursuant to an inquiry, the Minister decides to remove a panellist from office on the grounds that the panellist

(i) has committed misconduct;

(ii) has brought the panel of arbitrators into disrepute;

(iii) is incapable or has not capably discharged his or her responsibilities;

(iv) is no longer able to discharge his or her responsibilities; or

(v) has not been able or been available to discharge his or her responsibilities for a continuous period of six months;

(b) a panellist resigns; or

(c) a panellist dies.

(2) A vacancy will be considered to have occurred —

(a) upon the minister making the decision to remove a panellist;

(b) upon receipt of a written notice of resignation from the panellist; or

(c) on the date of the panellist’s death.

REMUNERATION

17. Panellists will be remunerated by the national department at a rate determined by the Minister with the concurrence of the Member of Cabinet responsible for finance, for the following functions —

(a) every appeal or arbitration considered in terms of the Act;

(b) all awards made in respect of an appeal or arbitration; and
(d) all administrative work and meetings associated with conducting the affairs of the panel of arbitration, except that panellists will not be remunerated for administrative or preparatory work associated with an appeal or arbitration that they have been appointed to consider.

TRAVEL AND ACCOMMODATION

18. (1) In circumstances where panellists are required to conduct an appeal or arbitration hearing in a municipal area other than their usual place of business, employment or residence, panellists must obtain prior approval of their itineraries from the chairperson. For journeys to any foreign country, prior approval must be obtained from the Minister.

(2) The travel and accommodation policy and tariffs of the national department apply to panellists with the changes required by the context.

(3) The requirements of Treasury Instruction K3.2.1 to K3.12.10 apply to subsistence and relevant expenses incurred by the panel and the panellists with the changes required by the context.

ENTERTAINMENT AND OTHER ASSOCIATED EXPENSES INCURRED BY THE PANEL OF ARBITRATORS

19. (1) Expenditure on entertainment and other associated expenses incurred by the panel of arbitrators will be paid for by the national department in terms of Treasury instructions K14.1.

(2) Entertainment and other associated expenses will be paid only –

(a) in respect of expenses reasonably incurred; and

(b) upon submitting to the national department the relevant supporting vouchers.

RESPONSIBILITY FOR PAYMENT OF EXPENDITURE

20. (1) All expenditure incurred in respect of the business of the panel of arbitrators as set out in the Act and regulations must be met by the vote of the controlling department.
(2) Subject to the provisions of Treasury Instruction K3.13.1, the salary and personal allowances of any state official providing services to the panel of arbitrators must be met from the vote of the department/provincial administration in which he or she is normally employed.

(3) The controlling department must maintain separate subsidiary records of all expenditure on the panel of arbitrators so as to ensure that particulars thereof are readily available if required by Parliament or the Auditor-General.
APPLICATION FOR REGISTRATION BY
A NONPROFIT ORGANISATION

1. ORGANISATIONAL DETAILS

Name of the organisation

Physical address

Postal address

Tel ( )

Fax ( )

E-mail

Date of financial year-end

READ THIS FIRST

WHAT IS THE PURPOSE OF THIS FORM?

This form is an application by a Nonprofit Organisation for registration. Registration is voluntary. If the Nonprofit Organisation complies with the requirements for registration then the Director for Nonprofit Organisations will enter its name in a register and send it a certificate of registration.

WHICH ORGANISATIONS MAY APPLY FOR REGISTRATION?

Organisations such as trusts, companies or other associations established for a public purpose whose income and property are not distributable to its members or office-bearers except as reasonable compensation for services rendered.

Nonprofit organisations which were previously authorised or registered in terms of the Fund-raising Act, 1978, are regarded as registered in terms of the Nonprofit Organisations Act, 1997, but are nonetheless required to apply for registration within a specified period after this Act takes effect in order to maintain their registration.

WHO FILLS IN THIS FORM?

The office-bearer responsible for managing the nonprofit organisation.

WHERE DOES THIS FORM GO?

To: Directorate for Nonprofit Organisations
Private Bag X901
PRETORIA 0001

OTHER REQUIREMENTS?

Two copies of the nonprofit organisations' constitution must accompany this form.
2. **PARTICULARS OF OFFICE-BEARERS** (If you have more office-bearers than is provided for on this page, please include the particulars of these office-bearers on a separate page and attach it to this application):

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<th>Residential Address</th>
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<th>Contact details</th>
<th>Capacity in Organisation</th>
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3. REQUIREMENTS FOR REGISTRATION OF THE ORGANISATION'S CONSTITUTION

(1) Compulsory requirements for registration in terms of section 12(2)

(a) Each requirement from (a) - (o) must be reflected in the constitution. If the requirements are not satisfied the director will not register the nonprofit organisation.

(b) Indicate in column 2 where in your organisation's constitution the requirements listed in column 1 are provided for.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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<tbody>
<tr>
<td>(a) Organisation's name(s)</td>
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<td>(b) Organisation's main and ancillary objectives</td>
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<td>(c) Organisation's income and property are not distributable to its members or office-bearers, except as reasonable compensation for services rendered</td>
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<td>(d) Provision for the organisation to be a body corporate and have an identity and existence distinct from its members or office-bearers</td>
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<td>(e) Provision for the organisation's continued existence notwithstanding changes in the composition of its membership or office-bearers</td>
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<td>(f) Members or office-bearers have no rights in the property or other assets of the organisation solely by virtue of their being members or office-bearers</td>
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<td>(g) Powers of the organisation</td>
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<td>(h) Organisational structures and mechanisms for its governance</td>
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<td>(i) Rules for convening and conducting meetings, including quorums required for and the minutes to be kept of those meetings</td>
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<td>(j) Manner in which decisions are to be made</td>
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<td>(k) Provision made for the organisation’s financial transactions to be conducted by means of a banking account</td>
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<td>(l) Date for the end of the organisation’s financial year</td>
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<td>(m) Procedure for changing the constitution</td>
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<td>(n) Procedure by which the organisation may be wound up or dissolved and</td>
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<td>(o) Provision that, when the organisation is wound up or dissolved, any assets remaining after all its liabilities have been met, must be transferred to another non-profit organisation having similar objectives</td>
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</table>

(2) Optional provisions in terms of section 12(3)

(a) These provisions are optional (i.e. not compulsory) but desirable, as they strengthen the governance procedures in the constitution.

