

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Chapter 8 - Regulatory Agencies and Administration : Part C – Specialist Committees

Regulation 191

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**Part C – Specialist Committees**

**191. Standing Advisory Committee**

- (1) There is hereby established a specialist committee as contemplated in section 191 (1)(a) to be known as the standing advisory committee on company law, and comprising –
  - (a) a judge, a retired judge or a senior advocate of the Supreme Court of South Africa as chairperson;
  - (b) other members to be determined from time to time determine
- (2) A member of the standing advisory committee shall hold office for such period as the Minister may direct and shall be eligible for reappointment upon the expiration of the period of his office.
- (3) The standing advisory committee shall as to witnesses and their evidence have the powers of a commission duly appointed under the Commissions Act, 1947 (Act 8 of 1947).
- (4) The standing advisory committee may from time to time make recommendations to the Minister in regard to any amendments to this Act which may appear to it to be advisable and shall advise the Minister on any matter referred to it by the Minister.
- (5) The standing advisory committee shall constitute and maintain at all times such standing subcommittees on accounting, legal and other practices as the Minister may from time to time determine.
- (6) The standing advisory committee shall appoint as members of the standing subcommittees such of its members and such other persons and for such periods of office, as it may from time to time determine.
- (7) The standing advisory committee may call to its assistance such person or persons as it may deem necessary to assist it or to investigate matters relating to company law.
- (8) The Registrar shall be responsible for the administration of the standing advisory committee and the standing sub-committees.

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 1 : Table CR 1 - Prescribed Forms

Regulation 191

**Annexure 1****Table CR 1 - Prescribed Forms**  
(in terms of Regulation 5)

Whenever a document is required –

- (a) in terms of a section of the Act or an provision of these Regulations as listed in column 1 of this Table; and
- (b) for a purpose listed in column 2,

the document must be substantially in the form of the annexure listed opposite that section number in column 3, and must be produced, delivered, or filed as the case may be subject to any conditions or requirements listed opposite that section number in column 4.

1 Authority	2 Purpose of Form	3 Form	4 Conditions
S. 11 (1) R. 10	Application to Reserve a Company Name	CoR 10.1	Must be accompanied by a filing fee of R 50; and  Any relevant documentation or evidence required in terms of Regulation 9.
S. 12 (4) R. 10	Application for Extension of Name Reservation	CoR 10.2	Must be accompanied by filing fee of R20; and a statement required by in Regulation 10 (2)(b), and evidence required by Regulation 10 (2)(c), if applicable.
R 10 (3)(a)	Notice requiring further particulars, issued by the Commission	CoR 10.3	
R. 10 (3)(b)	Notice confirming name reservation, issued by the Commission	CoR 10.4	
R. 10 (3)(c)	Notice refusing name reservation, issued by the Commission	CoR 10.5	
S. 12 (3)(a) R. 10 (4)(a)	Notice of potentially contested name, issued by the Commission	CoR 10.6	
S. 12 (3)(b) R. 10 (4)(b)	Notice of potentially offensive name, issued by Commission	CoR 10.7	
S. 12 (9) R 11	Application for Defensive	CoR 11.1	Must be accompanied by a filing fee of R250 and evidence of a direct and

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 1 : Table CR 1 - Prescribed Forms

## Regulation 191

1 Authority	2 Purpose of Form	3 Form	4 Conditions
	Name Reservation		material interest in the name.
S. 12 (9) R. 11	Application for Renewal of Defensive Name Reservation	CoR 11.2	Must be accompanied by a filing fee of R50 and evidence of a direct and material interest in the name.
S. 12 (5) R. 12	Application to transfer reserved name	CoR 12.1	Must be accompanied by a filing fee of R250 and evidence as required by Regulation 12 (1)(b).
S. 12 (5) R. 12	Notice of refusal of transfer, issued by the Commission	CoR 12.2	
S. 12 (6) R. 14	Show Cause Notice issued by the Commission related to abuse of name reservation system	CoR 14	
S. 13 (2) R. 15	Notice of Incorporation	CoR 15.1	<p>Payment of a filing fee, subject to a credit –</p> <p>(a) for any amount previously paid to reserve the company's name; or</p> <p>(b) of an amount equal to the fee for name reservation, if the company has chosen to be known by its registration number alone.</p> <p>Must have Memorandum of Incorporation attached.</p> <p>Refer to Annexure 2, Table CR2B for Incorporation fees.</p>
S. 13 (4) R. 15 (5)	Notice rejecting a Notice of Incorporation, issued by the Commission	CoR 15.2	
S. 14 (1)(b) R. 15 (7)	Registration Certificate	CoR 15.3	
S. 13 (1)(a) R. 16 (1)	Standard Form Memorandum of Incorporation	CoR 16.1	Refer to Annexure 2, Table CR2B for Incorporation fees.

