

# POLICY IMPLICATIONS

PRESENTATION TO COMPANIES SYMPOSIUM

PRESENTOR

MR M NETSHITENZHE: CHIEF DIRECTOR , (the dti)



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Trade and Industry  
REPUBLIC OF SOUTH AFRICA



## PURPOSE

- To share some of Policy Implications on non compliance with certain sections of the Companies Act



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## OBJECTIVES

### ❑ Scan problematic areas

- Non Establishment of Social and Ethics Committee
- Lack of a Central Database of Business Rescue Statistics
- Conversion of Close Corporations to Companies
- Education and Awareness
- Conclusion



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## Discussion

- **Establishment of Social and Ethics Committees...**
- **Section 72 provides that Minister may prescribe through Regulations a category of companies that must have Social and Ethics Committee (SEC)**
- **Regulation 43 states SEC must be established by:**
  - ✓ **every state owned company**
  - ✓ **every listed public company**
  - ✓ **others depending on the score of 500 points for the past 2 years.**
- **Exemption may be applied from the Companies Tribunal**
- **Functions of SEC are well stated in the Section and they will be read out**
- **The Section, read together with Section 84 (6) and (7) deals with companies that fail to establish SEC.**



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- **Issues concerning non compliance, SEC:**
  - ✓ **CIPC must act**
  - ✓ **Tribunal must be well informed in granting exemptions**
  - ✓ **A well structured database of SEC compliant must be in place**
  - ✓ **A well structured Database on companies that applied for exemptions must be in place at CIPC and Tribunal**
  - ✓ **Companies Act should trump on JSE in relation to SEC**
  - ✓ **Failure to comply with sections may lead to strikes**
  
- **Business Rescue**
  - Practitioners must be regulated and therefore operate in terms of the Act
  - Reports should be forwarded to the Regulator (CIPC)
  - Statistics of successes and failures should be kept by CIPC
  - Impact can be felt if there is statistics
- **Conversion from CC to Companies**
  - Should have statistics of completed conversions-calibration of success of the Act and its simplicity
  
- **Failure to Discern**
  - Developed Countries are resolved that IK is in the public domain
  - In this regard they may not be keen in the protection of IK.
  - Developing countries may need to discern this.



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- **Development Agenda as in IK**

- Developing countries should see to it that their IK is protected as IK on

## Education and Awareness

- **Education and Awareness**
  - **CIPC and the dti must embark on aggressive education and awareness on the Act and its benefits**
  - **Conversion of CC to companies can accelerate**
  - **Benefits of Business Rescue can be known and accelerate acceptance of the Act-saving jobs, etc**
  - **Unprotected strikes in the area of wage gaps, etc can be avoided**
  - **There are problems in a sense that member states of various organisations are not treating the protection of IK in a same tempo and in certain quarters there are no political will.**

## Conclusion

- **Conclusion**
  - **Let us use the Act with its various sections optimally**
  - **CIPC regulate Business Rescue Practitioners in order to curb certain ills**
  - **The issue of SEC establishment must not be ignored.**



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**THANK YOU**



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