

Companies Administrative Regulations, 1973

I, Jan Christiaan Heunis, Deputy Minister of Economic Affairs, have on behalf of the Minister of Economic Affairs, under the powers vested in him by section 15 of the Companies Act, 1973 (Act 61 of 1973), made the following regulations.

NB: The schedules to these Regulations are not included at this time.

1.

Interpretation

In these regulations, unless the context otherwise indicates-

''access code'' means the unique identification particulars, whether alphanumeric, biometric or otherwise, enabling the CIPRO system to identify a person;

''the Act'' means the Companies Act, 1973 (Act 61 of 1973);

''agent'' means any person who has been allowed by the Registrar to use electronic services, including a company secretary, who is legally entitled to act on behalf of a company and who has thus been allowed to use or provide electronic services or to act as an intermediary in respect of electronic services;

''CIPRO'' means the Companies and Intellectual Property Registration Office that constitutes a combined administrative office for the various registration offices established or deemed to be established under the Act, the Close Corporations Act, 1984 (Act 69 of 1984), the Trademarks Act, 1993 (Act 194 of 1993), the Designs Act, 1993 (Act 195 of 1993), and the Patents Act, 1978

(Act 57 of 1978);

''CIPRO portal'' means the Internet website or other electronic portal forming part of the CIPRO system;

''CIPRO record retention system'' means the system used by CIPRO to store records for subsequent access, whether in paper, microfilm, electronic or other form;

''CIPRO system'' means the computer system, including the CIPRO portal, through which CIPRO provides electronic services, irrespective of the medium or form of technology underlying or forming part of such services;

''electronic services'' means the services provided or made available by CIPRO through the CIPRO system in terms of regulation 1A;

''inspect'' includes obtaining access to a record via the CIPRO system;

''lodge'' includes the creation of a record on the CIPRO system;

''operational requirements'' means the requirements provided for in regulation 1A(2);

''record'' includes a document and vice versa;

''the Office'' means the Companies Registration Office referred to in section 5 of the Act;

''the repealed Act'' means the Companies Act, 1926 (Act 46 of 1926).

2.

Documents

1) All documents lodged with the Office shall, unless the Registrar otherwise directs, be written in block capitals or be typewritten, lithographed or printed in legible characters, with deep permanent black ink on one side only of strong white paper of a size approximately 298 millimetres by 207 millimetres (international paper size A4) leaving a margin of at least 20 millimetres on the left-hand side thereof: Provided that the requirements of this regulation are met if documents have been lodged in accordance with the operational requirements and proof of payment of the prescribed fee (if any) has been provided.

2) Documents or copies of documents to be transmitted or returned to any company or person may, unless the Registrar otherwise directs in any particular case, be copies of originals.

3) The Registrar may reject any document which in his opinion is unsuitable for purposes of record or which does not satisfy the operational requirements.

4) Subject to the provisions of sections 57, 152(2)(b), 322(1)(a), 328 and 329(5) of the Act, all documents to be lodged with the Office shall be in one of the official languages of the Republic.

5) A copy of any document in the Office reproduced from the CIPRO record retention system, purporting to be certified by the Registrar or an officer or employee contemplated in section 7(3) of the Act, shall without proof or

production of the original, upon the mere production thereof in proceedings, whether in a court of law or otherwise, be admissible as evidence in respect of the contents of such document.

3.

Documents

All communications to the Registrar may be made, or any document required to be sent to or lodged with the Registrar may be transmitted, through the post or through an agent authorised to the satisfaction of the Registrar or in such electronic form and by such electronic means as authorised by the Registrar for electronic services: Provided that the provisions of section 63(3) of the Act shall apply in relation to the delivery and uplifting of the memorandum and articles of a company at the Office.

3A.

Documents

Any document lodged with the Office or created on the CIPRO system in terms of regulation 2(1) may be stored into such form and format as the Registrar may approve from time to time for the CIPRO record retention system.

4.

Certification of Documents and Translations

1)

a) When certified copies of documents are to be forwarded to or lodged with the Registrar and such documents contain more than one leaf of paper, the leaves shall be numbered consecutively and fastened together in the manner determined by the Registrar.

b) Any such copy shall be certified as a true copy of the original document by a notary public who shall affix his seal thereto, and if it contains more than one leaf of paper, to each leaf thereof: Provided that the Registrar may allow a document certified otherwise if he is satisfied that, in terms of international practice and standards, the whole document has been properly certified: Provided further that the provisions of this paragraph shall not apply in respect of a copy referred to in section 14 of the Act which is certified as a true copy of the original document by the Registrar of the Court.

c) If the notary public is in a foreign country, other than the United Kingdom of Great Britain and Northern Ireland, Zimbabwe, Lesotho, Swaziland, Namibia, his signature shall be authenticated to the satisfaction of the Registrar.

