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Correction Notice, Gazette 48351, 31-3-2023, is hereby replacing Gazette 48343, 31-3-2023, that has been withdrawn

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 3240

31 March 2023

**TRUST PROPERTY CONTROL ACT, 1988 (ACT NO. 57 OF 1988):
AMENDMENT OF REGULATIONS**

The Minister of Justice and Correctional Services has, in terms of section 24 of the Trust Property Control Act, 1988 (Act No. 57 of 1988), and after consultation with the Minister of Finance and the Financial Intelligence Centre, made the regulations in the Schedule hereto.

SCHEDULE**Definitions**

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 1540 of 13 August 1993 as amended by Government Notices Nos. R1056 of 5 November 2009 and R. 1162 of 1 January 2018.

Insertion of regulations 3A, 3B, 3C, 3D and 3E in Regulations

2. The following regulations are hereby inserted in the Regulations after regulation 3:

"Establishment and maintenance of public register of persons disqualified from serving as trustees

3A. (1) The public register that the Master is required to establish and maintain in terms of section 6(1H)(a) of the Act must provide for—

- (a) the recording of the—
 - (i) full names of the disqualified person;
 - (ii) date on which the person became disqualified in terms of section 6(1A)(d) or (e) of the Act; and
 - (iii) the court case number relating to the relevant court order contemplated in section 6(1H)(a) of the Act;
- (b) adequate measures against loss of information as a result of damage to or failure of the medium on which the information is kept; and
- (c) adequate security measures for the protection of the information contained in the register.

(2) The register referred to subregulation (1), must be made available to the public—

- (a) electronically; or
- (b) at any Master's Office during office hours.

(3) The Master must update the register referred in subregulation (1) as soon as the Master receives a copy of the order contemplated in section 6(1F) of the Act.

(4) A person who is no longer disqualified from being authorised to serve as a trustee must submit a written notice thereof and proof that the grounds for their disqualification no longer exists to the Master.

(5) The Master must remove the particulars of the person referred to in subregulation (4) from the register if the Master is satisfied that the grounds for their disqualification no longer exists.

Recording of details of accountable institutions by trustee

3B. A trustee must record the following details of an accountable institution contemplated in section 11(1)(e) of the Act:

- (a) The name of the accountable institution;
- (b) if the accountable institution is a person other than a natural person, the registration details of such person;
- (c) if the accountable institution is a natural person, the official identity document number or passport number of the natural person, indicating the type of document and the country of issue;
- (d) if the trustee used or uses the accountable institution as an agent to perform the trustee's functions, the nature of the functions;
- (e) if the trustee obtained or obtains services from the accountable institution, the nature of services;
- (f) if the trustee entered into a single transaction, as defined in the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), with the accountable institution, the date on which the single transaction was entered into and the nature of the single transaction; and
- (g) if the trustee entered into a business relationship as defined in the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) with the accountable institution, the date on which the business relationship was entered into and nature of the business relationship that was entered into.

Beneficial ownership information to be recorded by trustee

3C. (1) A trustee must keep a record of the following information relating to each identified beneficial owner of the trust, in the register contemplated in section 11A(1) of the Act:

- (a) The full names;
- (b) date of birth;
- (c) nationality;
- (d) an official identity document number or passport number, indicating the type of document and the country of issue;
- (e) citizenship;
- (f) residential address;
- (g) if different from residential address, the beneficial owner's address for service of notices;
- (h) other means of contact;

- (i) if the person is a registered taxpayer in the Republic, the person's tax number;
- (j) the class or category of beneficial ownership under which the person falls;
- (k) the date on which the person became a beneficial owner of the trust; and
- (l) where applicable, the date on which the person ceased to be a beneficial owner of the trust.

(2) Where a beneficial owner is a minor a trustee must also keep a record of the information referred to in subregulation (1) in respect of the minor's legal guardian.

(3) A trustee must keep a certified or verified copy of an official identity document or passport of each identified beneficial owner of the trust, and the information recorded in terms of subregulation (1)(a) to (d) must appear the same way as it appears on the certified or verified copy of the identity document or passport.