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 1 : Table CR 1 - Prescribed Forms

Regulation 191

1 Authority	2 Purpose of Form	3 Form	4 Conditions
S. 16 (1)(b) R 16 (2)	Notice of Amendment to the Memorandum of Incorporation	CoR 16.2	Payment of a filing fee, unless it is the first such filing by a pre-existing company, as contemplated in Schedule 5, Item 4 (2). Must be accompanied by either - (a) the Special Resolution of the company setting out the amendment to the Memorandum of Incorporation, or (b) A copy of the complete Memorandum of Incorporation, as amended. Refer to Annexure 2, Table CR2B for Major MOI Amendment fees.
17 (1)(a) R. 16 (3)	Notice of Alteration of Memorandum of Incorporation	CoR 16.3	Payment of filing fee of R100.
s. 17 (4) R. 16 (4)	Notice of Translation of Memorandum of Incorporation	CoR 16.4	Payment of a filing fee of R100. Must be accompanied by a copy of the translated Memorandum of Incorporation, and a sworn statement, as required by section 17 (4).
S. 17 (6) R. 16 (6)	Notice of Consolidated Revision of Memorandum of Incorporation	CoR 16.5	Payment of a filing fee. Refer to Annexure 2, Table CR2B for Major MOI Amendments. Must be accompanied by the consolidated revision of the Memorandum of Incorporation, together with a sworn statement, or a statement of an attorney or notary public, as required by section 17 (6).
S. 17 R. 16 (6)	Notice requiring a company to file a consolidated Memorandum of Incorporation, to be issued by Commission	CoR 16.6	
s.15 (7) R. 16 (11)	Notice of Shareholder Agreement	CoR 16.7	Payment of a filing fee of R100.
15 (3) R. 17	Notice of Adoption of Company Rules	CoR 17.1	Payment of a filing fee of R100.
15 (3)	Notice of Ratification or Non-Ratification of Company Rules	CoR 17.2	Payment of a filing fee of R100.
1 Authority	2 Purpose of Form	3 Form	4 Conditions

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 1 : Table CR 1 - Prescribed Forms

## Regulation 191

15 (3)	Notice of Amendment, Alteration or Repeal of Company Rules	CoR 17.3	In the case of an amendment, must be accompanied by either - (a) a copy of the amendment to the Rules; or (b) a copy of the entire company Rules, as amended. Payment of a filing fee of R100.
Schedule 2 R. 19	Notice of Conversion of a close corporation	CoR 19	Must be accompanied by a filing fee, the Memorandum of Incorporation, and the consents required by Regulation 19 (1)(a). Refer to Annexure 2, Table CR2B for fees related to Incorporation.
S. 22 R. 20	Show Cause Notice, to be issued by the Commission concerning reckless or insolvent trading	CoR 20.1	
S. 22 R. 20	Notice accepting information	CoR 20.2	
S. 22 R. 21	Notice that company liabilities exceed assets	CoR 21.1	
S. 22 R. 21	Quarterly renewal of Notice concerning assets and liabilities	CoR 21.2	
S.23 (3) R. 22	Notice of Registration of External Company	CoR 22.1	Payment of filing fee. Must be accompanied by a copy of the certificate of registration or comparable document issued by the jurisdiction within which the company was incorporated, and other items required by Regulation 22. Refer to Annexure 2, Table CR2B for fees related to Incorporation.
S. 23 R. 22	Certificate of Registration of External Company	CoR 22.2	Refer to Annexure 2, Table CR2B for fees related to Incorporation.
S. 23 (3)(ii) R. 23	Notice of change of Registered Office	CoR 23	Payment of a filing fee of R100.
S. 25 R. 24	Notice of Location of Company records	CoR 24	To be filed only if company records are not kept at its registered office.
S. 26 R. 26	Request for Access to information	CoR 26	
S. 27(4) R. 27	Notice of Change of Financial year end	CoR 27	Payment of a filing fee of R100.
S. 33 R. 32	Annual return	CoR 32.1	Refer to Annexure 2, Table CR2B for fees related to Annual Returns.
S. 33 R. 32 (4)	Financial Accountability Supplement to Annual Return	CoR 32.2	To be filed only by companies exempt from audit or independent review of their annual financial statements

