
GREENPEN Summary[©]

Amendments to the Companies Act, 1973, in terms of the Corporate Laws Amendment Act, No. 24 of 2006

Act 24 of 2006 was promulgated on, and is effective from 14 December 2007

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1 Major amendments to the Companies Act

1.1 Widely held companies and limited interest companies

Section 1(6)

Definitions of widely held companies and limited interest companies

Overview of amendments

A company is a Widely Held Company in any of the following instances:

- Its articles provide for an unrestricted transfer of its shares
- It is permitted by its articles to offer shares to the public
- It decides by special resolution to be a widely held company
- It is a subsidiary of a company described above.

A company is a Limited Interest Company if it is not a Widely Held Company

Section 1(6) (new subsection)

- (a) A company is a widely held company: if—
- (i) its articles provide for an unrestricted transfer of its shares;
 - (ii) it is permitted by its articles to offer shares to the public;
 - (iii) it decides by special resolution to be a widely held company; or
 - (iv) it is a subsidiary of a company described in subparagraph (i), (ii) or (iii).
- (b) A company with two or more types or classes of shares is a widely held company if its articles provide for the unrestricted transfer of shares in one or more of these types or classes.
- (c) For the purposes of this subsection—
- (i) a transfer of shares is unrestricted if it is not subject to an effective right of pre-emption;
 - (ii) an effective right of pre-emption is a right of pre-emption which operates in favour of all shareholders of the company and upon every proposed sale of shares to a person who is not a shareholder of the company.
- (d) A company is a limited interest company if it is not a widely held company.
- (e) An effective right of pre-emption contained in the articles of a limited interest company shall be deemed also to operate, with the necessary changes, upon—
- (i) the disposal of a beneficial interest in a share of the company; and
 - (ii) an offer by the company of shares created in terms of section 75(1) to any person who is not a shareholder of the company.
- (f) For the purposes of paragraph (e)(i), 'beneficial interest' shall be as defined in subsection 140A(1), except that it shall apply in relation to a share rather than to a security.

1.2 Financial assistance in respect of the purchase of shares

Section 38

No financial assistance to purchase shares of company or holding company

Overview of amendments

The general prohibition in respect of providing financial assistance, whether directly or indirectly, to any person in order to obtain shares in the company or in the company's holding company will NOT apply in instances where:

- The assistance is approved by special resolution; AND
- The directors are satisfied that subsequent to the transaction the assets will exceed the liabilities; AND
- The directors are satisfied that subsequent to, and during the transaction the company will be able to pay its debt in the normal course of business.

The directors must ensure that any related contingent liabilities are accounted for.

Section 38 (as amended)

- (1) No company shall give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person or for any shares of the company, or where the company is a subsidiary company, of its holding company.
- (2) The provisions of subsection (1) shall not be construed as prohibiting:
 - (a) the lending of money in the ordinary course of its business by a company whose main business is the lending of money; or
 - (b) the provision by a company, in accordance with any scheme for the time being in force, of money for the subscription for or purchase of shares of the company or its holding company by trustees to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company; or
 - (c) the making by a company of loans to persons, other than directors, bona fide in the employment of the company with a view to enabling those persons to purchase or subscribe for shares of the company or its holding company to be held by themselves as owners.
- (2A) Subsection (1) does not prohibit a company from giving financial assistance for the purchase of or subscription for shares of that company or its holding company, if—
 - (a) the company's board is satisfied that—
 - (i) subsequent to the transaction, the consolidated assets of the company fairly valued will be more than its consolidated liabilities; and
 - (ii) subsequent to providing the assistance, and for the duration of the transaction, the company will be able to pay its debts as they become due in the ordinary course of business; and
 - (b) the terms upon which the assistance is to be given is sanctioned by a special resolution of its members.

- (2B) For the purposes of paragraph (2A)(a), the directors must account for any contingent liabilities which may arise to the company, including any contingent liability which may result from giving the assistance.
- (3)(a) Any company which contravenes the provisions of this section, and every director or officer of such company, shall be guilty of an offence.
- (b) For the purpose of this subsection “director”, in relation to a company, includes any person who at the time of the alleged contravention was a director of the company.
- (c) It shall be a defence in any proceedings under this section against any director or officer of a company if it is proved that the accused was not a party to the contravention.