2)

a) When a translation of a document which is not in one of the official languages of the Republic, into an official language of the Republic is to be forwarded to or lodged with the Registrar, the translation shall be certified by a sworn or officially recognised translator or to be otherwise verified to the satisfaction of the Registrar.

b) The provisions of sub-regulation (1) (a) shall apply mutatis mutandis to the binding of any such translated document containing more than one leaf of paper.

3) The requirements of sub-regulation (1) (a) and (b) are met if documents have been lodged in accordance with the operational requirements and proof of payment of the prescribed fee (if any), has been provided.

4A.

Checking of Documents

1) When any person considers the registration of any document, excluding a prospectus, and submits a draft thereof to the Registrar for checking, or requires the checking of any document, excluding a prospectus, for any other reason, the fees mentioned in items 33 of Schedule 1 in respect of such checking, shall be payable.

2) The fee for checking a draft of a prospectus shall be the fee mentioned in item 5A of Schedule 1.

5.

Office Hours

1) From Mondays to Fridays the Office shall be open to the public from 08:00 to 15:00, except on the following days:

a) all days which are public holidays in terms of section 1 of the Public Holidays Act, 1952 (Act 5 of 1952), or which have been proclaimed public holidays in terms of section 2 of that Act; and

b) days which may from time to time be notified by means of a placard posted in a conspicuous place at the Office, or in such other manner as the Registrar may think fit.

6.

Interviews and Hearings

[Regulation 6 repealed by s.5 of Notice No. R.762 dated 18 June 1999].

7.

Forms and Fees

- 1) The forms contained in Schedule 2 to these regulations shall be used in all cases to which they apply and shall be modified as directed by the Registrar to meet other cases, or as circumstances may require.
- 2) Subject to the provisions of sections 75(3) and 179(6) of the Act, the fees to be paid in terms of the Act and these regulations shall be those specified in Schedule 1 to these regulations.

8.

Manner of Payment of Fees [Section 10(1)]

- 1) The payment of all fees, additional fees and other moneys payable to the Registrar in terms of the Act, these regulations or in relation to any form prescribed in these regulations. must be effected -
 - a) by affixing revenue stamps to any document concerned which stamps may only be cancelled by the Registrar;
 - b) by impressing a stamp on any document concerned by means of a die approved by the Commissioner of Inland Revenue; or
 - c) in such other manner, including such electronic form of payment as the Registrar may direct:

Provided that the Registrar may abolish payment in terms of paragraphs (a) and (b) and, from time to time, direct other manners of payment or of electronic payment of such fees and moneys in respect of different provisions of the Act and these regulations.

- 2) Proof of payment of such fees, additional fees or other moneys shall for as long as such payment is allowed in the manner prescribed in paragraphs (a) and (b) of sub-regulation (1), be affixed to the relevant form or document by means of adhesive paste or glue spread over the entire surface of the reverse side of the acknowledgement of receipt form.

In the case of such payment having been made in any other manner contemplated in paragraph (c) of sub-regulation (1), proof of such payment shall be furnished in accordance with the Registrar's requirements for such payment or, if such payment is electronically effected through the CIPRO system, in accordance with the operational requirements.

3) The date of payment of fees, additional fees or other moneys referred to in sub-regulation (1), shall be the date, as the case may be--

a) [deleted by the Amendment of the Companies Administrative Regulations, 1973 according to Government Notice No. R.1712 dated 18 November 2003.]

b) upon which revenue stamps referred to in paragraph (a) of that sub-regulation, are cancelled in accordance with the provisions of that paragraph;

c) impressed by means of a date stamp of the Registrar, on a document upon which has been impressed a stamp referred to in paragraph (b) of that sub-regulation; or

cA) on which a payment was made in a manner contemplated in paragraph (c) of section 10 of the Act or paragraph (c) of and the proviso to sub-regulation (1); or

d) as indicated on the electronic billing system when the electronic transaction performed by an agent on the billing system was performed.

9.