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 1 : Table CR 1 - Prescribed Forms

Regulation 191

1 Authority	2 Purpose of Form	3 Form	4 Conditions
S. 33 R. 32 (4)	Financial Accountability Supplement to Annual Return	CoR 32.3	To be filed only by non profit companies required to have their annual financial statements independently compiled
S. 33 R. 32 (4)	Financial Accountability Supplement to Annual Return	CoR 32.4	To be filed only by companies required to have their annual financial statements independently reviewed
S. 33 R. 32 (7)	Annual return for External companies	CoR 32.5	Refer to Annexure 2, Table CR2B for fees related to Annual Returns
Schedule 5 Item 6 R. 35	Notice of Board Resolution to convert par value shares	CoR 35	No fee to be charged for this transitional measure.
S. 21 R. 41	Notice of Decision relating to a Pre-Incorporation contract	CoR 41	
Various sections R 42	Standard form notice to companies by holders of securities	CoR 42.1	Not to be filed with commission
Various section R. 42	Standard form of notice by company to holders of its securities	CoR 42.2	Not to be filed with commission
S. 75 R. 42	Standard form notice to company by director of personal financial interest	CoR 42.3	Not to be filed with commission
R 43 (4)	Demand for Proxy Appointment	CoR 43	
s. 116 R. 45	Notice of Amalgamation or Merger	CoR 45	Payment of filing fee Refer to Annexure 2 Table CR 2A
S. 70 (6) R. 46	Notice of Change concerning a Director	CoR 46	Payment of a filing fee of R100.
S. 80 to 82 R. 47	Notice of resolution to wind up solvent company	CoR 47.1	Payment of filing fee of R100.
S. 80 to 82 R. 47	Demand Letter by Commission to inactive company	CoR 47.2	
S. 80 to 82 R. 47	Commission Notice of Pending De-registration	CoR 47.3	
S. 80 to 82 R. 47	Application for re-instatement of de-registered company	CoR 47.4	Refer to Annexure 2, Table CR2B for fees related to Incorporation.
S. 84 (6), R. 50(12) R. 51	Commission Notice to Company to make required appointment	CoR 51.1	
S. 84 (6), R. 50(12) R. 51	Company Notice of required appointment	CoR 51.2	

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 1 : Table CR 1 - Prescribed Forms

## Regulation 191

1 Authority	2 Purpose of Form	3 Form	4 Conditions
s. 97 (2) R. 53	Documents required in relation to Employee Share Schemes	CoR 53.1	
s. 97 (2) R. 53	Annual certificate required relating to Employee Shares Schemes	CoR 53.2	
s. 99 (7) R. 53	Application to Commission to exclude categories of persons from rights offer	CoR 53.3	
s. 99 R. 53	Registration of Prospectus by Commission	CoR 53.4	Refer to Annexure 2, Table CR2B for fees related to Prospectus.
s. 99 R. 53	Application to Commission to permit information to be excluded from prospectus	CoR 53.5	Refer to Annexure 2, Table CR2B for fees related to Prospectus.
S.116 (3) R 92	Notice of Amalgamation or Merger	CoR 92	Refer to Annexure 2, Table CR2B for filing fees
S. 129, 131 R.134	Notice of Commencement of Business Rescue Proceedings	CoR 134.1	
S. 129 (7) R. 134 (3)	Notice to not commence business rescue proceedings	CoR 134.2	
S 130, 131 R. 134 (4)	Notice of court application in business rescue proceedings	CoR 134.3	
s. 132, 141 R. 134 (5)	Notice concerning status of Business Rescue Proceedings	CoR 134.4	
134	Notice of Termination of Business Rescue Proceedings	CoR 134.5	
R 134	Notice of Substantial Implementation of a Business Rescue Plan	CoR 134.6	
s. 166 R 137	Application to Commission to be accredited as ADR provider	CoR 137.1	Payment of application fee of R500.