1.3 Disposal of business or greater part of assets

Section 228

Disposal of undertaking or greater part of assets of company

Overview of amendments

Disposal of the whole or greater part of a company’s undertaking or of its assets require approval by special resolution.

If a disposal by a subsidiary would constitute disposal of the whole or greater part of the undertaking or assets of its holding company, the disposal also requires approval by special resolution of the holding company.

For purposes of determining “the greater part” reference will be made to fair value.

Excluded: Disposal between a wholly owned subsidiary and its holding company or between two wholly owned subsidiaries with the same holding company.

Section 228 (as amended)

- (1) Notwithstanding anything contained in its memorandum or articles, the directors of a company shall not have the power, save by a special resolution of its members, to dispose of—
- (a) the whole or the greater part of the undertaking of the company; or
- (b) the whole or the greater part of the assets of the company.
- (2) If in relation to the consolidated financial statements of a holding company, a disposal by any of its subsidiaries would constitute a disposal by the holding company in terms of subsection (1)(a) or (b), such disposal requires a special resolution of the shareholders of the holding company.
- (3) A special resolution of a company shall not be effective in approving a disposal described in subsection (1) or (2) unless it authorizes or ratifies in terms the specific transaction.
- (4) An undertaking or assets of a company, and the part to be disposed of, shall be calculated for purposes of subsections (1) and (2) according to the fair value of the undertaking or assets as described in financial reporting standards.

- (5) Subsections (1) to (4) shall not apply to a disposal between a wholly owned subsidiary and its holding company, or between two wholly owned subsidiaries of the same holding company.



1.4 Audit committees

Section 269A

Audit committees for public interest companies

Overview of amendments

The directors of a Widely Held Company must appoint an audit committee for each financial year, comprising at least two members and comprising only non-executive directors who must act independently. Unless:

- The audit committee of the company's holding company will perform the required functions on behalf of the company; OR
- The company belongs to a category as announced by the Minister (refer to Section 269B).

A "Non-executive director":

- Is not involved in the day-to-day business of the company; AND
- Has not in the past three years been a full-time salaried employee of the company or group; AND
- Is not an immediate family member of any such individual.

Section 269A (new section)

- (1) In every financial year in which a company is a widely held company, its board of directors shall appoint an audit committee for the following financial year.
- (2) Subsection (1) shall not apply to a company—
 - (a) if the audit committee of a holding company will perform the functions required under section 270A(1) on behalf of that company;
 - (b) if the company ceases to be a widely held company in the manner contemplated in section 1 (7);
 - (c) if the company belongs to a category of companies specified by the Minister under section 269B.
- (3) An audit committee must have at least two members and consist only of non-executive directors of the company who must act independently.
- (4) For the purposes of this Chapter—
 - (a) "financial year" shall be construed in accordance with section 285;
 - (b) a director is a non-executive director of a company if the director— (i) is not involved in the day to day management of the business and has not in the past three financial years been a full-time salaried employee of the company or its group; (ii) is not a member of the immediate family of an individual mentioned in subparagraph (i);
 - (c) a director acts independently if that director— (i) expresses opinions, exercises judgment and makes decisions impartially; (ii) is not related to the company or to any shareholder, supplier, customer or other director of the company in a way that would lead a reasonable and informed third party to conclude that the integrity, impartiality or objectivity of that director is compromised by that relationship.

Section 269B
Minister's powers in respect of audit committees

Overview of amendments

The Minister may announce categories of companies that are not required to appoint an audit committee.

Section 269B (new section)

- (1) The Minister may by publication in the Gazette specify certain categories of companies that are not required to appoint an audit committee in terms of section 269A(1).
- (2) The Minister must be satisfied that little or no benefit would result from the appointment of an audit committee by companies in a category mentioned in subsection (1).

Section 270A
Functions and funding of audit committees

Overview of amendments

Responsibilities of the audit committee of a Widely Held Company:

- Nominate for appointment an auditor who it believes is independent of the company
- Determine the auditor's terms of engagement
- Determine the auditor's fees
- Ensure that the appointment of the auditor complies with all relevant legislation
- Determine the non-audit services which the auditor may provide to the company
- Pre-approve any contract for non-audit services
- Insert a "Report of the audit committee" in the financial statements describing how it carried out its functions and stating whether it is satisfied that the auditor was independent from the company
- Receive and deal with complaints in respect of: Accounting practices, contents of the financial statements, auditing of the financial statements, internal audit function, related matters;
- Perform other functions determined by the board of directors.

