

A hand holding a magnifying glass over a document. The magnifying glass is gold-rimmed and held over a document, with the hand's fingers visible. The background is dark.

Notebook on the Companies Act , 2008 (Act No. 71 of 2008)



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

towards full-scale industrialisation
and inclusive growth



Companies Act, 2008 (Act No. 71 of 2008)

Rights that are promoted in the Companies Act

Overview

The Companies Act, 2008 (Act No. 71 of 2008) replaces the Companies Act, 1973 (Act No. 61 of 1973) and came into effect on 1 May 2011. The Minister of Trade and Industry has, in terms of Section 223 and Item 14 of Schedule 5 of the Companies Act, published the Companies Regulations. The new Act and regulations became effective on 1 May 2011. The Act provides for: the incorporation, registration, organisation and management of companies, the capitalisation of profit companies, and the registration of offices of foreign companies doing business in South Africa; defining the relationships between companies and their respective shareholders or members and directors; the equitable and efficient amalgamations, mergers and takeovers of companies; the efficient rescue of financially distressed companies; appropriate legal

redress for investors and third parties with respect to companies; establishing a Companies and Intellectual Property Commission (CIPC) and a Takeover Regulations Panel to administer the requirements of the Act with respect to companies, establishing a Companies Tribunal to facilitate alternative dispute resolution and to review decisions of the commission; establishing a Financial Reporting Standards Council to advise on requirements for financial record-keeping and reporting by companies, repealing the Companies Act, 1973 (Act No. 61 of 1973) and making amendments to the Close Corporations Act, 1984 (Act No. 69 of 1984) as necessary to provide for a consistent and harmonious regime of business incorporation and regulation; and matters connected therewith.

Purposes of the Companies Act

The purposes of the Act are to:

- Promote compliance with the Bill of Rights, as provided for in the Constitution, in the application of company law.

Companies Act, 2008 (Act No. 71 of 2008)

- Promote the development of the South African economy by
 - encouraging entrepreneurship and enterprise efficiency;
 - creating flexibility and simplicity in the formation and maintenance of companies; and
 - encouraging transparency and high standards of corporate governance as appropriate, given the significant role of enterprises within the social and economic life of the nation.
- Promote innovation and investment in South African markets.
- Reaffirm the concept of the company as a means of achieving economic and social benefits.
- Continue to provide for the creation and use of companies in a manner that enhances the economic welfare of South Africa as a partner in the global economy.
- Promote the development of companies within all sectors of the economy, and encourage active participation in economic organisation, management and productivity.

- Create optimum conditions for the aggregation of capital for productive purposes, and for the investment of that capital in enterprises and the spreading of economic risk.
- Provide for the formation, operation and accountability of non-profit companies in a manner designed to promote, support and enhance the capacity of such companies to perform their functions.
- Balance the rights and obligations of shareholders and directors in companies.
- Encourage the efficient and responsible management of companies.
- Provide for the efficient rescue and recovery of financially distressed companies in a manner that balances the rights and interests of all relevant stakeholders.
- Provide a predictable and effective environment for the efficient regulation of companies.

Right to incorporate company or transfer registration of foreign company

- One or more persons, or an organ of State, may incorporate a profit company, and an organ of State, a juristic person, or three or more persons acting in concert, may incorporate a non-profit company, by:
 - completing, and each signing in person or by proxy, a memorandum of incorporation
 - i. in the prescribed form; or
 - ii. in a form unique to the company; and
 - filling a notice of incorporation, in accordance with subsection (2).
- The notice of incorporation of a company must be:
 - filed in the prescribed manner and form, together with the prescribed fee; and
 - accompanied by a copy of the memorandum of incorporation, subject to any declaration contemplated in Section 6(14)(b).
- If a company's memorandum of incorporation includes any

provision contemplated in Section 15(2)(b) or Section 15(2)(c), the notice of incorporation filed by the company must include a prominent statement drawing attention to each such provision, and its location in the memorandum of incorporation.

- The CIPC:
 - may reject a notice of incorporation if the notice, or anything required to be filed with it, is incomplete or improperly completed in any respect, subject to Section 6(8); and
 - must reject a notice of incorporation if
 - i. the initial directors of the company, as set out in the notice, are fewer than required by or in terms of Section 66(2); or
 - ii. the commission reasonably believes that any of the initial directors of the company, as set out in the notice, are disqualified in terms of Section 69(8), and the remaining directors are fewer than required by or in terms of Section 66(2).