The Master's register on beneficial ownership of trust

3D. (1) The register of the beneficial owners of a trust that the Master is required to keep in terms of section 11A(2) of the Act must, subject to the provisions of subregulation.(2), be an electronic register, and the register must be kept in such a manner that provides for—

- (a) access to registered users through a username and a password;
- (b) adequate measures against loss of information as a result of damage to or failure of the medium on which the information is kept;
- (c) adequate security measures for the protection of the information contained in the register;
- (d) a trustee to lodge, on the electronic register, the information of each beneficial owner that the trustee is keeping in terms of section 11A(1)(a) of the Act;
- (e) a trustee to update the information that the trustee has lodged on the electronic register;
- (f) a trustee to upload documents;
- (g) a trustee to only have access to the information that the trustee has lodged and the documents that the trustee has uploaded on the electronic register;
- (h) a trustee to sign off electronically on the information the trustee has lodged; and
- (i) access by the entities and authorities referred to in regulation 3E(1) to the information contained in the register.

(2) The Master must, in the event that the establishment of the electronic system is not completed when section 11A(2) of the Act commences, provide for an interim electronic medium—

- (a) with adequate security measures;
- (b) through which a trustee may lodge the information of each beneficial owner that the trustee is keeping in terms of section 11A(1)(a) of the Act; and
- (c) which will enable the migration of the beneficial ownership information to the system contemplated in regulation 3E(1).

(3) A trustee who is unable to lodge beneficial ownership with the Master electronically may visit any Master's Office for assistance in this regard.

Access to information contained in beneficial ownership register

3E. (1) The Master and a trustee must make the information contained in the beneficial ownership register that the Master and a trustee keep in terms of section 11A of the Act available to—

- (a) the National Prosecuting Authority;
- (b) the Independent Police Investigative Directorate;
- (c) the State Security Agency;
- (d) the Intelligence Division of the National Defence Force;
- (e) a Special Investigating Unit;
- (f) an investigative division in a national department listed in Schedule 1 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), having a function by law to investigate unlawful activity within that national department or in another organ of state;
- (g) the Public Protector;
- (h) the South African Revenue Service;
- (i) the Financial Intelligence Centre;
- (j) an investigative division of the Auditor-General having the function by law to investigate material irregularities in accordance with the Public Audit Act, 2004 (Act No. 25 of 2004); and
- (k) a person who is entitled to receive such information in terms of other national legislation.

(2) The entities and authorities referred to in subregulation (1) must—

- (a) in writing, request access to the information contained in the register, from the Chief Master;
- (b) provide proof to the satisfaction of the Chief Master that they qualify in terms of subregulation (1) to be granted access to the information contained in the register; and
- (c) designate officials who will have access to the beneficial ownership register kept by the Master.

(3) The Master must, upon receipt of the details of officials so designated provide the officials with access to the information contained in the register.

(4) Should a person no longer be a designated official contemplated in subregulation (2)(c) the relevant entity or authority must provide the Chief Master with a written notice thereof.

(5) The Master must revoke access to information contained in the register by a person in respect of whom the Chief Master has received a written notice referred to in subregulation (4)."

Commencement

3. These amendments to the Regulations will commence on 1 April 2023.

JUSTISIE EN STAATKUNDIGE ONTWIKKELING, DEPARTEMENT VAN

NO. R. 3240

31 Maart 2023

**WET OP BEHEER OOR TRUSTGOED, 1988 (WET NO.57 OF 1988)
WYSIGING VAN REGULASIES**

Die Minister van Justisie en Korrektiewe Dienste het, ingevolge artikel 24 van die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988), en na oorleg met die Minister van Finansies en die Finansiële Intelligensiesentrum, die Regulasies in die Bylae hierby uitgevaardig.

BYLAE**Woordomskrywing**

1. In hierdie regulasies beteken "die Regulasies" die regulasies afgekondig by Goewermenskennisgewing No. R 1540 van 13 Augustus 1993 soos gewysig deur Goewermenskennisgewings Nos. R. 1056 van 5 November 2009 en R. 1162 van 1 Januarie 2018.

