

Schedule 1

PROVISIONS CONCERNING NON-PROFIT COMPANIES [[Sch. 1](#) amended by [s. 122](#) of [Act No. 3 of 2011](#).]

1. **Objects and policies.**-(1) The Memorandum of Incorporation of a non-profit company must-

- (a) set out at least one object of the company, and each such object must be either-
 - (i) a public benefit object; or
 - (ii) an object relating to one or more cultural or social activities, or communal or group interests; and
- (b) be consistent with the principles set out in sub-items (2) to (9).

[Item. (b) amended by [s. 122 \(a\)](#) of [Act No. 3 of 2011](#). (English only)]

(2) A non-profit company-

- (a) must apply all of its assets and income, however derived, to advance its stated objects, as set out in its Memorandum of Incorporation; and
- (b) subject to paragraph (a), may-
 - (i) acquire and hold securities issued by a profit company; or
 - (ii) directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.

(3) A non-profit company must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless how the income or asset was derived, to any person who is or was an incorporator of the company, or who is a member or director, or person appointing a director, of the company, except-

- (a) as reasonable-
 - (i) remuneration for goods delivered or services rendered to, or at the direction of, the company; or
 - (ii) payment of, or reimbursement for, expenses incurred to advance a stated object of the company;
- (b) as a payment of an amount due and payable by the company in terms of a *bona fide* agreement between the company and that person or another;
- (c) as a payment in respect of any rights of that person, to the extent that such rights are administered by the company in order to advance a stated object of the company; or
- (d) in respect of any legal obligation binding on the company.

[Para. (3) amended by [s. 122 \(b\)](#) of [Act No. 3 of 2011](#).]

(4) Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of a non-profit company-

- (a) no past or present member or director of that company, or person appointing a director of that company, is entitled to [[Sch-2](#)] any part of the net value of the company after its obligations and liabilities have been satisfied; and

- (b) the entire net value of the company must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts-
 - (i) having objects similar to its main object; and
 - (ii) as determined-
 - (aa) in terms of the company's Memorandum of Incorporation;
 - (bb) by its members, if any, or its directors, at or immediately before the time of its dissolution; or
 - (cc) by the court, if the Memorandum of Incorporation, or the members or directors fail to make such a determination.

[Item. (b) amended by s. 122 (c) of [Act No. 3 of 2011](#).]

(5) The Commission may apply to the court, on behalf of a non-profit company, for a determination contemplated in sub-item (4) (b)

(ii) (cc) if the non-profit company has-

- (a) no remaining members or directors; and
- (b) failed to-
 - (i) make a determination contemplated in sub-item (4) (b) (ii) (bb); or
[Sub-item (i) amended by s. 122 (a) of [Act No. 3 of 2011](#). (English only)]
 - (ii) apply to the court for such a determination.
[Para. (5) amended by s. 122 (a) of [Act No. 3 of 2011](#). (English only)]

(6) Incorporation as a non-profit company in terms of this Act, or registration as an external non-profit company in terms of this Act, and compliance by either with the provisions of this Act does not necessarily qualify that non-profit company, or external non-profit company, for any particular status, category, classification or treatment in terms of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), or any other legislation, except to the extent that any such legislation provides otherwise.

(7) Each voting member of a non-profit company has at least one vote.

(8) The vote of each member of a non-profit company is of equal value to the vote of each other voting member on any matter to be determined by vote of the members, except to the extent that the company's Memorandum of Incorporation provides otherwise.

(9) If a non-profit company has members, the requirement in [section 24 \(4\)](#) to maintain a securities register must be read as requiring the company to maintain a membership register.