Section 270A (new section)

- (1) An audit committee of a widely held company must with respect to the financial year for which it is appointed—
 - (a) nominate for appointment as auditor of the company under section 270 a registered auditor who, in the opinion of the audit committee, is independent of the company;
 - (b) determine the fees to be paid to the auditor and the auditor's terms of engagement;
 - (c) ensure that the appointment of the auditor complies with this Act and any other legislation relating to the appointment of auditors;
 - (d) determine, subject to this Chapter, the nature and extent of any non-audit services which the auditor may provide to the company;

- (e) pre-approve any proposed contract with the auditor for the provision of non-audit services to the company;
 - (f) insert in the financial statements to be issued in respect of that financial year a report— (i) describing how the audit committee carried out its functions; and (ii) stating whether the audit committee is satisfied that the auditor was independent of the company;
 - (g) receive and deal appropriately with any complaints (whether from within or outside the company) relating either to the accounting practices and internal audit of the company or to the content or auditing of its financial statements, or to any related matter; and
 - (h) perform other functions determined by the board.
- (2) Nothing in this section precludes the appointment by a widely held company at its annual general meeting of an auditor other than one nominated by the audit committee, and where such an auditor is to be appointed paragraph (a) of subsection (1) shall not apply, but the appointment shall not be valid unless the audit committee is satisfied that the proposed auditor is independent of the company.
- (3) The appointment of an audit committee shall not reduce the functions of the board of directors of the company except with respect to the appointment, fees and terms of engagement of the auditor.
- (4) A widely held company shall meet all expenses reasonably incurred by its audit committee, including the fees of any consultant or specialist engaged by the audit committee to assist it in the performance of its duties.
- (5) In considering whether, for the purposes of subsection (1)(a), (1)(f)(ii) or (2), a registered auditor is independent of a company, the audit committee shall in relation to the company and any subsidiary or parent of the company or, if the company is a member of a group, any other member of the group—
- (a) ascertain that the auditor does not, except as auditor or in rendering services permitted under subsection (1)(e), receive any remuneration or other benefit;
 - (b) consider the extent of any consultancy, advisory or other work undertaken by the auditor;
 - (c) consider whether the auditor's independence may have been prejudiced as a result of any previous appointment as auditor; and
 - (d) consider compliance with other criteria specified for independence by the Independent Regulatory Board for Auditors.

1.5 Additional aspects relating to auditors of Widely Held Companies: Rotation of auditor, non-audit services and attendance of annual general meeting

Section 274A

Rotation of auditors

Overview of amendments

The term of an individual designated auditor for a Widely Held Company is five consecutive financial years.

If an individual has served as auditor for two or more consecutive years and cease to be the designated auditor, he/she may not be appointed again until the expiry of at least two further financial years.

Section 56 of the Amendment Act: Transitional provisions

For purposes of rotation, the term of an auditor will be measured from the date of the auditor's first appointment or reappointment after the date on which the Amendment Act took effect (i.e. 14 December 2007).

Section 274A (new section)

- (1) The same individual may not serve as the auditor or designated auditor of a widely held company for more than five consecutive financial years.
- (2) Where an individual has served as the auditor or designated auditor of a widely held company for two or more consecutive financial years and then ceases to be the auditor or designated auditor, the individual may not be appointed again as the auditor or designated auditor of that company until after the expiry of at least two further financial years.

Section 275A***Certain non-audit services not open to current auditor of widely held company*****Overview of amendments**

The auditor of a Widely Held Company is prohibited to provide non-audit services to the company, as mentioned in Section 21(2)(a) of the Auditing Profession Act.

The audit committee may further limit the non-audit services that may be provided by the auditor.

Section 275A (new section)

- (1) An auditor appointed to a widely held company may not for the duration of the appointment perform for that company services prohibited under the code of professional conduct mentioned in section 21 (2)(a) of the Auditing Profession Act, (Act No. 26 of 2005).
- (2) The Independent Regulatory Board for Auditors shall in the code mentioned in subsection (1) define and prohibit the provision by an auditor of certain non-audit services in circumstances in which these will be subject to the auditor's own auditing.
- (3) Subsection (1) does not affect the power of an audit committee under section 270A(1)(d) or (e) to further limit the services which an auditor of that company may render.