Invoeging van regulasies 3A, 3B, 3C, 3D and 3E in Regulasies

2. Die volgende regulasies word hiermee in die Regulasies na regulasie 3 ingevoeg:

"Instelling en instandhouding van 'n publieke register van persone wat onbevoeg is om as trustees te dien

3A. (1) Die openbare register wat die Meester ingevolge artikel 6(1H)(a) van die Wet moet instel en byhou moet voorsiening maak vir—

- (a) die aantekening van die—
 - (i) volle name van die onbevoegde persoon;
 - (ii) die datum waarop die persoon ingevolge artikel 6(1A)(d) of (e) van die Wet onbevoeg geword het;
 - (iii) die hofsaaknommer wat met die hofbevel bedoel in artikel 6(1H)(a) van die Wet verband hou;
- (b) voldoende maatreëls teen verlies van inligting weens skade aan of faling van die medium waarop die inligting gehou word; en
- (c) voldoende veiligheidsmaatreëls vir die beskerming van die inligting wat in die register vervat is.

(2) Die register in subregulasie (1) na verwys moet—

- (a) elektronies; of
- (b) by enige Meesterskantoor gedurende kantoorure, aan die publiek beskikbaar gestel word.

(3) Die Meester moet die register in subregulasie (1) na verwys updateer sodra die Meester 'n afskrif van die hofbevel in artikel 6(1F) van die Wet bedoel, ontvang het.

(4) 'n Persoon wat nie langer onbevoeg is om gemagtig te word om as trustee te dien nie, moet 'n skriftelike kennisgewing daarvan en bewys dat die gronde vir hulle onbevoegdheid nie langer bestaan nie, aan die Meester voorsien.

(5) Die Meester moet die besonderhede van die persoon in subregulasie (4) na verwys, van die register verwyder indien die Meester tevrede is dat die gronde vir hulle onbevoegdheid nie langer bestaan nie.

Aantekening van besonderhede van verantwoordingspligtige instellings deur trustee

3B. 'n Trustee moet die volgende besonderhede van 'n verantwoordingspligtige instelling in artikel 11(1)(e) van die Wet beoog:

- (a) Die naam van die verantwoordingspligtige instelling;
- (b) indien die verantwoordingspligtige instelling 'n persoon is wat nie 'n natuurlike persoon is nie, die registrasiebesonderhede van sodanige persoon;
- (c) indien die verantwoordingspligtige instelling 'n natuurlike persoon is, die amptelike identiteitsdokumentnommer of paspoortnommer van die natuurlike persoon, wat die tipe dokument en die land van uitreiking aandui;
- (d) indien die trustee die verantwoordingspligtige instelling as 'n agent gebruik om die trustee se werksaamhede te verrig, die aard van die werksaamhede;
- (e) indien die trustee dienste van die verantwoordingspligtige instelling verkry of verkry het, die aard van daardie dienste;
- (f) indien die trustee 'n enkele transaksie, soos omskryf in die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001), met die verantwoordingspligtige instelling aangegaan het, die datum waarop die enkele transaksie aangegaan is en die aard van die enkele transaksie; en
- (g) indien die trustee 'n sakeverhouding soos omskryf in die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001), met die verantwoordingspligtige instelling aangegaan het, die datum waarop die sakeverhouding aangegaan is en die aard van die sakeverhouding wat aangegaan is,

opneem.

Inligting oor uiteindelijke geregtigheid wat deur trustee aangeteken moet word

3C. (1) 'n Trustee moet 'n rekord hou van die volgende inligting rakende elke geïdentifiseerde uiteindelijke geregtigde van die trust, in die register beoog in artikel 11A(1) van die Wet:

- (a) Die volle name;
- (b) geboortedatum;
- (c) nasionaliteit;
- (d) 'n amptelike identiteitsdokumentnommer of paspoortnommer, wat die tipe dokument en die land van uitreiking aandui;
- (e) burgerskap
- (f) woonadres;
- (g) indien dit verskil van die woonadres, die uiteindelik geregtigde se adres vir betekening van kennisgewings;
- (h) ander kontakmiddele;
- (i) indien die persoon 'n geregistreerde belastingbetaler in die Republiek is, die persoon se belastingnommer;
- (j) die klas of kategorie uiteindelijke geregtigheid waaronder die persoon val;

