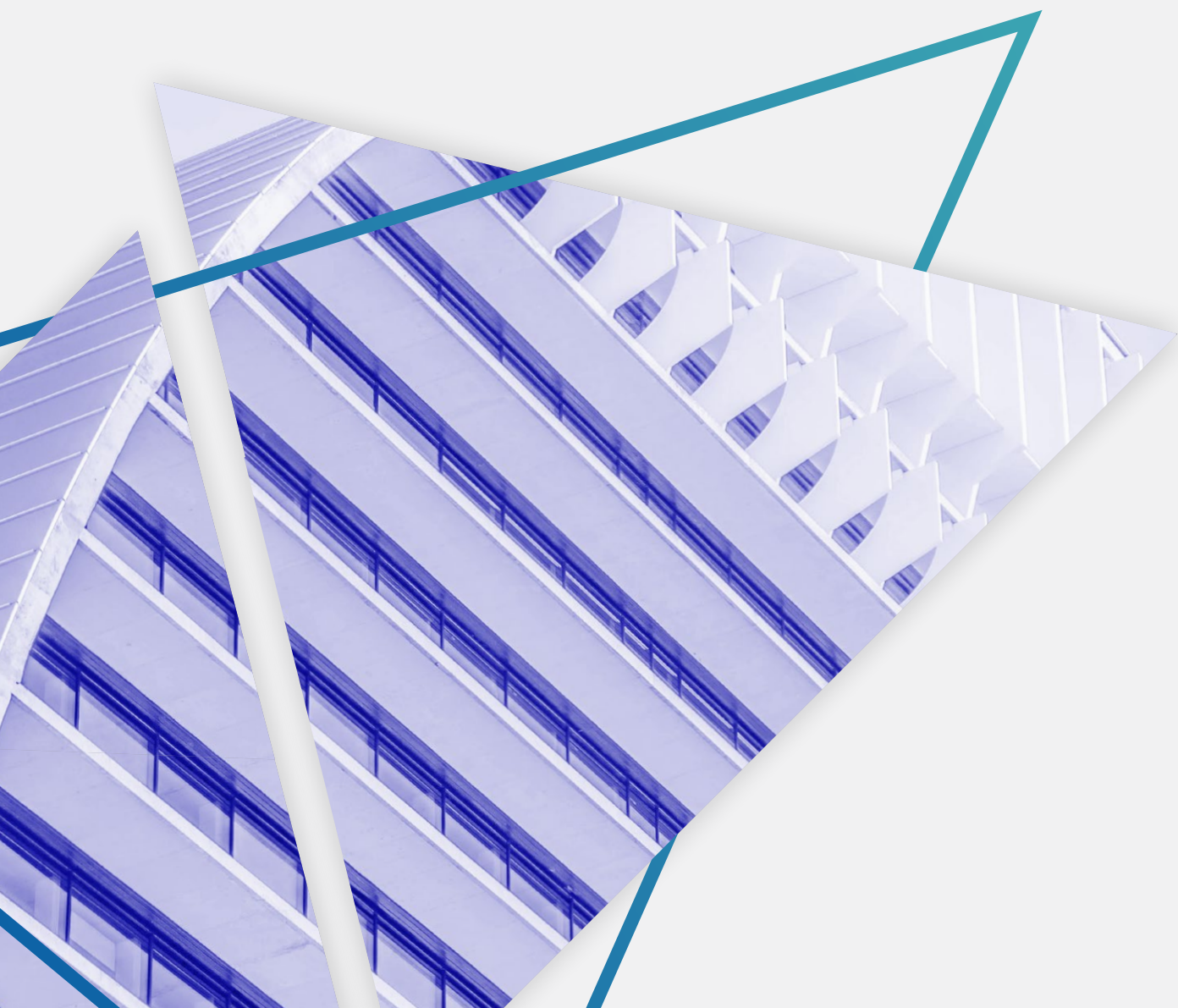


Corporate & Commercial

ALERT | 29 July 2024



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SOUTH AFRICA

The Companies Act amendments are enacted but not yet in operation: What you need to know



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The Companies Act amendments are enacted but not yet in operation: What you need to know

On 26 July 2024, the Presidency announced that the President has signed the Companies Amendment Act and the Companies Second Amendment Act into law (collectively the Amendment Acts). The Amendment Acts have been awaiting assent since 26 March 2024 when they were approved by the National Council of Provinces and will make important changes to the Companies Act 71 of 2008 (Companies Act).

Although the President has assented to the Amendment Acts, this does not automatically bring them into operation as they both provide that they will come "*into operation on a date to be fixed by the President by proclamation in the Gazette*".

The President has not yet proclaimed a date for the coming into operation of the Amendment Acts. This means that while they have been assented to, the Amendment Acts are not in operation yet. It is unclear when their coming into operation will be proclaimed and whether the President will proclaim one date or a staggered implementation over a period of time. The latter approach would be preferred, as companies will need to prepare themselves for implementing the provisions of the Amendment Acts.

The Amendment Acts *inter alia*:

- provide for greater access by members of the public to the records of companies;
- require public companies to prepare and present remuneration policies and reports to shareholders for approval;
- provide for detailed disclosures in these remuneration reports relating to the remuneration of directors, and for remuneration comparisons throughout the company;
- exclude the provisions of financial assistance by a holding company to its subsidiaries from the requirements of section 45 of the Companies Act;
- amend the composition of the social and ethics committee for public companies and provide for the appointment of members of that committee by the shareholders of public companies;
- provide for the presentation of the report of the social and ethics committee at the annual general meeting of shareholders of public companies;

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- amend the requirement as to when shareholder approval is required for share buy backs;
- amend the provisions of when a private company will be regarded as a regulated company for purposes of the Takeover Regulations;
- amend the time period within which a director can be declared delinquent; and
- amend the time period within which claims can be brought against directors for breach of fiduciary duties.

In summary, while the Amendment Acts create important changes for the corporate landscape, it is unclear at this stage, despite assent, when the amendments will come into operation. Nevertheless, companies should take steps to become conversant with the provisions of the Amendment Acts in order to comply with them when they become operative.

We will provide more information as soon as it becomes available.

For more information on the provisions of the Amendment Acts, please see our previous alerts published on the Amendment Acts here:

- [Companies Act changes imminent: What you can do to prepare](#)
- [Paycheck politics: Decoding the Companies Amendment Bill and its impact on executive remuneration](#)
- [Companies Act Developments Seminar](#)
- [Draft Companies Amendment Bill: Some good news for companies undertaking share buy-backs](#)

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

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