The Non-Profit Lawyer

NPO Legal Issues

Vol. 84
April 2026

About NPO Legal Issues:

This is an electronic newsletter published by: **Ricardo Wyngaard Attorneys** which is aimed at updating the non-profit sector on relevant legal issues.

In this edition:

'Protecting the NPC's Name'
By: Ricardo Wyngaard

Ricardo Wyngaard Attorneys is a law practice that specialises in rendering advice and assistance on non-profit law and governance.

Subscribe here to NPO Legal Issues

PROTECTING YOUR NPC's NAME: THE TRIBUNAL'S APPROACH

By Ricardo Wyngaard

On 31 October 2025, the Companies Tribunal handed down a judgment that serves as a practical reminder of the mechanisms available to Non-Profit Companies (NPCs) to protect their names from duplication or infringement by other entities.

Background of the Case: The applicant, Johannesburg Skydiving Club NPC, was registered in 2015. A decade later, in 2025, a new company was registered under the exact same name. A director of the applicant approached the Companies Tribunal, submitting that the directors of the newly registered company had no permission to use the applicant's name.
The applicant sought an order compelling the respondent to change its name, arguing that the duplication fell foul of section 11(2) of the Companies Act. The application was properly served on the respondent at its registered address in May 2025, but the respondent failed to file any response or attempt to justify the duplication.

The Statutory Framework: Section 11(2)(a)(i) of the Companies Act provides that the name of a company must "*not be the same as the name of another company*." To enforce this, section 160 allows any person with an interest in the name of a company to apply to the Companies Tribunal for a determination of whether the name satisfies the requirements of the Act.

Importantly, section 10 of the Act, which deals with the modified application of the Act to NPCs, does not exclude these name protection provisions. Therefore, an NPC enjoys the exact same statutory protection of its identity as a commercial profit company.

The Default Judgment Procedure: Because the respondent failed to answer the case, the Tribunal applied Regulation 153 of the Companies Regulations. This regulation provides that if a person is served with an initiating document and has not filed a response within the prescribed period, the initiating party may apply to have the requested orders issued by default. The Tribunal noted that the respondent had been afforded a full opportunity to rebut the case but had failed to do so.

The Tribunal's finding: Finding a clear case of duplication without any justification, the Tribunal granted judgment in favour of the applicant. The respondent was ordered to alter its name. Crucially, to ensure the order had practical effect, the Tribunal directed that if the respondent failed to change its name within 30 days, the Companies and Intellectual Property Commission (CIPC) must change the respondent's name to its registration number.

What it means for NPCs: This judgment highlights two important practical points for the non-profit sector. First, NPCs invest significant time and resources into building their reputation, brand, and goodwill. If another entity registers an identical or confusingly similar name, the aggrieved NPC does not have to engage in costly High Court litigation. The Companies Tribunal provides an accessible statutory mechanism to resolve such disputes.

Second, the case illustrates the effectiveness of the default judgment procedure. If an offending organisation simply ignores a legitimate complaint lodged with the Tribunal, the aggrieved NPC can still secure a binding order. The Tribunal's willingness to order the CIPC to unilaterally change the offending company's name to its registration number ensures that these orders cannot simply be ignored by recalcitrant respondents.

REMEMBER YOUR PAIA REPORTS

Click here to access the Notice issued by the Information Regulator regarding compliance with the Promotion of Access to Information Act (PAIA).

Between 01 April 2026 and 30 June 2026, the Heads of Private Bodies (which includes NPOs) or their Deputy Information Officers are formally required to submit Annual Reports detailing any access to information requests processed by the organisation. You will not be able to submit this mandatory Annual Report unless your Information Officer (IO) is officially registered with the Regulator. Many NPOs have still not completed this initial registration step.

To help your organisation navigate this seamlessly, we have launched the Complete NPO PAIA Bundle.

For a once-off flat fee of R2 500, the NPO Lawyer will attend to this compliance workflow for you. This comprehensive bundle includes:

1. Custom PAIA and POPIA Manual: We will draft a fully compliant, tailored manual specific to your organisation's operations.
2. Filing and Registration: We will formally register your Information Officer on the Regulator's portal and submit your PAIA Annual Report before the deadline.
3. Information Officer Training (Video Masterclass): You will receive exclusive access to a 1 hour 20-minute training video detailing the exact legal duties of an Information Officer, ensuring your board and appointed IO understand their ongoing responsibilities.

Next Steps:
You do not have to handle this administrative burden alone. To secure your compliance bundle, check out our: Complete NPO PAIA Compliance Bundle or reply directly to this email, and we'll send you the brief intake form to get started. Do not wait until late June.

Visit our **governance** website today:
www.wisdomtogovern.com

Important Note: The information contained in this newsletter is general in nature and should not be interpreted or relied upon as legal advice. The information may not be applicable to specific circumstances. Professional assistance should be obtained before acting on any of the information provided in this newsletter.