(b) Indicate in column 2 where in your organisation’s constitution the provisions listed in column 1 are located.

<table>
<thead>
<tr>
<th>OPTIONAL PROVISIONS FOR REGISTRATION</th>
<th>Applicable reference in constitution</th>
</tr>
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<tbody>
<tr>
<td>(a) Qualifications for and admission to membership of the organisation</td>
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<td>(b) Circumstances in which a member will no longer be entitled to the benefits of membership</td>
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<td>(c) Provisions for termination of membership</td>
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<td>(d) Provision for appeals against loss of the benefits of membership or against termination of membership, the procedure for such appeals and the body to which such appeals may be made</td>
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<td>(e) Provisions for membership fees and matters determining membership fees and other payments by members</td>
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</table>
(f) Provision that members or office-bearers do not become liable for any of the obligations and liabilities of the organisation solely by virtue of their status as members or office-bearers of the organisation

(g) Provision for the appointment of office-bearers and tabulation of their respective functions

(h) Procedure for nominating, electing or appointing office-bearers

(i) Circumstances and manner in which office-bearers may be removed from office, provision for appeals against such removal, procedures for such appeals the body to which such appeals can be made

(j) Provision that office-bearers are not personally liable for any loss suffered by any person as a result of an act or omission which occurs in good faith while the office-bearer is performing functions for or on behalf of the organisation

(k) Provisions for making investments

(l) Purposes for which the funds of the organisation may be used

(m) Provision for acquiring and controlling assets

4. ADDITIONAL INFORMATION REQUIRED

The completion of this part of the application form is not compulsory. The Directorate for Nonprofit Organisations seeks this information for administrative, background and research purposes. Your application will not be prejudiced if this part of the application form is not completed.

Date when organisation was established

Organisation’s area of operation

Geographical

Sector
Is the organisation affiliated to any other body or structure? (If yes, please specify the name and contact details of this body or structure).

5. DECLARATION BY PERSON SUBMITTING THIS APPLICATION

I, the undersigned, declare that I am duly authorised by my organisation to complete and submit this application and that the information contained in this form is to the best of my knowledge correct.

Name(s)

Signature

Capacity

Date

6. DUTIES OF REGISTERED NONPROFIT ORGANISATIONS

Once your organisation has been registered it must:

(a) Reflect its registered status or registration number on all its documents – section 16(3).
(b) Keep accounting records – section 17(1)(a).
(c) Draw up financial statements – section 17(1)(b).
(d) Arrange for an accounting officer to prepare a written report – section 17(2).
(e) Preserve its books of account, supporting vouchers, membership records and financial records and documents – section 17(3).
(f) Submit to the Director of Nonprofit Organisations:
   (i) A narrative report – section 18(1)(a).
   (ii) Details of any changes its office-bearers - section 18(1)(b).
   (iii) Details of any changes of its address at which it will receive documents – section 18(1)(c).
   (iv) Details of any changes in its constitution or its name – section 19.
CERTIFICATE OF REGISTRATION OF NONPROFIT ORGANISATION

In terms of the Nonprofit Organisations Act, 1997, I am satisfied that

(name of the nonprofit organisation)

meets the requirements for registration.

The organisation’s name was entered into the register on (date)

Registration number

Director of Nonprofit Organisations

Date
NON-COMPLIANCE BY REGISTERED NONPROFIT ORGANISATION WITH ITS CONSTITUTION AND ITS STATUTORY OBLIGATIONS

1. To:

2. Your organisation has not complied with: (tick the appropriate box)

☐ A material provision of its constitution.

☐ A condition or term of any benefit or allowance conferred on it in terms of section 11.

☐ Its obligations in terms of section 17 (accounting records and reports).

☐ Its obligations in terms of section 18 (information such as narrative reports and addresses).

☐ Its obligations in terms of section 19 (changing constitution or name of organisation).

☐ Its obligations in terms of section ____________________________ (specify).
3. The details of non-compliance are as follows:

4. You are required to:

5. You have until \( \text{to comply}. \)

6. Take note that:

   (a) The Director of Nonprofit Organisations will refer your organisation to the South African Police Service for criminal investigation, at any time, if satisfied that the non-compliance constitutes an offence.

   (b) The Director of Nonprofit Organisations may cancel your organisation's registration if you do not timeously comply with this notice.

Signed

Date
<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF NONPROFIT ORGANISATION</th>
<th>REGISTRATION NUMBER</th>
<th>DATE OF REGISTRATION</th>
<th>DATE OF CANCELLATION</th>
<th>INDICATE WHETHER VOLUNTARILY DE-REGISTERED, WOUND UP OR DISSOLVED</th>
<th>DATE WHEN VOLUNTARILY DE-REGISTERED, WOUND UP OR DISSOLVED</th>
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REGISTER OF NONPROFIT ORGANISATIONS
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