Section 300A
Attendance of auditors

Overview of amendments

The designated auditor must meet with the audit committee not more than one month before the directors meet to approve the financial statements.

The designated auditor must attend every annual general meeting of a Widely Held Company. At the meeting, the auditor must respond to any question relevant to the audit of the financial statements.

The designated auditor of a limited interest company can also be required to attend the annual general meeting, if due notice is given of the intention to move a resolution requiring such attendance.

Section 300A (new section)

- (1) The designated auditor must meet with the audit committee of a widely held company not more than one month before the board meets to approve the financial statements of the company for any financial year, so as to consider matters which appear to the auditor or the audit committee to be of importance and relevant to the proposed financial statements and to the affairs of the company generally.
- (2) The designated auditor must attend every annual general meeting of a widely held company where the financial statements of the company for a financial year are to be considered or agreed to, so as to respond according to his or her knowledge and ability to any question relevant to the audit of the financial statements.
- (3) Should the designated auditor fail to attend a meeting as required by subsection (1) or subsection (2), the auditor is guilty of an offence unless—
 - (a) the designated auditor is prevented by circumstances beyond his or her control from attending the meeting;
 - (b) the designated auditor arranges for another auditor with knowledge of the audit to attend and carry out the duties of the designated auditor at the meeting; and
 - (c) if the designated auditor is a member of a firm, the individual attending the meeting in place of the designated auditor is a member of that firm.
- (4) If in the case of a limited interest company due notice is given of the intention to move a resolution requiring the presence of the auditor at an annual general meeting of the company where financial statements of the company for any financial year are to be considered, the auditor shall attend that meeting and respond according to his or her knowledge and ability to any question which is put to the auditor and is relevant to the audit of the financial statements.
- (5) If an auditor fails to comply with subsection (4), the auditor is guilty of an offence unless—
 - (a) the auditor is prevented by circumstances beyond his or her control from attending the meeting; and
 - (b) the auditor arranges for another auditor with knowledge of the audit to attend and carry out the duties of the auditor at the meeting.

(6) In this section "designated auditor" has the meaning given to it in section 273(5).

1.6 Requirements relating to the financial statements of a company

Section 285A

General requirements for financial statements

Overview of amendments

The financial statements of a Widely Held Company must:

- Comply with financial reporting standards
Defined as: Statements of Generally Accepted Accounting Practice adopted by the Accounting Practices Board (APB) prior to the establishment of the Council, and thereafter issued by the Financial Reporting Standards Council (FRSC).
- Comply with the Act and Schedule 4 applicable to public interest companies.
- Fairly present the financial position and result of operations of the company.

The financial statements of a Limited Interest Company must:

- Comply with the accounting standards developed for limited interest companies
- Comply with the Act and Schedule 4 applicable to limited interest companies.
- Fairly present the financial position and result of operations of the company.

Section 440S on the functions of FRSC

FRSC must establish financial reporting standards for public interest companies and must develop accounting standards for limited interest companies:

- Statements of Generally Accepted Accounting Practice must be in accordance with the International Financial Reporting Standards of the IASB.
- Accounting standards for limited interest companies must be developed in consultation with representatives of limited interest companies.

Section 285A (new section)

(1) A widely held company—

- (a) must comply with financial reporting standards;
- (b) must comply with the provisions of this Act and Schedule 4 that are applicable to public interest companies;
- (c) must prepare financial statements that fairly present the financial position and the results of the operations of the company (and its subsidiaries, if applicable) in accordance with paragraph (a).

(2) A limited interest company—

- (a) must comply with the accounting standards developed for limited interest companies under section 440S(l)(b);
- (b) must comply with the provisions of this Act and Schedule 4 that are applicable to limited interest companies;

- (c) must prepare financial statements that fairly present the financial position and the results of operations of the company (and its subsidiaries, if applicable) in accordance with paragraphs (a) and (b).
- (3) Financial statements must clearly state that they have been prepared in accordance with—
 - (a) this Act prior to its amendment by the Corporate Laws Amendment Act, 2006;
 - (b) financial reporting standards; or
 - (c) the requirements of subsection (2)(c).