Manner of Payment of Fees [Section 10(1)]

Fees, additional fees and other moneys payable to the Registrar in terms of the Act, these regulations or in relation to any form prescribed in these regulations may be paid on an account, subject to such conditions as the Registrar may direct.

10.

Inspection and Copies of Documents [Section 9]

1) Any person who personally applies to inspect any document or to obtain a copy of any document kept by the Registrar under the Act, shall complete a form provided by the Office: Provided that the Registrar may waive such requirements for certain electronic services.

2) The prescribed fee for such inspection or copy shall be paid by affixing an uncanceled revenue stamp or a revenue franking machine impression to the form referred to in sub-regulation (1), or, if the Registrar has directed any other form of payment under regulation 8, in the manner so directed.

3) [deleted by the Amendment of the Companies Administrative Regulations, 1973 according to Government Notice No. R.1712 dated 18 November 2003.]

11.

Inspection and Copies of Documents [Section 9]

- 1) Any person who does not personally, at the Office, inspect a document kept by the Registrar under the Act, or uplift a copy or extract thereof, may apply in writing to the Registrar for any information relating to the document or for a copy of or extract from any such document and the Registrar must provide the information requested, in such format as he or she is able to provide.
- 2) The additional prescribed fee shall be paid in respect of inspection of any documents relating to any one company by affixing uncanceled revenue stamps or a revenue franking machine impression to the written application, or in the manner contemplated in regulation 8(1) (c) or regulation 9.
- 3) In respect of copies of documents or extracts thereof, relating to any one company, the additional fee shall be paid in respect of each document, and the provisions of sub-regulation (2) shall mutatis mutandis apply.

12.

Inspection and Copies of Documents [Section 9]

- 1) Any person who, whilst inspecting any document at the Office, knowingly and without the consent of the Registrar--
 - a) removes any document from the custody of the Registrar or the Office;
 - b) makes or causes to be made any entry on such document;
 - c) destroys or mutilates any such document; or
 - d) alters or causes to be altered any entry on such document, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

13.

Inspection and Copies of Documents [Section 9]

- 1) No person shall have in his possession any writing instrument other than a black lead pencil and a sheet of paper when making an inspection of any document at the Office: Provided that this regulation shall not apply to an attorney or person referred to in section 63(3) of the Act when that attorney or person is required to amend or alter the memorandum or articles of a company as required by the Registrar.
- 2) Any person making an inspection of documents at the Office who knowingly is in possession of a writing instrument in contravention of sub-regulation (1),

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

14.

Preservation of Records

[Repealed by the Amendment of the Companies Administrative Regulations, 1973 according to Government Notice No. R.1712 dated 18 November 2003.].

15.

Preservation of Records

[Repealed by the Amendment of the Companies Administrative Regulations, 1973 according to Government Notice No. R.1712 dated 18 November 2003.].

16.

Preservation of Records

Any document lodged with the Office or any record in the CIPRO record retention system may, subject to the provisions of any law, be moved to other locations, stored in another form, or be destroyed, as the case may be.

17.

Memorandum [Section 54(1)]

- 1) The memorandum of a public company shall contain and consist of Forms CM 1, CM 2, CM 2A, CM 2B and CM 2C.
- 2) The memorandum of a private company shall contain and consist of Forms CM 1, CM 2, CM 2A, CM 2B and CM 2C, or, where there is only one signatory to the memorandum, Form CM 2D.
- 3) The memorandum of a company limited by guarantee shall contain and consist of Forms CM 2A, CM 3, CM 4, CM 4A and CM 4B.

18.

Articles [Section 60(1)]

- 1) The articles of a company having a share capital which consist of the articles contained in Schedule 1 to the Act, shall, whether a public or private company, contain and consist of Forms CM 44 and CM 44C.
- 2) The articles of a company having a share capital which do not consist of the articles contained in Schedule 1 to the Act, shall, whether a public or private company, contain and consist of Forms CM 44A and CM 44C.

3) The articles of a company not having a share capital shall contain and consist of Forms CM 44B and CM 44C.

19.

