



## COMPANIES ACT UPDATES

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### MEDIATION AS THE NEW TREND... THE COMPANIES TRIBUNAL

There are over 40 pieces of legislation in our country containing mediation provisions. Mediation is well known as an accepted procedure in the fields of both family and labour law, and is becoming more and more prevalent in other areas – including commercial law.



The King III Report states that it is incumbent on directors and executives in carrying out their duty of care to a company, to ensure that disputes are resolved effectively, in a cost effective manner and not be a drain on the financial resources of the company. This is especially relevant from a commercial perspective where relationships need to be preserved and enhanced.

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### BUSINESS NAMES TAKE ON A NEW MEANING



Business names have taken on a new meaning since the implementation of the Companies Act and the Consumer Protection Act. The overall purpose behind both pieces of legislation is to promote compliance with the Bill of Rights in the application of both company and consumer law.

#### FREEDOM OF EXPRESSION:

"...Everyone has the right to freedom of expression, however this will not extend to propaganda for war, incitement of imminent violence or advocacy of hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm" (SA Bill of Rights).

[\[read more\]](#)

### THE BOARD AND COMMITTEES - THEIR FUNCTIONS, DUTIES AND LIABILITIES

The 'Board' refers to the collective word used to designate directors when they act together as a group.

The Board should act as the focal point for and custodian of corporate governance in the company. Every Board should have a charter setting out its responsibilities, and it should meet as often as is required to fulfil its duties. The King III Report recommends that this should be at least four times a year.

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### DISCLOSURE OF A DIRECTOR'S PERSONAL FINANCIAL INTERESTS

The Companies Act introduces a far more stringent set of rules relating to disclosure of personal financial interests than the previous Act.



A director is required to disclose his personal financial interest on any matter to be decided by the Board. He is also required to disclose a financial interest of a second company or CC in which he or his relation is a member.

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