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 1 : Table CR 1 - Prescribed Forms

Regulation 191

1 Authority	2 Purpose of Form	3 Form	4 Conditions
s. 166 R 137	Commission certificate of accredited ADR provider	CoR 137.2	
S 166 R 138	Application for ADR	CTR 138.1	
s. 166 R 138	Certificate of Failed ADR	CTR 138.2	
s. 168 R. 139	Complaint to Commission	CoR 139.1	
s. 169 R. 139	Commission Notice of Non-investigation	CoR 139.2	
s. 169 R. 139	Commission Referral to Alternative Dispute resolution	CoR 139.3	
R 142	Consent Referral	CTR 142.1	
R 142	Consent Order	CoR 142.2	
R. 142	Consent to Order	CoR 142.3	
R. 142	Consent to Damages	CoR 142.4	
R 143	Commission Notice to Investigate	CoR 143.1	
R 143	Commission Summons	CoR 143.2	
R 144	Commission request for additional information	CoR 144.1	
R 144	Commission Demand for corrected information	CoR 144.2	
R 145	Commission Notice of Non referral	CoR 145.1	
R 145	Commission referral to Tribunal	CoR 145.2	
R 146	Compliance Notice	CoR 146.1	
R 146	Compliance Certificate	CoR 146.2	
R 147	Application to Tribunal	CTR 147	
R 149	Referral by complainant to Tribunal	CTR 149	
R 153	Notice of Motion	CTR 153	
R 155	Request for Condonation	CTR 155	

1 Authority	2 Purpose of Form	3 Form	4 Conditions
R 164	Tribunal Summons	CTR 164	
R 167	Notice of Withdrawal	CTR 167	



COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 1 : Table CR 1 - Prescribed Forms

Regulation 191

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R 168	Tribunal Notice of Hearing	CTR 168	
s. 9 R 188	Request for particulars regarding requested exemption	CoR 188	

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 2 : Table CR 2A – Panel Fee Schedule

Regulation 191

**Annexure 2**

**Table CR 2A – Panel Fee Schedule**  
(in terms of Regulation 155)

The fees chargeable (inclusive of Value Added Tax) for the several categories of service rendered by the Panel, and referred to in Regulation ##:

- (c) no fees will be charged for services under Schedule 1.1;
- (d) the fees for services under Schedule 1.2 shall be at the rate of R1 710 per billable hour of work or part thereof;
- (e) the fees for services under Schedule 1.3 shall be at the rate of R3 420 per billable hour of work or part thereof;
- (f) the fees for services under Schedule 1.4, including a circular dealing with a waiver, payable upon first submission of documentation for which a VAT invoice will be issued by the Panel, shall depend upon the value of the offer, being the consideration payable for acquiring, merging or amalgamating the securities or assets/undertaking of each/all offeree regulated company/ies involved, according to the scale set out below:

Consideration value of affected transaction (R million)	Fee including VAT (R)
Up to 50	57 000
Over 50 to 100	85 500
Over 100 to 250	114 000
Over 250 to 500	142 500
Over 500 to 1 000	171 000
Over 1 000 to 10 000	228 000
Over 10 000	285 000

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 2 : Table CR 2B – Commission Fee Schedule

Regulation 191

**Table CR 2B – Commission Fee Schedule***(in terms of Regulation 155)*

Activity	Proposed Fees
<b>Name Reservation</b>	
1) Application for name reservation	
Manual Lodgement	50
Electronic Lodgement	30
2) Application for extension of name reservation	
Manual Lodgement	20
Electronic Lodgement	n/a
3) Application for transfer of name reservation (new process)	
Manual Lodgement	250
Electronic Lodgement	200
4) Application reservation of defensive name	
Manual Lodgement	250
Electronic Lodgement	200
5) Application for renewal of registration of defensive name	50
<b>Incorporation</b>	
1) Registration of Memorandum of Incorporation	
a) Company adopting mandatory MOI clauses	100
b) Company adopting mandatory and optional MOI clauses	350
2) Conversion of CC to Company	
a) Company adopting mandatory MOI clauses	100
b) Company adopting mandatory and optional MOI clauses	350
<b>Amendments and Alterations (MOI)</b>	
1) Major MOI Amendments	
a) Draft Amendment	50
b) Final Amendment	300
2) Minor MOI Amendments	100
<b>Prospectus</b>	
1) Draft Prospectus	
2) Final Prospectus	R5,000 daily rate or part thereof

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 2 : Table CR 2B – Commission Fee Schedule

## Regulation 191

Activity	Proposed Fees
Application to deregister a Company	100
Application to restore a company	
1) Registration of Memorandum of Incorporation	
a) Company adopting mandatory MOI clauses	100
b) Company adopting mandatory and optional MOI clauses	350
<b>1) Turnover less than R10M</b>	
Lodgement within 30 days after anniversary of incorporation	450
Lodgement after 60 days of anniversary of incorporation	600
<b>2) Turnover greater than R10M and less than R50M</b>	
Lodgement within 30 days after anniversary of incorporation	2,000
Lodgement after 30 days of anniversary of incorporation	2,500
<b>3) Turnover greater than R50M</b>	
Lodgement within 30 days after anniversary of incorporation	3,000
Lodgement after 30 days of anniversary of incorporation	4,000

