



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 402

CAPE TOWN, 2 DECEMBER 1998

KAAPSTAD, 2 DESEMBER 1998

No. 19541

OFFICE OF THE PRESIDENT

No. 1555.

2 December 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 125 of 1998: Companies Third Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1555.

2 Desember 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 125 van 1998: Derde Maatskappywysigingswet, 1998.

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 20 November 1998.)*

ACT

To amend the Companies Act, 1973, so as to provide for a further category of offers of shares not being offers to the public, namely employee share schemes; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 144 of Act 61 of 1973, as substituted by section 8 of Act 35 of 1998

1. Section 144 of the Companies Act, 1973, is hereby amended by the addition of the following paragraph:

“(g) if it is an employee share scheme as contemplated in section 144A.”.

Insertion of section 144A in Act 61 of 1973

2. The following section is hereby inserted in the Companies Act, 1973, after section 144:

“Employee share scheme

144A. (1) In this section, unless the context indicates otherwise—

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| <p>(a) ‘employee share scheme’ means a scheme established by a company for the purpose of offering participation therein to employees of the company or of its subsidiary, either—</p> <p>(i) by means of the sale of shares in the company; or</p> <p>(ii) by the grant of options on shares in the company, solely to <i>bona fide</i> employees of the company or of its subsidiary, whether by means of a trust or otherwise;</p> <p>(b) ‘compliance officer’ means a compliance officer appointed by a company in respect of its employee share scheme in accordance with subsection (2); and</p> <p>(c) ‘specified shares’ means shares, including options on shares, which are offered to employees of the company in terms of an employee share scheme.</p> <p>(2) Every company which establishes an employee share scheme shall—</p> <p>(a) appoint a compliance officer who shall be accountable to the directors of the company;</p> | <p>15</p> <p>20</p> <p>25</p> |
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- (b) state in its annual financial statements the number of specified shares which it has allotted during that financial year in terms of its employee share scheme.
- (3) A compliance officer who is appointed in respect of any employee share scheme shall— 5
- (a) be responsible for the administration of that scheme;
- (b) furnish or cause to be furnished in writing to any employee who receives an offer of specified shares in terms of that employee share scheme—
- (i) full particulars of the nature of the transaction, including the risks arising therefrom; 10
- (ii) information relating to the company, including its latest annual financial statements, the general nature of its business and its profit history over the last three years; and
- (iii) full particulars of any material changes which take place in respect of any information furnished in terms of subparagraph (i) or (ii); 15
- (c) ensure that copies of the documents containing the information referred to in paragraph (b)(i) and (ii) are lodged with the Registrar within 30 days after the employee share scheme has been established; 20
- (d) lodge a certificate with the Registrar within 60 days after the end of each financial year to the effect that he or she has complied with the obligations in terms of this section during such year and attach thereto any documents containing particulars contemplated in paragraph (b)(iii), issued during such year.”. 25

Short title

3. This Act is called the Companies Third Amendment Act, 1998.