- (k) die datum waarop die persoon 'n uiteindelik geregtigde van die trust geword het; en
- (l) waar van toepassing, die datum waarop die persoon opgehou het om 'n uiteindelik geregtigde van die trust te wees.
 - (2) Waar 'n uiteindelik geregtigde 'n minderjarige is, moet die trustee ook 'n rekord van die inligting in subregulasie (1) na verwys, ten opsigte van die minderjarige se wettige voog, hou.
 - (3) 'n Trustee moet 'n gesertifiseerde afskrif van 'n amptelike identiteitsdokument of paspoort van elke geïdentifiseerde uiteindelik geregtigde van die trust hou, en die inligting wat ingevolge subregulasie (1)(a) tot (d) aangeteken word, moet net so verskyn soos dit op die gesertifiseerde of geverifieerde afskrif van die identiteitsdokument of paspoort verskyn.

Die Meester se register oor die uiteindelik geregtigheid van trust

3D. (1) Die register oor die uiteindelik geregtigdes van 'n trust wat die Meester ingevolge artikel 11A(2) van die Wet moet hou, moet behoudens subregulasie (2) 'n elektroniese register wees, en die register moet gehou word op sodanige wyse wat voorsiening maak vir—

- (a) toegang vir geregistreerde gebruikers deur 'n gebruikersnaam en 'n wagwoord;
- (b) voldoende maatreëls teen verlies van inligting weens skade aan of faling van die medium waarop die inligting gehou word;
- (c) voldoende veiligheidsmaatreëls vir die beskerming van inligting in die register vervat;
- (d) 'n trustee om die inligting van elke uiteindelik geregtigde wat die trustee hou ingevolge artikel 11(A)(1)(a) van die Wet in die elektroniese register vas te lê;
- (e) 'n trustee om die inligting by te werk wat die trustee in die elektroniese register vasgelê het;
- (f) 'n trustee om dokumente op te laai;
- (g) 'n trustee om slegs toegang te hê tot die inligting wat die trustee vasgelê het en die dokumente wat die trustee op die elektroniese register opgelaaai het;
- (h) 'n trustee moet elektronies afteken op die inligting wat die trustee vasgelê het;
- (i) toegang tot die inligting in die register vervat deur die instellings en owerhede in regulasie 3E(1) na verwys

(2) Die Meester moet, waar die instelling van die elektroniese stelsel nie voltooi is wanneer artikel 11A(2) van die Wet in werking tree nie, voorsiening maak vir 'n tydelike elektroniese medium—

- (a) met voldoende veiligheidsmaatreëls;
- (b) waardeur 'n trustee inligting van elke uiteindelik geregtigde wat die trustee ingevolge artikel 11A(1)(a) van die Wet hou, kan vaslê; en
- (c) wat die migrasie van die inligting van die uiteindelik geregtigheid na die sisteem in regulasie 3E(1) beoog, moontlik sal maak.

(3) 'n Trustee wat nie die uiteindelik geregtigheid elektronies by die Meester kan vaslê nie, kan enige Meesterskantoor vir hulp in hierdie opsig, besoek.

Toegang tot inligting vervat in 'n register van uiteindelik geregtigheid

3E. (1) Die Meester en 'n trustee moet die inligting wat vervat is in die register van uiteindelijke geregtigheid wat die Meester en 'n trustee ingevolge artikel 11A van die Wet byhou, beskikbaar stel aan—

- (a) die Nasionale Vervolgingsgesag;
- (b) die Onafhanklike Polisie-onderzoekdirektoraat;
- (c) die Staatsveiligheidsagentskap;
- (d) die Intelligensieafdeling van die Nasionale Weermag;
- (e) 'n Spesiale Ondersoekteenheid;
- (f) 'n onderzoekafdeling in 'n nasionale departement gelys in Bylae 1 tot die Staatsdienswet, 1994 (Wet No. 103 van 1994), wat regtens 'n funksie het om onwettige aktiwiteite binne daardie nasionale departement of in 'n ander staatsorgaan, te ondersoek;
- (g) die Openbare Beskermer;
- (h) die Suid-Afrikaanse Inkomstediens;
- (i) die Finansiële Intelligensiesentrum;
- (j) 'n onderzoekafdeling van die Ouditeur-generaal wat regtens die funksie het om wesenlike ongeruimdheid ooreenkomstig die Wet op Openbare Oudit, 2004 (Wet No. 25 van 2004), te ondersoek; en
- (k) 'n persoon wat geregtig is om sodanige inligting ingevolge ander nasionale wetgewing te ontvang.