- Subject to subsection (6) and subsection (7), a foreign company may apply in the prescribed manner and form, accompanied by the prescribed application fee, to transfer its registration to South Africa from the foreign jurisdiction in which it is registered, and thereafter exists as a company in terms of the Companies Act as if it had been originally so incorporated and registered.
- A foreign company may transfer its registration as contemplated in subsection (5) if:
 - the law of the jurisdiction in which the company is registered permits such a transfer and the company has complied with the requirements of that law in relation to the transfer;
 - the transfer has been approved by the company's shareholders
 - i. in accordance with the law of the jurisdiction in which the company is registered if that law imposes such a requirement; or

- ii. by the equivalent of a special resolution in terms of the Companies Act, if the law of the jurisdiction in which the company is registered does not require such shareholder approval.
- The whole or greater part of its assets and undertaking are in South Africa, other than the assets and undertaking of any subsidiary that is incorporated outside South Africa.
- The majority of its shareholders are resident in South Africa.
- The majority of its directors are or will be South African citizens.
- Immediately following the transfer of registration, the company:
 - will satisfy the solvency and liquidity test; and
 - will no longer be registered in another jurisdiction.
- Despite satisfying the requirements of subsection (6), a foreign company may not transfer its registration to South Africa as contemplated in subsection (5) if:
 - the foreign company

- i. is permitted, in terms of any law or its articles or memorandum of incorporation, to issue bearer shares; or
 - ii. has issued any bearer shares that remain issued
 - the foreign company is in liquidation;
 - a receiver or manager has been appointed, whether by a court or otherwise, in relation to the property of the foreign company;
 - the foreign company
 - i. is engaged in proceedings comparable to business rescue proceedings in terms of the Companies Act; or
 - ii. is subject to an approved plan, or a court order, comparable to an approved business rescue plan in terms of the Companies Act; or
 - iii. has entered into a compromise or arrangement with a creditor, and the compromise or arrangement is in force;
- or

- an application has been made to a court in any jurisdiction, and not fully disposed of
 - i. to put the foreign company into liquidation, to wind it up or to have it declared insolvent;
 - i. for the approval of a compromise or arrangement between the foreign company and a creditor; or
 - ii. for the appointment of a receiver or administrator in relation to any property of the foreign company.
- The Minister of Trade and Industry may make regulations:
 - prescribing forms and procedures for the consideration of applications contemplated in subsection (5);
 - for the registration of domesticated companies as contemplated in subsection (5) to subsection (7) and for the issuing of registration certificates to such companies; and
 - establishing requirements for each domesticated company to harmonise its memorandum of incorporation with the Companies Act.

Companies Act, 2008 (Act No. 71 of 2008)

- Subsection (3), subsection (4) and Section 14, each read with the changes required by the context, apply to an application in terms of subsection (5) to subsection (7).
- Upon compliance of the requirements for registration of a domesticated company as contemplated in terms of this section, the commissioner must issue to such company a registration certificate to the effect that such registration has taken place and that it deemed that the company has been incorporated under the Companies Act.
- The registration of a domesticated company in terms of subsection (5) to subsection (9) does not:
 - establish a new juristic person;
 - prejudice or affect the identity of the juristic person constituted by that domesticated company, or its continuity as a juristic person;
 - prejudice the rights of any person or affect the property, rights, liabilities or obligations of that juristic person; or

- render ineffective any legal proceedings by or against that juristic person.

Shareholder right to be represented by proxy

- At any time, a shareholder of a company may appoint any individual, including an individual who is not a shareholder of that company, as a proxy to:
 - participate in, and speak and vote at, a shareholders meeting on behalf of the shareholder; or
 - give or withhold written consent on behalf of the shareholder to a decision contemplated in Section 60.
- A proxy appointment:
 - must be in writing, dated and signed by the shareholder; and
 - remains valid for
 - i. one year after the date on which it was signed; or
 - ii. any longer or shorter period expressly set out in the appointment, unless it is revoked in a manner

contemplated in subsection (4)(c), or expires earlier as contemplated in subsection (8)(d).