Section 286

Duty to make out annual financial statements and to lay them before annual general meeting

Overview of amendments

Required components of the annual financial statements of a company:

- A balance sheet, income statements and additional components required in terms of financial reporting standards
- A summary of significant accounting policies
- Other explanatory notes on the relevant components
- Directors' report
- Auditor's report

Section 286 (as amended)

- (1) The directors of a company shall in respect of every financial year of the company cause to be made out in one of the official languages of the Republic annual financial statements and shall lay them before the annual general meeting of the company required to be held in terms of section 179 in respect of that financial year.
- (2) The annual financial statements required to be made out under subsection (1) shall consist of—
 - (a) a balance sheet, income statement and additional components required in terms of financial reporting standards
 - (b) a summary of significant accounting policies and other explanatory notes on the components referred to in paragraph (a);
 - (c) a directors' report complying with the requirements of this Act; and
 - (d) an auditor's report as required by section 301.
- (3) Deleted
- (4)(a) Any director or officer of a company who fails to take all reasonable steps to comply or to secure compliance with the provisions of this section or with any other requirements of this Act as to matters to be stated in annual financial statements, shall be guilty of an offence.
- (b) In any proceedings against any director or officer of a company under paragraph (a), the defence referred to in section 284 (4) (b) shall be available to him.

Section 287
Offence to issue incomplete or non-compliant financial statements

Overview of amendments

It is an offence to issue, circulate or publish financial statements which are:

- Incomplete in any material particular
- Not in compliance with the requirements of this Act.

Section 287 (as amended)

If any financial statements of a company which are incomplete in any material particular or otherwise do not comply with the requirements of this Act, are issued, circulated or published, the company and every director or officer thereof who is a party to such issue, circulation or publication, shall be guilty of an offence.

Section 287A
False or misleading reports

Overview of amendments

It is an offence to be a party to the preparation, approval, publication, issue or supply of a financial report that is false or misleading in a material respect.

Section 287A (new section)

- (1) If any financial report of a company is false or misleading in a material respect, any person who is a party to the preparation, approval, publication, issue or supply of that report and who knows or ought reasonably to suspect that it is false or misleading is guilty of an offence unless subsection (3) applies.
- (2) For the purposes of subsection (1), a person shall be regarded as a party to the preparation of a financial report which is false or misleading if—
 - (a) the report includes or is otherwise based on a scheme, structure or form of words devised, prepared or recommended by that person; and
 - (b) the scheme, structure or form of words is of such a nature that that person knew or ought reasonably to have suspected that its inclusion or other use in connection with the preparation of the report would cause the report to be false or misleading.
- (3) If any person is found guilty of an offence under section 287 in respect of a failure to comply with, or an omission from, financial statements, such person shall not also be guilty of an offence under this section in respect of the same failure or omission.

1.6.1 Group financial statements

Section 288

Obligation to lay group statements before annual general meeting

Overview of amendments

The requirement that group financial statements must be prepared in conformity with “generally accepted accounting practice” has been deleted.

The definition of financial statements includes group financial statements. “Financial statements”, including group financial statements must be prepared in accordance with Section 285A.

Section 288 (as amended)

- (1) Where at the end of its financial year a company, which is not a wholly owned subsidiary of another company incorporated in the Republic (including an external company which is a subsidiary of a company incorporated in the Republic), has subsidiaries, group annual financial statements shall be made out and shall be laid before the annual general meeting of the company before which its own annual financial statements are so laid under section 286 (1).
- (2) Deleted
- (3)(a) Any director or officer of a company who fails to take all reasonable steps to comply or to secure compliance with the provisions of this section or with any other requirements of this Act as to matters to be stated in group financial statements, shall be guilty of an offence.
- (b) In any proceedings against any director or officer of a company under paragraph (a), the defence referred to in section 284 (4) (b) shall be available to him.

Section 289

Group annual financial statements

Overview of amendments

Section 289 is repealed.

This section addressed the contents of group annual financial statements, which may comprise consolidated financial statements, or group financial statements in some other forms. However, these principles have been moved to Section 290 (as amended).

Section 289

Repealed

Section 290
Group financial statements for limited interest companies

Overview of amendments

A Limited Interest Company need not prepare consolidated financial statements. In such instance, the company's group financial statements may consist of:

- Various sets of consolidated financial statements dealing with different groups of subsidiaries
- Separate financial statements dealing with each of the subsidiaries
- Statements annexed to the company's own financial statements, which deal with the subsidiaries and their effect on the financial statements of the company
- Any combination of these forms.