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 3 : Table CR 3 – Methods and Times for Delivery of Documents

Regulation 191

**Annexure 3**

**Table CR 3 – Methods and Times for Delivery of Documents**

*(in terms of Regulation 8)*

A notice or document to be delivered for any purpose contemplated in the Act or these Regulations may be delivered in any manner set out in this Table.

Subject to Regulation 7 (4), a document delivered by a method listed in the second column of this Table will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that table.

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
<b>ANY PERSON</b>	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 3 : Table CR 3 – Methods and Times for Delivery of Documents

## Regulation 191

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
<b>ANY NATURAL PERSON</b>	<p>By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or</p> <p>By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or</p> <p>By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>
<b>THE TRIBUNAL</b>	<p>By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Tribunal, if the document is a prescribed form; or</p> <p>By transmitting the document as a separate file attached to an electronic mail message addressed to the recording officer of the Tribunal; or</p> <p>By sending a computer disk containing the document in electronic form, by registered post addressed to the recording officer of the Tribunal; or</p> <p>By handing the document, or a computer disk containing the document in electronic form, to the recording officer of the Tribunal.</p>	<p>On the date and at the time recorded by the Tribunal's computer system, as verified by fax reply to the sender of the information.</p> <p>On the date and at the time recorded by the Tribunal's computer system, unless, within 1 business day after that date, the recording officer advises the sender that the file is unreadable.</p> <p>On the date and at the time of delivery of the registered post to the recording officer of the Tribunal, as recorded by the post office, unless, within business day after that date, the recording officer advises the sender that the disk is unreadable.</p> <p>On the date and at the time noted in a receipt issued by the recording officer of the Tribunal unless, the document is on a computer disk, and, within 1 business day after that date, the recording officer advises the sender that the disk is unreadable.</p>

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 3 : Table CR 3 – Methods and Times for Delivery of Documents

Regulation 191

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
<b>THE COMMISSION</b>	<p>By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Commission, if the document is a prescribed form; or</p> <p>By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or</p> <p>By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or</p> <p>By handing the document, or a computer disk containing the document in electronic form, to the Commission, or a responsible employee who is apparently in charge of the Commission's office.</p>	<p>On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.</p> <p>On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.</p> <p>On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.</p> <p>On the date and at the time noted in a receipt issued by the Commission unless, the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.</p>
<b>A COMPANY OR SIMILAR BODY CORPORATE</b>	<p>By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or</p> <p>If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.</p>
<b>THE STATE OR A PROVINCE</b>	<p>By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p>
<b>A MUNICIPALITY</b>	<p>By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p>

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

## Annexure 3 : Table CR 3 – Methods and Times for Delivery of Documents

## Regulation 191

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
<b>A TRADE UNION</b>	<p>By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these Regulations, at that office.</p> <p>If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.</p>
<b>EMPLOYEES OF FIRM</b>	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
<b>A PARTNERSHIP, FIRM OR ASSOCIATION</b>	<p>By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or</p> <p>If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>
<b>A STATUTORY BODY OTHER THAN THE COMMISSION AND TRIBUNAL</b>	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.



COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Annexure 4 : Prescribed Forms

Regulation 191

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**Annexure 4**

**Prescribed Forms**

**Note: Only the following forms are being published for comment.**

**Form CoR 16.1(A) – Short Standard Form Memorandum of Incorporation for a private company**

*This form is to be used for a private company that accepts all the default provisions of the Act without limitation, extension or variation.*

**Form CoR 16.1(B) – Long Standard Form Memorandum of Incorporation for any profit company**

*This form is to be used for any profit company that wishes to limit, extend or vary the effect of any alterable provisions of the Act.*

**Form CoR 16.1(C) – Short Standard Form Memorandum of Incorporation for a non-profit company without members**

*This form is to be used for a non profit company that will have no members, and accepts all the default provisions of the Act without limitation, extension or variation.*

**Form CoR 16.1(D) – Long Standard Form Memorandum of Incorporation for a non-profit company without members**

*This form is to be used for any non-profit company that will have no members, but wishes to limit, extend or vary the effect of any alterable provisions of the Act.*