Registration and Incorporation [Section 63(1)]

1) The following documents shall be lodged for the registration and incorporation of a company having a share capital:

a) the original and two copies of the memorandum and articles referred to in regulations 17 and 18, bound as prescribed in regulation 4(1);

b) Form CM 5 containing particulars of the name reserved for the company, as approved by the Registrar, together with such other Forms CM 5, if any, containing particulars of the translated name and of the shortened form of the name or translated name, for the company, as approved by the Registrar: Provided that lodgment of Form CM 5 in respect of the name of a company to be incorporated is not required if the name contained in the memorandum for that company is identical to--

i) a defensive name registered on application of a person who, upon incorporation of the company concerned, is to be a director or member thereof or is deemed to be such, and of which the registration has not expired; or

ii) the name of a company, which is to change simultaneously with the registration of that memorandum; or

iii) the name of a close corporation which is to be converted simultaneously into a company;

c) Form CM 7, for the registration of the translation of the name of the company, if any;

d) Form CM 7, for the registration of the shortened form of the name of the company, if any;

e) Form CM 22, containing a notice of the registered office and postal address of the company;

f) a power of attorney signed by the subscribers to the memorandum in favour of the person lodging the documents; and

g) if a person has consented in terms of section 269(1) of the Act to his appointment as auditor of a company to be formed, the notice of consent to

such appointment of Form CM 31.

2) Proof of payment of the prescribed and additional fee in terms of section 63(1) and (2) of the Act shall be affixed to the original Form CM 2.

20.

Registration and Incorporation [Section 63(1)]

1) The following documents shall be lodged for the registration and incorporation of a company not having a share capital:

a) the original and two copies of the memorandum and articles referred to in regulation 17 and 18, bound as prescribed in regulation 4(1); and

b) the forms specified in regulation 19(1) (b) to (g), inclusive.

2) Proof of payment of the prescribed fee in terms of section 63(1) of the Act shall be affixed to the original Form CM 4.

21.

Registration and Incorporation [Section 63(1)]

1) If the original memorandum and articles referred to in regulations 17 and 18 are not signed by the subscribers personally, they shall be signed by an attorney or a person referred to in section 63(3) of the Act duly authorised by a power of attorney to sign on behalf of the subscribers and to take up a specified number of shares.

2) Where the memorandum and articles are signed on behalf of a body corporate, there shall be lodged an extract from the minutes of a meeting of directors of the body corporate authorising the person concerned to sign on behalf of the body corporate and stating that such person shall be deemed, for all purposes, to be a director of the company within the meaning of section 208(2) of the Act.

3) The notarially certified copies of the memorandum and articles may have the names of the signatories shown as typewritten or printed in block capitals.

22.

Registration and Incorporation [Section 63(1)]

1) When a company requires that an additional copy of the memorandum and articles of the company be certified by the Registrar, the company shall lodge a notarially certified additional copy under cover of Form CM 51 with the Registrar who shall affix his seal to the said copy.

2) When a company requires that an additional copy of a special resolution of the company be certified by the Registrar, the company shall lodge such additional copy under cover of Form CM 51 with the Registrar who shall certify the said copy.

22A.

Registration and Incorporation [Section 63(1)]

The registrar may change or amend the registration number of any company, allocated either in terms of section 63 of the Act, any repealed law or allocated in terms of any administrative ruling, in order to rectify duplications of such numbers or to achieve any other objective which he considers necessary or expedient in order that the purposes of the Act in respect of the register of companies may be achieved.

23.

Registration of Translated Name and Shortened form of a Name or Translated Name of an Existing Company

1) Where a company requires the registration of a literal translation into any one other official language of the Republic of the company's name or of one shortened form of that name or the name so translated, the company shall, by special resolution, amend its memorandum by the insertion therein of the translated name or the shortened form of its name or translated name, as the case may be.

2) The company shall, together with the special resolution on Form CM 26, lodge with the Registrar Form CM 5, on which the translated name or shortened form of its name or translated name, as the case may be, has been approved by the Registrar, and Form CM 7, for registration of the translated name or of the shortened form of its name or translated name, as the case may be.

3) The Registrar shall register the translated name or shortened form of the company's name or translated name and advise the company accordingly.

23A.

Registration of Defensive Name [Section 43(2)]

An application for the registration of a name as a defensive name shall be lodged on Form CM 8 together with Form CM 5 containing particulars of the name to be registered, as approved by the Registrar, and an application for the renewal of the registration of a name as a defensive name shall be lodged on Form CM 8A, not later than the date upon which the current period of the registration of that name expires: Provided that lodgment of Form CM 5 in respect of the defensive name to be registered is not required if that name is

identical to the name of a company, which is to change simultaneously with the registration of the defensive name, or where the name is identical to the name of a company which is in the process of deregistration or under liquidation and the defensive name is registered or prior to the deregistration or dissolution of the company concerned.

24.