(2) Die instellings en owerhede in subregulasie (1) bedoel, moet—

- (a) skriftelik toegang tot die inligting in die register vervat van die Hoofmeester, versoek;
- (b) bewys tot die bevrediging van die Hoofmeester verskaf dat hulle ingevolge subregulasie (1) kwalifiseer om toegang tot die inligting in die register vervat, kan bekom; en
- (c) beamptes aanwys wat toegang sal hê tot die register van uiteindelijke geregtigheid wat die Meester byhou.

(3) Die Meester moet, by ontvangs van die besonderhede van die beamptes aldus aangewys, die beamptes in staat stel om toegang tot die register te kry.

(4) Indien 'n persoon nie meer 'n aangewese beampte in subregulasie (2)(c) bedoel is nie, moet die betrokke instelling of owerheid die Hoofmeester van 'n skriftelike kennisgewing daarvan, voorsien.

(5) Die Meester moet toegang deur 'n persoon waarvan die Hoofmeester 'n skriftelike kennisgewing in subregulasie (4) na verwys ontvang het, tot inligting in die register vervat, herroep."

Inwerkingtreding

3. Hierdie wysiging aan die Regulasies tree op 1 April 2023 .in werking.

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 3241

31 March 2023

by the President of the Republic of South Africa

COMMENCEMENT OF CERTAIN PROVISIONS OF GENERAL LAWS (ANTI-MONEY LAUNDERING AND COMBATING TERRORISM FINANCING) AMENDMENT ACT, 2022

Under section 66 of General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022 (Act No. 22 of 2022), herein referred to as “the Amendment Act”, I hereby determine 1 April 2023 as the date on which—

- (a) subsection (1H) of section 6 of the Trust Property Control Act, 1988, as inserted by section 2 of the Amendment Act;
 - (b) section 11A(1)(c), (2) and (3) of the Trust Property Control Act, 1988, as inserted by section 6 of the Amendment Act; and
 - (c) section 7 of the Amendment Act,
- comes into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town, this 30th day of March, Two Thousand Twenty-Three.

MC Ramaphosa
President

By Order of the President-in-Cabinet

RO Lamola
Minister of the Cabinet

JUSTISIE EN STAATKUNDIGE ONTWIKKELING, DEPARTEMENT VAN

NO. R. 3241

31 Maart 2023

van die President van die Republiek van Suid-Afrika

**INWERKINGTREDING VAN DIE SEKERE BEPALINGS VAN WYSIGINGSWET OP
ALGEMENE WETTE (TEEN GELDWASSERY EN BEKAMPING VAN
TERRORISMEFINANSIERING), 2022**

Kragtens artikel 66 van die die Wysigingswet op Algemene Wette (Teengeldwassery en Bekamping van Terrorismefinansiering), 2022 (Wet No.22 van 2022), hierna “die Wysigingswet” genoem, bepaal ek hierby 1April 2023 as die datum waarop—

- (a) subartikel (1H) van artikel 6 van die Wet op die Beheer van Trustgoed, 1988, soos deur artikel 2 van die Wysigingswet ingevoeg;
 - (b) artikel 11A(1)(c), (2) en (3) van die Wet op die Beheer van Trustgoed, 1988, soos deur artikel 6 van die Wysigingswet ingevoeg; en
 - (c) artikel 7 van die Wysigingswet,
- in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die 30^{ste} dag van Maart, Tweeduisend Drie-en-Twintig.

MC Ramaphosa

President

Op las van die President-in-Kabinet

RO Lamola

Minister van die Kabinet

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