

Deadline for appointment of Social and Ethics Committee – 1 May 2012

(As prescribed by the Companies Act, 2008)

The Minister of Trade and Industry has in the Companies Regulations prescribed that the following companies must appoint a Social and Ethics Committee:

- every state-owned company;
- every listed public company; and
- any other company that has, in any two of the previous five years, scored above 500 points as per the calculation of the public interest score (PI Score) in Regulation 26(2).

Exemptions

The above-mentioned companies must appoint a Committee unless:

- it is a subsidiary of another company that has a Social and Ethics Committee and that other company will perform the functions required by this regulation on its behalf; or
- it has been exempted by the Tribunal if it is satisfied that:
 - the company is required in terms of other legislation to have other mechanism that performs the same functions and the Social and Ethics Committee; or
 - it is not necessary taking into account the company's PI score.

The exemption will be valid for five years or for a shorter period determined by the Tribunal. To apply for exemption companies must complete Form CTR 142, *Application for Relief*.

Although the Tribunal members have been appointed the Tribunal is not yet effective, therefore applications for exemption can be sent to the Companies Commission (CIPC) until the Tribunal becomes effective.

Appointment

The board of a company that is required to have a Social and Ethics Committee must appoint the first members of the Committee within 12 months of:

- the date of its incorporation as a state-owned company;
- the date of its listing as a public company; or
- the date it scored above 500 points in the PI Score for two out of the previous five years.

Companies that are required to appoint a Social and Ethics committee are advised that the deadline for the affected companies to appoint the first members of the Committee or to apply to the Tribunal for exemption is 1 May 2012.

Composition:

The company's Social and Ethics Committee must comprise of at least three directors or prescribed officers, with at least one not being involved in the day-to-day management of the company and must not have been so involved within the three previous financial periods.

Duties of the Social and Ethics Committee

The Regulations state in Regulation 43(5) the duties of the Social and Ethics Committee as the following:

- a) "To monitor the activities of the company (taking into account relevant legislation, legal requirements, prevailing codes of best practice) relating to-
 - (i) social and economic development, including the company's standing in terms of the goals and purposes of-
 - the 10 principles set out in the United Nations Global Compact Principles (UNGC);
 - the OECD recommendations regarding corruption;
 - the Employment Equity Act; and
 - the Broad-Based Black Economic Empowerment Act;
 - (ii) good corporate citizenship, including the company's-
 - promotion of equality, prevention of unfair discrimination, and reduction of corruption;
 - contribution to development of the communities in which its activities are predominantly conducted or within which its products or services are predominantly marketed; and
 - record of sponsorship, donations and charitable giving.
 - (iii) the environment, health and public safety, including the impact of the company's activities and of its products or services;
 - (iv) consumer relationships, including the company's advertising, public relations and compliance with consumer protection laws; and
 - (v) labour and employment, including:
 - the company's standing in terms of the International Labour Organization Protocol on decent work and working conditions;
 - the company's employment relationships, and its contribution toward the educational development of its employees;
- b) to draw matters within its mandate to the attention of the board; and
- c) to report, through one of its members, to shareholders at the company's annual general meeting on the matters within its mandate."