Change of Name [Section 44]

1) A special resolution for the change of the name of a company shall be lodged on Form CM 26, together with Form CM 9, for the registration of the change of the name of the company, and Form CM 5 containing the new name as approved by the Registrar: Provided that lodgment of Form CM 5 in respect of the said new name is not required if that name is identical to--

- a) a defensive name registered on application by or on behalf of the company concerned, and the registration of which has not expired;
- b) the name of another company which is to change simultaneously with the registration of the said special resolution.

2) If the translated name of a company or the shortened form of the company's name or translated name is to be changed, the special resolution on Form CM 26 shall be lodged together with Form CM 9A applying for the registration of the changed translated name or shortened form of the company's name or translated name, as the case may be, and Form CM 5 containing the new translated name or the shortened form of the company's name or translated name, as the case may be, as approved by the Registrar: Provided that the lodgment of Form CM 5 in respect of the said translated name or the shortened form of the company's name or translated name is not required if that name is identical to--

- a) a defensive name registered on application by or on behalf of the company concerned, and the registration of which has not expired;
- b) the translated name or shortened form of another company's name or translated name which is to change simultaneously with the registration of the said special resolution.

3) An application for the deregistration of a former translated name or shortened form of the name or translated name of a company, shall be made on Form CM 9B.

25.

Alteration of Share Capital, Acquisition by Companies of Own Shares and Payments to Shareholders (Section 75, 85, 87 and 90)

1) A special resolution for an increase of the existing share capital of a company shall be lodged on Form CM 26 and shall be accompanied by Form CM 11 to which the proof of payment of the fee referred to in section 75(3) of the Act has been affixed.

2) The certificate of the auditor of the company referred to in section 75(3) (b) of the Act, shall be given on Form CM 11.

25A.

Alteration of Share Capital, Acquisition by Companies of Own Shares and Payments to Shareholders (Section 75, 85, 87 and 90)

1) A special resolution altering a company's articles to authorise the company to pass further special resolutions to acquire shares issued by itself in terms of section 85 of the Act, or to make payments to its shareholders in terms of section 90 of the Act, shall be lodged on form CM26.

2) A special resolution by a company approving the acquisition of shares issued by itself, either as a general approval or a specific approval for a particular acquisition, prior to its next annual general meeting or any other general meeting, shall be lodged on Form CM26.

3) The notification to the Registrar of shares acquired by a company in terms of section 85 and 87(5) of the Act and any payment to shareholders in terms of section 90 of the Act, shall be done on Form CM14A.

4) Form CM14A shall be accompanied by a written statement signed by the directors of the company that in their opinion they are satisfied that the requirements of sections 85(4) and 90(2) of the Act, whichever provision is applicable, have been and will be met.

25B.

Alteration of Share Capital, Acquisition by Companies of Own Shares and Payments to Shareholders (Section 75, 85, 87 and 90)

1) In this regulation, unless the context otherwise indicates--

2) "company" means the company making an offer to its shareholders or certain shareholders to acquire from them shares issued by it;

3) "directors" mean the directors of the company making the offer; and

4) "offer" means an offer by the company to its shareholders or certain shareholders to acquire from them shares issued by it.

- 5) The written offering circular contemplated in section 87(1) (a) of the Act pertains to shares not listed on a stock exchange and shall contain particulars with respect to at least the following matters:
- a) The name and registration number of the company.
 - b) The directors of the company as at the date of the offer.
 - c) The share capital structure of the company prior to the offer being made.
 - d) Details of other acquisitions by the company of shares in terms of section 85 of the Act during that financial year, including--
 - i) particulars of the financial year of the company;
 - ii) dates of acquisitions;
 - iii) shares so acquired in respect of previous acquisitions;
 - iv) the aggregate percentage of issued shares acquired by the company through previous acquisitions during that financial year.
 - e) The terms of the offer and whether it is a general offer to all shareholders or an offer for a particular acquisition providing also details of the special resolution and the date of registration thereof.
 - f) Details of the shares the company proposes to acquire indicating the type of shares (par or no par value shares), class of shares, price offered and the source of the consideration to be paid (cash, share premium, capital redemption reserve fund, other).
 - g) If a shareholder is a subsidiary of another company--
 - i) the name and registration of its holding company;
 - ii) the reason by virtue of which it is a subsidiary;
 - iii) the directors of the holding company at the date of the proposed acquisition; and
 - iv) the share capital structure of the holding company prior to the proposed acquisition.
 - h) The reasons for the offer.