- Except to the extent that the memorandum of incorporation of a company provides otherwise:
 - a shareholder of that company may appoint two or more persons concurrently as proxies, and may appoint more than one proxy to exercise voting rights attached to different securities held by the shareholder;
 - a proxy may delegate the proxy's authority to act on behalf of the shareholder to another person, subject to any restriction set out in the instrument appointing the proxy; and
 - a copy of the instrument appointing a proxy must be delivered to the company, or to any other person on behalf of the company, before the proxy exercises any rights of the shareholder at a shareholders meeting.
- Irrespective of the form of instrument used to appoint a proxy:
 - the appointment is suspended at any time and to the extent

- that the shareholder chooses to act directly and in person in the exercise of any rights as a shareholder;
- the appointment is revocable unless the proxy appointment expressly states otherwise; and
 - if the appointment is revocable, a shareholder may revoke the proxy appointment by
 - i. cancelling it in writing, or making a later inconsistent appointment of a proxy; and
 - ii. delivering a copy of the revocation instrument to the proxy, and to the company.
- The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the shareholder as of the later of:
 - the date stated in the revocation instrument, if any; or
 - the date on which the revocation instrument was delivered as required in subsection (4)(c)(ii).

- If the instrument appointing a proxy or proxies has been delivered to a company, as long as that appointment remains in effect, any notice that is required by the Companies Act or the company's memorandum of incorporation to be delivered by the company to the shareholder must be delivered by the company to:
 - the shareholder; or
 - the proxy or proxies, if the shareholder has
 - i. directed the company to do so, in writing; and
 - ii. paid any reasonable fee charged by the company for doing so.
- A proxy is entitled to exercise, or abstain from exercising, any voting right of the shareholder without direction, except to the extent that the memorandum of incorporation, or the instrument appointing the proxy, provides otherwise.
- If a company issues an invitation to shareholders to appoint one or more persons named by the company as a proxy, or supplies a form of instrument for appointing a proxy:

- the invitation must be sent to every shareholder who is entitled to notice of the meeting at which the proxy is intended to be exercised;
- the invitation, or form of instrument supplied by the company for the purpose of appointing a proxy, must
 - i. bear a reasonably prominent summary of the rights established by this section;
 - ii. contain adequate blank space, immediately preceding the name or names of any person or persons named in it, to enable a shareholder to write in the name and, if so desired, an alternative name of a proxy chosen by the shareholder; and
 - iii. provide adequate space for the shareholder to indicate whether the appointed proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting, or is to abstain from voting

- the company must not require that the proxy appointment be made irrevocable; and
- the proxy appointment remains valid only until the end of the meeting at which it was intended to be used, subject to subsection (5).
- Subsection (8)(b) and subsection (8)(d) do not apply if the company merely supplies a generally available standard form of proxy appointment on request by a shareholder.

Record date for determining shareholder rights

- The board of a company may set a record date for the purpose of determining which shareholders are entitled to:
 - receive notice of a shareholders meeting;
 - participate in and vote at a shareholders meeting;
 - decide any matter by written consent or electronic communication, as contemplated in Section 60;
 - exercise pre-emptive rights, as contemplated in Section 39;

- receive a distribution; or
- be allotted or exercise other rights.
- A record date determined by the board in terms of subsection (1):
 - may not be
 - i. earlier than the date on which the record date is determined; or
 - ii. more than 10 business days before the date on which the event or action, for which the record date is being set, is scheduled to occur; and
 - must be published to the shareholders in a manner that satisfies any prescribed requirements.
- If the board does not determine a record date for any action or event, the record date is:
 - in the case of a meeting, the latest date by which the company is required to give shareholders notice of that meeting; or

- the date of the action or event, in any other case, unless the memorandum of incorporation or rules of the company provide otherwise.

Rights and restricted functions of auditors

- The auditor of a company:
 - has the right to access, at all times, the accounting records and all books and documents of the company, and is entitled to require from the directors or prescribed officers of the company any information and explanations necessary for the performance of the auditor's duties;
 - in the case that the auditor of a holding company has the right of access to all current and former financial statements of any subsidiary of that holding company and is entitled to require from the directors or officers of the holding company or subsidiary any information and explanations in connection with any such statements and in connection with the

- accounting records, books and documents of the subsidiary as necessary for the performance of the auditor's duties; and
- is entitled to
 - i. attend any general shareholders meeting;
 - ii. receive all notices of and other communications relating to any general shareholders meeting; and
 - iii. be heard at any general shareholders meeting contemplated in this paragraph on any part of the business of the meeting that concerns the auditor's duties or functions.
 - An auditor may apply to a court for an appropriate order to enforce the rights set out in subsection (1) (a) or subsection (1) (b), and a court may:
 - make any order that is just and reasonable to prevent frustration of the auditor's duties by the company or any of its directors, prescribed officers or employees; and
 - make an order of costs personally against any director or

prescribed officer whom the court has found to have wilfully and knowingly frustrated, or attempted to frustrate, the performance of the auditor's functions.

