

Talking Companies

Impact on Close Corporations (“CCs”)

From the date the Act becomes effective, no new CCs may be formed, nor will companies be able to convert to a CC.

Existing CCs will continue to exist subject to the following:

- the provisions relating to the use of a company’s name apply to CCs;
- the standards of conduct of directors apply equally to members acting on behalf of a CC;
- financially distressed CCs can utilise the Business Rescue Process;
- the time in which the Annual Financial Statements of a CC must be produced, subject to certain exemptions, has decreased to six months after the CC’s year-end;
- the use of accounting standards and audit requirement, as determined by the Companies Act Regulations, will apply to CCs;
- a person disqualified to act as a director of a company is not entitled to participate in the management of a CC;
- solvent CCs may be wound up in the same way as companies;
- complaints regarding CCs, investigations by the Companies Commission, adjudication procedures before the Companies Tribunal, and certain offences and penalties in respect of false statements, reckless conduct, non-compliance and hindering the administration of the Act, will be made in terms the Companies Act;

A CC may convert at any time to a company by filing a “Notice of Conversion”, accompanied by:

- the prescribed fee;
- a certified copy of a resolution signed by all the members of the CC; and
- the Memorandum of Incorporation of the new company.

The consequences of converting to a company include:

- Every member of the CC is entitled to become a shareholder of the company, however the shareholding does not need to be in the same proportion as the members’ interest.
- A member of a CC is entitled to participate in the management of the CC, a shareholder does not have this right.



- The juristic person that existed before the conversion continues to exist in the form of a company thereafter.
- All the assets, liabilities, rights and obligations of the CC vest in the company.
- Existing legal proceedings are deemed to have been carried out by, or in the name of, the company.
- Any debts of a CC which arose before conversion to a company, and for which a member was personally liable, remain the liability of that person.

Members of CCs will ultimately have to decide whether any advantage remains to continue operating their business in the form of a CC.

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