- i) The effect of the acquisition in respect of--
- i) the capital structure of the company; and
- ii) control as defined in section 440A of the Act, before and after the acquisition.
- j) A statement in respect of--
- i) the fair value of the consolidated assets of the company after the proposed acquisition; and
- ii) the fair value of the consolidated liabilities of the company after the proposed acquisition.
- k) A sworn statement by the directors that they reasonably believe that after the acquisition--
- i) the fair value of the consolidated assets of the company after the acquisition will exceed the fair value of the consolidated liabilities of the company; or
- ii) the company will be able to pay its debts as they become due in the ordinary course of business.
- l) Information in respect of the computation of the proposed offer price at the date of the offer and any other information that is or was material in determining the offer price.
- m) Any other information that is or may be material in the decision of the offeree shareholder in considering the offer.

26.

Conversion of Company [Section 28 (1)]

A special resolution for the conversion of a company from one type or form of a company into another type or form of a company shall be lodged on Form CM 26 accompanied by Form CM 45.

27.

Certificate to Commence Business [Section 172(2) and (3)]

- 1) An application in terms of section 172 of the Act for the issue to a company of a certificate to commence business shall be lodged with the

Registrar on Form CM 46 and shall be accompanied by--

- a) in the case of a company contemplated in section 172(2) of the Act, an affidavit pursuant to that section on Form CM 48;
 - b) in the case of a company contemplated in section 172(3) of the Act, a statement by each director regarding the adequacy of the capital of the company on Form CM 47;
 - c) a return of particulars of the company's register of directors and officers on Form CM 29; and
 - d) if not already lodged, the notice, on Form CM 31, of consent by an auditor to his appointment as the auditor of the company.
- 2) Proof of payment of the prescribed fee for the issue of a certificate to commence business shall be affixed to the original copy of the Form CM 46.

27A.

Registration of Offer Document [Section 144(c) (iii) and (iv)]

- 1) The written offer to be lodged with the Registrar for registration in terms of section 144(c) (iv) shall contain particulars with respect to the following matters:
 - a) The name and address of the registered office and the transfer office, and, if an external company the country in which it is incorporated.
 - b) A general description of the business carried on by the company.
 - c) The names of the directors of the company.
 - d) A statement of the purpose of the offer, giving reasons why it is considered necessary for the company to raise the capital offered.
 - e) Particulars of the share capital--
 - i) if consisting of shares of par value, the authorised and issued share capital, share premium and share capital held in reserve, the number and classes of shares and their nominal value;
 - ii) if consisting of shares of no par value, the stated capital, the number of shares issued and held in reserve and classes of shares;
 - iii) a description of the respective preferential, conversion and exchange

rights, rights to dividends, profits or capital of each class, including redemption rights and rights on liquidation or distribution of capital assets;

iv) the number of founders' and management of deferred shares, if any, and any special rights attaching thereto.

f) The substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind was or is proposed to be given to any person to subscribe for any shares of the company or its subsidiary, giving the number and description of any such shares.

g) Particulars of the shares offered, including--

i) the class of shares;

ii) the nominal value of the shares, if applicable;

iii) the number of shares offered;

iv) the issue price; and

v) other conditions of the offer.

h) Particulars of debentures offered, including--

i) the class of debentures;

ii) the conditions of the debentures;

iii) if the debentures are secured, particulars of the security, specifying the property comprising the security and the nature of the title of the property;

iv) the issued price; and

v) other conditions of the offer.

i) Full particulars of the last annual financial statements of the company and subsequent interim report and provisional annual financial statements, if any.

j) The time and date of the opening and of the closing of the subscription list of the offer.

2) The information required to be stated in the offer document shall be set out in print or type and shall not be less conspicuous than that in which any

additional matter is printed or typed and shall be set out in separate paragraphs under appropriate headings.

3) An offer document shall deal with each of the applicable paragraphs of these Regulations under its appropriate heading but not necessarily in the same order, and shall in each case in brackets, or otherwise, refer to the paragraph of these Regulations. In the last paragraph of the offer document under the heading - "Paragraphs of Regulations which are not applicable" - the paragraphs of these Regulations which are not applicable shall be stated.

4) As far as possible the general matter of an offer document shall be presented in narrative form and statistical matter in tabular form.

28.