By implication, a Widely Held Company must prepare consolidated financial statements. The alternative forms of group financial statements are not available to a Widely Held Company.

Section 290 (as amended)

- (1) A limited interest company need not consolidate financial statements, if the directors of the company are of the opinion that the required information about the state of affairs, business and profit or loss of the company and its subsidiaries would be presented more effectively and meaningfully in the manner set out in subsection (2).
- (2) If consolidated annual financial statements are not made out, group annual financial statements may consist of—
 - (a) one set of consolidated annual financial statements dealing with the company and one group of subsidiaries and one or more sets dealing with other groups of subsidiaries;
 - (b) separate annual financial statements dealing with each of the subsidiaries;
 - (c) statements annexed to the company's own annual financial statements dealing with subsidiaries and their effect on the financial statements of the company; or
 - (d) any combination of the forms described in paragraph (a), (b) or (c).
- (3) Group financial statements may be wholly or partly incorporated in the company's own financial statements.

Section 291

Where group annual financial statements need not deal with subsidiary

Overview of amendments

Section 291 is repealed.

The principle that group financial statements may in certain circumstances not deal with a subsidiary has been abandoned.

Section 291

Repealed

Section 294

Duty of auditor to report on decisions of directors on consolidated and group annual financial statements

Overview of amendments

Section 294 is repealed.

There is no longer a requirement for the auditor to include in the auditor's report a statement relating to a decision not to make out consolidated financial statements, or relating to group financial statements that do not deal with a subsidiary.

Section 294

Repealed

1.6.2 The financial statements of limited interest companies

The financial statements of a limited interest company must be prepared in accordance with the accounting standards for limited interest companies, developed in terms of Section 440S (refer to Section 285A, above).

Section 56 of the Amendments Act (24 of 2006) contains certain transitional provisions in the case of a limited interest company:

- Prior to the development of accounting standard for limited interest companies, such company must prepare its financial statements in accordance with accounting practices adopted and which comply with the Framework for the preparation of financial statements included in financial reporting standards.
- A limited interest company may apply these provisions to financial statements for financial years ending on or after 31 December 2005.

On 7 August 2007 the APB approved the South African Statement of Generally Accepted Accounting Practice for Small and Medium-sized Entities (GAAP for SMEs), which is represented by the International Accounting Standards Board's (IASB's) exposure draft on *IFRS for SMEs*, without any change to the original text.

In SAICA Circular 9/2007, Statement of Generally Accepted Accounting Practice for Small and Medium-sized Entities, it is explained that SAICA recommended to the APB the issue of the Statement of GAAP for SMEs as "*a transitional standard*" for limited interest companies in South Africa. Therefore, the current Statement of GAAP for SMEs could be regarded as a means of complying with the transitional provisions of the Corporate Laws Amendment Act.

Circular 9/2007 identifies the following options which are available to a limited interest company:

- Apply South African Statements of Generally Accepted Accounting Practice (SA GAAP)
- Apply International Financial Reporting Standards (IFRS)
- Apply the South African Statement of Generally Accepted Accounting Practice for Small and Medium-sized Entities (GAAP for SMEs)

It is important to note that a limited interest company may only apply GAAP for SMEs, if the relevant scope requirements as stipulated by the APB are met:

- If the company meets the definition of a limited interest company in the Companies Act
- If the company does not have public accountability as defined in Section 1 of the Statement of GAAP for SMEs
- May only be applied to annual financial statements for financial years ending on or after 31 December 2005 that are issued on or after 1 October 2007.

2 Other amendments to the Companies Act

Section	Section heading	Comments iro amendments
8	Exemptions from liability	Exempting from liability the State, Registrar, an inspector or any officer or appointee of the state.
9	Inspection and copies of documents in Companies Registration Office; and by foreign governments and universities	Inspection of copies is subject to the availability of the original document.
17A	Delegation	The Minister may delegate certain powers to any officer or employee in the public service.
20	Meaning of "private company" and cessation of its privileges	The sub-section in terms of which certain sections applicable to a public company will apply to a private company in contravention, has been deleted.
35	Power as to pre-incorporation contracts	The contract concerned must be lodged with the Registrar and not 2 copies, one of which must be certified.
73	Cancellation of registration of memorandum and articles	Insertion of new sub-section (6A): Restoring the registration of a company, who's registration had been cancelled due to its failure to lodge an annual return.
148	Matters to be stated in prospectus	Prescribe the contents of a prospectus.
148A	Permission to omit information	Application may be made to the Registrar to omit information otherwise required from the prospectus.
215	Register of directors and officers	In the case of a Widely Held Company, the name of the individual registered auditor must also be entered in the register.
261A	Preservation of secrecy	An inspector in respect of the investigation of the affairs of a company may only disclose information acquired by the company in certain instances.
269	First appointment of auditor of company	Only a Registered Auditor, as described in the Auditing Profession Act, may be appointed as auditor of a company.