- An auditor appointed by a company may not perform any services for that company:
 - that would place the auditor in a conflict of interest as prescribed or determined by the Independent Regulatory Board for Auditors in terms of Section 44(6) of the Auditing Profession Act, 2005 (Act No. 26 of 2005); or
 - as may be determined by the company's audit committee in terms of Section 94(7)(d).

Rights of affected persons during business rescue proceedings

Rights of employees

- During a company's business rescue proceedings any employees of the company who are:
 - represented by a registered trade union may exercise any rights set out in this chapter
 - i. collectively through their trade union; and
 - ii. in accordance with applicable labour law; or
 - if not represented by a registered trade union, may elect to exercise any rights set out in this chapter either directly or by proxy through an employee organisation or representative.
- To the extent that any remuneration, reimbursement for expenses or other amount of money relating to employment became due and payable by a company to an employee at any time before the beginning of the company's business rescue proceedings,

and had not been paid to that employee immediately before the beginning of those proceedings, the employee is a preferred unsecured creditor of the company for the purposes of this chapter.

- During a company's business rescue process, every registered trade union representing any employees of the company and any employee who is not so represented, is entitled to:
 - notice, which must be given in the prescribed manner and form to employees at their workplace, and served at the head office of the relevant trade union, of each court proceeding, decision, meeting or other relevant event concerning the business rescue proceedings;
 - participate in any court proceedings arising during the business rescue proceedings;
 - form a committee of employees' representatives;
 - be consulted by the practitioner during the development of the business rescue plan, and afforded sufficient opportunity

- to review any such plan and prepare a submission contemplated in Section 152(1)(c);
- be present and make a submission to the meeting of the holders of voting interests before a vote is taken on any proposed business rescue plan, as contemplated in Section 152(1)(c);
 - vote with creditors on a motion to approve a proposed business plan, to the extent that the employee is a creditor, as contemplated in subsection (2); and paragraph (f) substituted by Section 94(b) of the Companies Amendment Act, (Act No. 3 of 2011);
 - if the proposed business rescue plan is rejected, to
 - i. propose the development of an alternative plan, in the manner contemplated in Section 153; or
 - ii. present an offer to acquire the interests of one or more affected persons, in the manner contemplated in Section 153.

- A medical scheme, or a pension scheme including a provident scheme, for the benefit of the past or present employees of a company is an unsecured creditor of the company for the purposes of this chapter to the extent of:
 - any amount that was due and payable by the company to the trustees of the scheme at any time before the beginning of the company's business rescue proceedings, and that had not been paid immediately before the beginning of those proceedings; and
 - in the case of a defined benefit pension scheme, the present value at the commencement of the business rescue proceedings of any unfunded liability under that scheme.
- The rights set out in this section are in addition to any other rights arising or accruing in terms of any law, contract, collective agreement, shareholding, security or court order.

Alternative procedures for addressing complaints or securing rights

- A person referred to in Section 157(1) may seek to address an alleged contravention of the Companies Act, or to enforce any provision of, or right in terms of the Companies Act, a company's memorandum of incorporation or rules or a transaction or agreement contemplated in the Companies Act, the company's memorandum of incorporation or rules, by:
 - attempting to resolve any dispute with or within a company through alternative dispute resolution in accordance with Part C of this chapter;
 - applying to the Companies Tribunal for adjudication in respect to any matter for which such an application is permitted in terms of the Companies Act;
 - applying for appropriate relief to the division of the high court that has jurisdiction over the matter; or

- filing a complaint in accordance with Part D of this chapter within the time permitted by Section 219 with
 - i. the Takeover Regulations Panel if the complaint concerns a matter within its jurisdiction; or
 - ii. the CIPC in respect of any matter arising in terms of the Companies Act, other than a matter contemplated in subparagraph (i).

Application to protect rights of securities holders

- A holder of issued securities of a company may apply to a court for:
 - an order determining any rights of that securities holder in terms of the Companies Act, the company's memorandum of incorporation, any rules of the company, or any applicable debt instrument; or
 - any appropriate order necessary to
 - i. protect any rights contemplated in paragraph (a); or

- ii. rectify any harm done to the securities holder by
 - a. the company as a consequence of an act or omission that contravened the Companies Act or the company's memorandum of incorporation, rules or applicable debt instrument, or violated any right contemplated in paragraph (a); or
 - b. any of its directors to the extent that they are or may be held liable in terms of Section 77.
- The right to apply to a court in terms of this section is in addition to any other remedy available to a holder of a company's securities:
 - in terms of the Companies Act; or
 - in terms of the common law, subject to the Companies Act.