Annual Return

1) The annual return contemplated in section 173 of the Act must be lodged electronically with the Registrar in the format as made available for electronic completion and lodgment on the CIPRO portal, and must contain particulars in respect of at least the following matters:

a) The registered name, registered translated and shortened form of the name, if any, and trading name, if any, of the company;

b) registration number of the company;

c) type of company;

d) the main business of the company;

e) date of incorporation of the company;

f) the end of the financial year of the company;

g) the end of the period for which the last financial statements of the company were lodged with the Registrar;

h) the date of the last annual general meeting held by the company;

i) the amount of the turnover of the company during the previous financial year;

j) the holding company, if any, of the company;

k) the registered and postal addresses of the company;

- l) telephone and other contact numbers and addresses of the company;
 - m) the auditor of the company;
 - n) the secretary of the company;
 - o) the directors of the company;
 - p) the officers of the company;
 - q) the local managers of the company;
 - r) the capital of the company;
 - s) such other information relating to information to be disclosed in terms of the Act and these Regulations as may be required in the annual return.
- 2) The prescribed fees for lodgment of annual returns are contained in Schedule 1.
- 3) The information required under sub-regulation (1) must be furnished as required irrespective of whether the same information was previously furnished in any CM form or not.

28A.

Lodging of Additional Copy of Certain Prescribed Forms

- 1) The Registrar may from time to time by written notice sent to a company or an officer thereof at the registered office or postal address of the company, require the company or the officer thereof to lodge with him within a period stated in the notice, which shall not be less than 30 days, a copy of--
 - a) a prescribed form CM 22 by which the company gave notice in terms of section 170(2) of the Act, of the situation of the company's registered office and of its postal address in force at the time of the lodging of that copy;
 - b) a prescribed form CM 29 on which the company lodged in terms of the provisions of section 216(2) of the Act, a return reflecting at the time of the lodging of that copy the contents of the register referred to in section 215 of the Act.
 - c) a prescribed Form CM 31 by which the company gave notice in terms of section 172, 269, 271, 273, 276, 277, 278, 280, 322 or 325 of the Act, of the

consent to appointment, change of name or the removal of the auditor, or the resignation by the auditor, of the company.

2) [deleted]

3) A company or the officer thereof to whom a notice referred to in sub-regulation (1) was sent and who has failed or remained in default to lodge the copy required in that notice within the period stated in the notice, shall be guilty of an offence and upon conviction liable to a fine of R100.

29.

Minute Books [Sections 204(2) and 242(3)]

1) Minutes, which are not handwritten, for insertion in permanently bound minute books shall be typewritten, lithographed or printed on only one side of the paper, on good quality paper, with a margin of at least 40 millimetres on the left-hand side of the page.

2) Where full-page size permanently bound minute books are used, the pages shall be numbered consecutively, from the beginning of the book to the end of the book prior to any entry being made therein.

3) A single leaf of typewritten, lithographed or printed minute shall be affixed to each numbered page of the minute book by means of adhesive paste or glue spread over the entire surface of the reverse side of the typewritten, lithographed or printed leaf.

4)

a) Where minutes are inserted in stub pages of a permanently bound minute book, the stub pages shall be at least 50 millimetres wide and at least 10 millimetres longer than the longest leaf on which the minutes are typed, lithographed or printed.

b) The stub pages shall be numbered consecutively from the beginning of the book to the end of the book, and each stub page shall have the same number on the front side and on the reverse side of the page.

c) The single leaf of typewritten, lithographed or printed minutes shall be affixed to each stub page by means of adhesive paste or glue spread over the whole length of the reverse side of the leaf to a width of at least 30 millimetres, in such manner that the number of the stub page is clearly legible on the front side and reverse side thereof.

5) The Registrar may permit the requirements of this regulation to be

satisfied in electronic format, subject to such directives as he or she may specify.

30.

Power to Acquire Shares of Minority in Take-Over Scheme [Section 321]

1) A notice under section 321(1) of the Act shall be sent to every shareholder who has not accepted the offer, by registered post at his last known address and shall inform him of the desire of the offeror to acquire his shares and shall include the following particulars:

- a) the number and nature of the shares held by such shareholder;
- b) the name of the offeror;
- c) the price or prices at which the offeror has acquired or proposes to acquire other similar shares of the company;
- d) the number and nature of all shares of the company acquired by the offeror;
- e) the price or prices at which the offeror desires to acquire the shares of the shareholder who has not accepted the offer; and
- f) a notice that if an application is not made to Court by such shareholder who has not accepted the offer, within six weeks of the date of such notice, the offeror shall be entitled and bound to acquire the shares of such shareholder on the terms offered.

