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COMPANY STATUTORY RECORDS AND REGISTERS

To register a new company is now a very fast process and in no time you can open a bank account and start trading. However registering your company and obtaining your Certificate of Incorporation is not where it ends. There are various requirements you need to adhere to of which only one is keeping and maintaining your secretarial records.

You could face a fine of up to a million rand in failing to do so and directors can even be sent to jail.

It is the fiduciary duty of every director to ensure that the company's registers are created and maintained. These should be available to all shareholders during business hours (*Companies Act, 2008 s 24, 25 & 26(3)*). *Companies Act, 2008 s 40(4)(b)* also requires that these statutory records and registers be updated immediately or soonest after receiving consideration for shares. There is also a duty to immediately update these records whenever there is a change in directors, addresses, auditors, etc.

The share register is the record (evidence) of the shareholding in the company. All share transactions are to be captured in this register. If things ever go sour within the company, this could have some serious implications, since it might not be possible to prove shareholding.

It is a reportable irregularity if registers are not kept and must be reported as such when the company is audited (*APA Act S45 (1) (a) and S1*) or reviewed (*Regulation 29*). On reporting such irregularity CIPC will issue a compliance notice ordering the company and directors to implement these registers and to maintain same as required by law.

Non-compliance is a serious matter as the company could face a fine of up to R1 million and, as it is the directors responsibility to ensure that company statutory records and registers are kept and maintained, they could personally face an additional fine and/or imprisonment (*Companies Act, 2008 s 216*). The shareholders can also claim damages from them in terms of *s 20(6)*.

You don't need to be a rocket scientist to comply with the Act on this and **Maggie Zeelie Secretarial Services** offers this service to all and will create, keep and maintain your company statutory records and registers.