Section	Section heading	Comments iro amendments
270	Annual appointment of auditor	Two additional instances where an auditor is not deemed to be reappointed: - When the audit committee objects - When auditor rotation is required.
273	Filling of casual vacancies	In the case of a Widely Held Company the directors must within 21 days propose an auditor to the audit committee and the audit committee has 10 days to reject the proposed auditor, otherwise the directors can proceed with the auditor's appointment.
274	Appointment of firm as auditor	In the case of a Widely Held Company, the appointment of a firm will not be valid, unless the appointment specifies the individual Registered Auditor who undertakes the audit.
440O	Definitions and preliminary	The Financial Reporting Standards Council (FRSC) is established in terms of Section 440P. Sections 440Q to 440U deal with various matters relating to the FRSC.
440P	Establishment of Council	
440Q	Appointment and removal of Council members	
440R	Officers and meetings of Council	
440S	Functions of Council	
440T	Interested persons in respect of Council	
440U	Approval and publication of standards	
440V	Monitoring	The Minister may specify types or categories of public interest companies who's financial reports and accounting practices are to be monitored.
440W	Establishment of Panel	Section 440W establishes the Financial Reporting Investigations Panel to investigate alleged non-compliance with financial reporting standards. Sections 440W to 440EE deal with various matters relating to the Panel.
440X	Appointment and removal of members of Panel	
440Y	Interested persons in respect of Panel	
440Z	Officers and meetings of Panel	
440AA	Investigation of non-compliance	
440BB	Powers of investigation committee	
440CC	Confidentiality	
440DD	Advisors	
440EE	Publication	
440FF	Offence and penalty	
440GG	Limitation of liability	Sections 440GG to 440JJ address certain other matters relating to the FRSC and the Investigations Panel.
440HH	Annual reports	
440II	Administrative Support	
440JJ	Remuneration and reimbursements	
441	Penalties for offences	A Widely Held Company which issues a financial report that does not comply with a financial reporting standard (in terms of Section 440FF) may receive a fine not exceeding R1,000,000.
Schedule 4: Requirements for financial statements		Overall, updating of accounting terms in line with financial reporting standards.
Schedule 4: New paragraph 4A		Application of Schedule 4: - A Limited Interest Company must comply with the entire Schedule 4. - A Widely Held Company must comply with certain specified paragraphs of Schedule 4.
Schedule 4: Paragraph 5 is deleted		Par 5 which required compliance with Statements

Section	Section heading	Comments iro amendments
		of Generally Accepted Accounting Practice is deleted. However, refer to the new Section 285A.

AND

Certain sections have been amended in respect of reference to notices in the *prescribed manner* (an not *the Gazette*), inclusion of "he/she", "him/her" and "his/hers", simplification and/or updating of wording, terms and names, amendments to bring requirements and principles in line with certain of the major amendments (above) and other amendments:

Section

- 28 Amendment of certificate of incorporation of converted company and when conversion effective
- 29C Conversion of close corporation into company
- 43 Registration of translation and shortened form of name or defensive name
- 44 Change of name and effect thereof
- 61 Consolidation of articles
- 63 Registration of memorandum and articles
- 64 Certificate of incorporation and its value as evidence
- 73 Deregistration
- 144 Offers not being offers to the public
- 173
- 271 Where meeting fails to appoint auditor, and notice to Registrar
- 275 Disqualification for appointment as auditor
- 276 Notice by, and entries in register of directors and officers and lodging of returns pertaining to auditors
- 280 Resignation of auditor
- 303 Half-yearly interim reports
- 304 Provisional annual financial statements
- 305 Form and contents of interim report and provisional annual financial statements
- 419 Dissolution of companies and other bodies corporate
- 440B Establishment of panel
- 440C Functions of panel
- 440D Investigations by panel
- 441 Penalties for offences.

