The Non-Profit Lawyer

NPO Legal Issues

Keeping an eye on non-profit laws

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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:

'THE FATF MUTUAL EVALUATION'

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

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THE NEW ANTI-MONEY LAUNDERING BILL INTRODUCES SIGNIFICANT CHANGES FOR NPOS AND NPCs:

The latest version of the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill, 2026, proposes critical updates to the NPO Act and Companies Act.

By Ricardo Wyngaard

The General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill, 2026 (the Bill), introduced in the National Assembly, seeks to strengthen South Africa's anti-money laundering and combating terrorism financing (AML/CTF) framework. This is a crucial step in preparing for the upcoming Financial Action Task Force (FATF) mutual evaluation, anticipated in October 2027. The Bill proposes significant amendments to several key pieces of legislation, including the Nonprofit Organisations Act, 1997 (NPO Act) and the Companies Act, 2008, with direct implications for how NPOs operate and are regulated.

Enhanced monitoring and enforcement for NPOs: The Bill introduces notable changes to the NPO Act, primarily focusing on empowering the Directorate for Nonprofit Organisations (the Directorate) with greater oversight. Section 5 of the NPO Act will be amended to explicitly extend the Directorate's functions to include monitoring of nonprofit organisations required to comply with the Act to determine compliance with specific provisions of the Act; and enforcing compliance of nonprofit organisations required to comply with a duty or obligation that constitutes a contravention in accordance with section 29(4). This means the Directorate will not only register NPOs but will also actively ensure they adhere to statutory obligations.

Also, the Bill amends section 20 of the NPO Act, explicitly granting the Director the power to impose administrative sanctions on non-compliant NPOs. It is vital to note this structural separation: while the Directorate acts as the investigative body monitoring compliance, the power to adjudicate and formally issue sanctions is strictly reserved for the Director. Previously, the process for addressing non-compliance was less direct. Now, if an NPO fails to comply with its obligations under sections 12 (registration) or 18(1)(bA) (reporting), the Director must issue a compliance notice. Should this notice not be heeded, administrative sanctions, as prescribed, may be imposed. This marks a significant shift towards a more proactive and punitive regulatory environment.

Appeals: Recognising the impact of these new enforcement powers, the Bill also amends section 14 of the NPO Act to provide for appeals against administrative sanctions. An NPO will now have the right to appeal a decision to impose an administrative sanction to an Arbitration Tribunal. The Tribunal may confirm, modify, or set aside the sanction, or refer the matter back to the Director for reconsideration. We view this as an important safeguard, allowing NPOs recourse against potentially unfair or incorrect administrative decisions.

To page 2

From page 1

Companies Act amendments and beneficial ownership:

While the primary focus for NPOs is on the NPO Act changes, we must also consider the amendments to the Companies Act, 2008, particularly those related to beneficial ownership. The Bill introduces new definitions, including 'discrepancy report' and 'obliged entity', and expands the definition of 'material' in relation to beneficial ownership information. Crucially, section 33 of the Companies Act is amended to require 'obliged entities' (a category to be prescribed by the Minister) to report any material discrepancy they find between beneficial ownership information they hold and that recorded on the Companies and Intellectual Property Commission's (CIPC) beneficial ownership register. This aims to enhance transparency and combat the use of corporate structures for illicit activities. NPOs established as non-profit companies will be directly affected by these provisions.

Practical Recommendations

In light of these impending changes, we recommend that NPOs should take the following concrete steps:

1. **Review compliance status**:
   Proactively assess your NPO's compliance with all NPO Act obligations, particularly registration requirements (section 12) and reporting duties (section 18(1)(bA)), to avoid compliance notices and administrative sanctions.

2. **Understand beneficial ownership**:
   If your NPO is structured as a non-profit company, ensure you fully understand and comply with beneficial ownership disclosure requirements and prepare for potential reporting obligations as an 'obliged entity'.

3. **Update governance documents**:
   Review and, if necessary, update your NPO's constitution and internal policies and identify internal compliance obligations emanating from the constitution.

4. **Stay informed**:
   Keep abreast of the Bill's progress through Parliament and any regulations that may be gazetted, as these will provide further detail on the implementation of administrative sanctions and beneficial ownership reporting.

5. **Review the updated Regulations**:
   Ensure your compliance officers study the Regulations promulgated pursuant to the NPO Act, specifically Regulation 7, which outlines the exact factors the Director will consider, such as the nature, duration, and extent of non-compliance, before imposing a sanction