31.

Power to Acquire Shares of Minority in Take-Over Scheme [Section 321]

1) A notice by an offeror under section 321(3) (a) of the Act shall be addressed by registered post to all the holders of the remaining shares or of the remaining class of shares, as the case may be, and shall include the following particulars:

- a) the name of the offeror, and if the offeror is a company which has subsidiaries, the names of the subsidiaries;
- b) the name of the company of which the offeror has acquired nine-tenths of the shares;
- c) the number and description of shares acquired by the offeror or its subsidiaries and the price paid for such shares under the scheme or contract;

d) the number and description of the shares which according to the records of the company are held by the addressee;

e) the fact that the addressee may within three months require the offeror to acquire his shares; and

f) that, if notice is given in terms of paragraph (e), the offeror shall be entitled and bound to acquire the shares of the holder on the terms on which under the scheme or contract the shares of the shareholders who have accepted the offer were transferred to him or on such other terms as may be agreed or as the Court on the application of either the offeror or the shareholder may think fit to order.

32.

Power to Acquire Shares of Minority in Take-Over Scheme [Section 321]

1) Where a company has issued share warrants to bearer, the notice referred to in regulation 30 or 31 which is required to be sent to shareholders who have not accepted the offer, shall be in the form of a notice published in the Gazette.

2)

a) If it is known to the offeror that some or all of the holders of such share warrants are not resident in the Republic, the offeror shall report this fact to the Registrar, and inform him of the names of the foreign countries where such holders are known to reside.

b)

i) The Registrar may, on receipt of such a report, order that, as an additional form of notice, an advertisement be published in one or more newspapers circulating in the foreign country or countries concerned, or that such additional form of notice be given as he may in the circumstances of each case deem fit.

ii) Compliance with an order of the Registrar under subparagraph (i) shall be deemed to be sufficient notice to the holders of such share warrants.

33.

Registration of External Companies [Section 322(1)]

1) The following documents shall be lodged with the Registrar for the registration of an external company:

- a) the memorandum of the company, together with a translation thereof, if any, certified and translated as prescribed in regulation 4;
- b) Form CM 49, containing registration fee;
- c) the notice, on Form CM 31, of consent by an auditor to his appointment as the auditor of the company;
- d) Form CM 29, return of particulars of company's register of directors and officers;
- e) Form CM 22, notice of registered office and postal address;
- f) [Regulation (f) deleted by Government Notice No. R.1391 of 30 June 1978.]; and
- g) Form CM 37, notice of person authorised to accept service on behalf of the external company.

34.

Standing Advisory Committee [Section 18]

Where recommendations or submissions are made for the consideration of the Standing Advisory Committee, 12 copies of each letter or memorandum shall be lodged with the Registrar of Companies, Pretoria.

35.

Consent to Act as Officer or Director [Section 211(1) (a)]

The prescribed form referred to in section 211(1) (a) of the Act on which the written consent of a person to act as director or officer of a company has to be lodged with the company, shall contain the particulars set out in Form CM 27.

35A.

Consent to Act as Officer or Director [Section 211(1) (a)]

- 1) Any person who accepts appointment as secretary of a public company in terms of section 268B read with 268E of the Act shall lodge with the Registrar his consent to such appointment on form CM27A.
- 2) When during any financial year the secretary of a public company resigns or is removed from office the company shall lodge with the Registrar Form 27A stating the date of resignation or removal.

36.

Provisional Annual Financial Statements in Respect of Private Company [Section 304(2)]

An application by a member of a private company for provisional annual financial statements to be lodged with the Registrar shall be made, in duplicate, on Form CM 50.

36A.

Provisional Annual Financial Statements in Respect of Private Company [Section 304(2)]

The maximum fee to be charged for the furnishing of information in terms of section 140A(5) of the Act, shall be one Rand for disclosing the required information in respect of each nominee up to a maximum fee of R1 500 in total.

37.

Repeal of Existing Regulations, Schedules to Repealed Act and Proclamation, and Commencement of these Regulations

The regulations, the Schedules to the repealed Act and the Proclamation specified in Schedule 3 to these regulations, are hereby repealed to the extent set out in the last-mentioned Schedule.

38.

Repeal of Existing Regulations, Schedules to Repealed Act and Proclamation, and Commencement of these Regulations

These regulations shall be called the Companies Administrative Regulations, 1973, and shall come into operation on the 1st day of January, 1974.

