



The Non-Profit Lawyer

## 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.

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- **De-registration of NPOs**

By: Ricardo Wyngaard

## RICARDO WYNGAARD

**ATTORNEYS** is a law practice that specialises in rendering advice and assistance on non-profit law and governance.

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## DE-REGISTRATION OF NPOs

By Ricardo Wyngaard

The number of organisations registered in terms of the Nonprofit Organisations Act (the Act) has decreased dramatically over the last few months. According to the Department of Social Development over 85 000 NPOs were registered in terms of the Act at the end of March 2012. During January 2013 the number has decreased to just over 29 000.

### NPO registration status

An organisation's registered status can be checked by visiting [www.dsd.gov.za/npo](http://www.dsd.gov.za/npo) and clicking on *NPO Directorate (database)*. The status may either reflect: *Registered*, *De-Registered* or *Non-compliant*. If *non-compliant*, it would be advisable to submit any outstanding reports as soon as possible. The NPO Directorate now provides an online reporting function.

### Reasons for de-registration

In the likely event that an organisation has been de-registered, it would be important to establish the reason for its de-registration. The directorate's website would usually indicate the reason. The reason must also be reflected in the notice of non-compliance that the director for NPOs should have issued to the organisation before de-registration. The director for NPOs can de-register NPOs that are registered in terms of the Act if such NPOs have not complied with:

- a material provision of its founding document;
- a condition or term of any benefit or allowance conferred on it by the Minister of Social Development in terms of the Act; or
- its obligations in terms of sections 17, 18 and 19 and any other provision of the Act.

De-registration is usually linked to the failure by NPOs to submit financial and narrative reports as required in terms of the Act.

### Requirements before de-registration

Section 20(1)(a) of the Act requires that the director for NPOs must send a compliance notice in the prescribed form to a registered NPO if the organisation has not complied with its obligations in terms of sections 17, 18 and 19 and any other provision of the Act. This notice must, *first*, be in writing, *second*, notify the NPO of the compliance steps required and, *third*, inform the NPO that it has one month from the date of the notice to comply.

### Is re-registration possible?

Section 22 of the NPO Act allows a de-registered NPO to dispute its de-registration by referring the matter for arbitration to an Arbitration Tribunal. This Tribunal must within three months, after having received an appeal, consider the arbitration. The Tribunal has unfortunately not been appointed as required in terms of the Act. Our understanding is that an organisation will be re-registered if it submits its outstanding narrative and financial reports – if it has been de-registered for failing to submit those reports.

Ricardo Wyngaard Attorneys prepared **A Basic Guide to the NPO Act** which can be downloaded free of charge at: [www.nonprofitlawyer.co.za](http://www.nonprofitlawyer.co.za). The Guide is aimed at assisting organisations that have been de-registered.