Dissenting shareholders appraisal rights

- This section does not apply in any circumstances relating to a transaction, agreement or offer pursuant to a business rescue

plan that was approved by shareholders of a company in terms of Section 152.

- If a company has given notice to shareholders of a meeting to consider adopting a resolution to:
 - amend its memorandum of incorporation by altering the preferences, rights, limitations or other terms of any class of its shares in any manner materially adverse to the rights or interests of holders of that class of shares, as contemplated in Section 37(8); or
 - enter into a transaction contemplated in Section 112, Section 113 or Section 114, that notice must include a statement informing shareholders of their rights under this section.
- At any time before a resolution referred to in subsection (2) is to be voted on, a dissenting shareholder may give the company written notice objecting to the resolution.

- Within 10 business days after a company has adopted a resolution contemplated in this section, the company must send a notice that the resolution has been adopted to each shareholder who:
 - gave the company written notice of objection in terms of subsection (3); and
 - has neither
 - i. withdrawn that notice; or
 - ii. voted in support of the resolution.
- A shareholder may demand that the company pay the shareholder the fair value for all of the shares of the company held by that person if:
 - the shareholder
 - i. sent the company a notice of objection, subject to subsection (6); and
 - ii. in the case of an amendment to the company's memorandum of incorporation, holds shares of a

class that is materially and adversely affected by the amendment

- the company has adopted the resolution contemplated in subsection (2); and
- the shareholder
 - i. voted against that resolution; and
 - ii. has complied with all of the procedural requirements of this section.
- The requirement of subsection (5)(a)(i) does not apply if the company failed to give notice of the meeting, or failed to include in that notice a statement of the shareholders rights under this section.
- A shareholder who satisfies the requirements of subsection (5) may make a demand contemplated in that subsection by delivering a written notice to the company within:
 - 20 business days after receiving a notice under subsection (4); or

- If the shareholder does not receive a notice under subsection (4), within 20 business days after learning that the resolution has been adopted.
- A demand delivered in terms of subsection (5) to subsection (7) must also be delivered to the Takeover Regulations Panel and must state:
 - the shareholder's name and address;
 - the number and class of shares in respect of which the shareholder seeks payment; and
 - a demand for payment of the fair value of those shares.
- A shareholder who has sent a demand in terms of subsection (5) to subsection (8) has no further rights in respect of those shares, other than to be paid their fair value, unless:
 - the shareholder withdraws that demand before the company makes an offer under subsection (11); or allows an offer made by the company to lapse, as contemplated in subsection (12)(b);

- the company fails to make an offer in accordance with subsection (11) and the shareholder withdraws the demand;
or
- the company by a subsequent special resolution revokes the adopted resolution that gave rise to the shareholder's rights under this section.
- If any of the events contemplated in subsection (9) occur, all of the shareholder's rights in respect of the shares are reinstated without interruption.
- Within five business days after the later of:
 - the day on which the action approved by the resolution is effective;
 - the last day for the receipt of demands in terms of subsection (7)(a); or
 - the day the company received a demand as contemplated in subsection (7)(b), if applicable, the company must send to each shareholder who has sent such a demand a written

offer to pay an amount considered by the company's directors to be the fair value of the relevant shares, subject to subsection (16), accompanied by a statement showing how that value was determined.

- Every offer made under subsection (11):
 - in respect of shares of the same class or series must be on the same terms; and
 - lapses if it has not been accepted within 30 business days after it was made.
- If a shareholder accepts an offer made under subsection (12):
 - the shareholder must either, in the case of
 - i. shares evidenced by certificates, tender the relevant share certificates to the company or the company's transfer agent; or
 - ii. uncertificated shares, take the steps required in terms of Section 53 to direct the transfer of those shares to the company or the company's transfer agent

- the company must pay that shareholder the agreed amount within 10 business days after the shareholder accepted the offer and
 - i. tendered the share certificates; or
 - ii. directed the transfer to the company of uncertificated shares.
- A shareholder who has made a demand in terms of subsection (5) to subsection (8) may apply to a court to determine a fair value in respect of the shares that were the subject of that demand, and an order requiring the company to pay the shareholder the fair value so determined, if the company has:
 - failed to make an offer under subsection (11); or
 - made an offer that the shareholder considers to be inadequate, and that offer has not lapsed.
- On an application to the court under subsection (14):
 - all dissenting shareholders who have not accepted an offer from the company as at the date of the application must be