**Form CoR 16.1(E) – Long Standard Form Memorandum of Incorporation for a non-profit company with members**

*This form is to be used for any non profit company that will have members, and wishes to limit, extend or vary the effect of any alterable provisions of the Act.*

**All other forms will be added when the regulations are finally promulgated.**

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Form CoR 16.1(A) : Short Standard Form Memorandum of Incorporation for a Private Company

Regulation 191

**Form CoR 16.1(A)**

**Short Standard Form Memorandum of Incorporation for a Private Company**

**Republic of South Africa  
Companies Act, 2008**

**Memorandum of Incorporation  
of**

[Name of Company]

\_\_\_\_\_ which is referred to in the rest of this Memorandum of Incorporation as "the Company".

In this Memorandum of Incorporation -

- (a) a reference to a section by number refers to the corresponding section of the Companies Act, 2008;
- (b) words that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum as in that Act.

**Adoption of Memorandum of Incorporation**

This Memorandum of Incorporation was adopted by the incorporators of the Company, in accordance with section 13 (1), as evidenced by the following signatures made by each of them, or on their behalf.

Name of Incorporator	Identity or Registration Number of Incorporator	Signature	Date

[Use additional pages if necessary]

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Form CoR 16.1(A) : Short Standard Form Memorandum of Incorporation for a Private Company

Regulation 191

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## **Article 1 - Incorporation and Nature of the Company**

### **1.1 Incorporation**

- (1) The Company is incorporated as from \_\_\_\_\_ as a private company, as defined in the Companies Act, 2008..
- (2) The Company is incorporated in accordance with, and governed by –
  - (a) the provisions of the Companies Act, 2008 without any limitation, extension, variation or substitution permitted by the Act; and
  - (b) the provisions of this Memorandum of Incorporation.

### **1.2 Powers of the Company**

- (1) The Company is not subject to any provision contemplated in section 15 (2)(b) or (c).
- (2) The purposes and powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19 (1)(b)(ii).

### **1.3 Memorandum of Incorporation and Company rules**

- (1) This Memorandum of Incorporation of the Company may be altered or amended only in the manner set out in section 16, 17 or 152 (6) (b).
- (2) The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15 (3) to (5) is not limited or restricted in any manner by this Memorandum of Incorporation.
- (3) The Company must publish any rules made in terms of section 15 (3) to (5) by delivering a copy of those rules to each shareholder by ordinary mail.
- (4) The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17 (1) by delivering a copy of those rules to each shareholder by ordinary mail.

### **1.4 Optional provisions of Companies Act, 2008 do not apply**

- (1) The Company does not elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008.-
- (2) The Company does not elect, in terms of section 118 (1)(c)(ii), to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act, 2008, and to the Takeover Regulations provided for in that Act.

COMPANIES REGULATIONS  
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Form CoR 16.1(A) : Short Standard Form Memorandum of Incorporation for a Private Company

Regulation 191

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## Article 2 - Securities of the Company

### 2.1 Securities

- (1) The Company is authorised to issue no more than \_\_\_\_\_ shares of a single class of common shares, each of which entitles the holder to –
  - (a) vote on any matter to be decided by a vote of shareholders of the company;
  - (b) participate in any distribution of profit to the shareholders; and
  - (c) participate in the distribution of the residual value of the company upon its dissolution.
- (2) The pre-emptive right of the Company's shareholders to be offered and to subscribe additional shares, as set out in section 39 is unconditional, and is not limited, negated or restricted in any manner contemplated in subsection (2) of section 39.
- (3) The authority of the Company's Board of Directors to –
  - (a) authorise the Company to provide financial assistance to any person in relation to the subscription of any option or securities of the Company or a related or inter-related company, as set out in section 44;
  - (b) approve the issuing of any authorised shares of the Company as capitalisation shares, as set out in section 47 (1);
  - (c) resolve to permit shareholders to elect to receive a cash payment in lieu of a capitalisation share, as set out in section 47 (1),
  - (d) authorise the company to issue secured or unsecured debt instruments, as set out in section 43 (2); or
  - (e) to grant special privileges associated with any debt instruments to be issued by the company, as set out in section 43 (3),is not limited or restricted by this Memorandum of Incorporation.

### 2.2 Registration of beneficial interests

The authority of the Company's Board of Directors to allow the Company's issued securities to be held by, and registered in the name of, one person for the beneficial interest of another person, as set out in section 56 (1) is not limited or restricted by this Memorandum of Incorporation.