- joined as parties and are bound by the decision of the court;
- the company must notify each affected dissenting shareholder of the date, place and consequences of the application and of their right to participate in the court proceedings; and
 - the court
 - i. may determine whether any other person is a dissenting shareholder who should be joined as a party;
 - ii. must determine a fair value in respect of the shares of all dissenting shareholders, subject to subsection (16);
 - iii. in its discretion may
 - a. appoint one or more appraisers to assist it in determining the fair value in respect of the shares; or
 - b. allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective, until the date of payment;

- c. may make an appropriate order of costs, having regard to any offer made by the company, and the final determination of the fair value by the court; and
 - d. must make an order requiring
 - iv. the dissenting shareholders to either withdraw their respective demands or to comply with subsection (13)(a); and
 - v. the company to pay the fair value in respect of their shares to each dissenting shareholder who complies with subsection (13)(a), subject to any conditions the court considers necessary to ensure that the company fulfils its obligations under this section.
- At any time before the court has made an order contemplated in subsection (15)(c)(v), a dissenting shareholder may accept the offer made by the company in terms of subsection (11), in which case:

- that shareholder must comply with the requirements of subsection (13)(a); and
- the company must comply with the requirements of subsection (13)(b).
- The fair value in respect of any shares must be determined as at the date on which, and time immediately before, the company adopted the resolution that gave rise to a shareholder's rights under this section.
- If there are reasonable grounds to believe that compliance by a company with subsection (13)(b), or with a court order in terms of subsection (15)(c)(v)(bb), would result in the company being unable to pay its debts as they fall due and payable for the ensuing 12 months:
 - the company may apply to a court for an order varying the company's obligations in terms of the relevant subsection; and
 - the court may make an order that

- i. is just and equitable, having regard to the financial circumstances of the company; and
 - ii. ensures that the person to whom the company owes money in terms of this section is paid at the earliest possible date compatible with the company satisfying its other financial obligations as they fall due and payable.
- If the resolution that gave rise to a shareholder's rights under this section authorised the company to amalgamate or merge with one or more other companies, such that the company whose shares are the subject of a demand in terms of this section has ceased to exist, the obligations of that company under this section are obligations of the successor to that company resulting from the amalgamation or merger.
 - For greater certainty, the making of a demand, tendering of shares and payment by a company to a shareholder in terms of this section do not constitute a distribution by the company, or an acquisition of its shares by the company within the meaning of

Section 48, and therefore are not subject to:

- the provisions of that section; or
 - the application by the company of the solvency and liquidity test set out in Section 4.
- Except to the extent:
 - expressly provided in this section; or
 - that the Takeover Regulations Panel rules otherwise in a particular case, a payment by a company to a shareholder in terms of this section does not obligate any person to make a comparable offer under Section 125 to any other person.

Right to participate in hearing

- The following persons may participate in an adjudication hearing contemplated in the part, in person or through a representative, and may put questions to witnesses and inspect any books, documents or items presented at the hearing:
 - the CIPC

- the applicant or complainant; and
- any other person who has a material interest in the hearing, unless that interest is adequately represented by another participant.

Adjustment of rights of contributories *inter se*

- The liquidator shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Rights offers in respect of listed securities

- A rights offer in respect of listed securities, and all documents issued in connection with it, must satisfy the requirements that would apply to a prospectus in terms of Section 100 and Section 102 and Regulation 51, each read with the changes required by the context.

Options or preferential rights in respect of shares

- Section 1, paragraph (5) of every prospectus must concisely summarise the substance of any agreement or proposed agreement, as at the date of the prospectus, 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 any subsidiary of the company, giving the number and description of any such shares, including in regard to the option or right, particulars of:
 - the period during which it is exercisable;
 - the price to be paid for shares subscribed for under it;
 - the consideration given or to be given for it;
 - the names and addresses of the persons to whom it was given other than to existing shareholders as such or to employees under an employee share scheme;
 - if given to existing shareholders as such, material particulars thereof; and

- any other material fact or circumstance concerning the granting of such option or right.
- For the purpose of this regulation, “subscribing for shares” includes acquiring them from a person to whom they were allotted, or were agreed to be allotted, with a view to that person offering them for sale.

Contact centre: 086 100 2472

Postal address: PO Box 429, Pretoria, 0001



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

**towards full-scale industrialisation
and inclusive growth**

