



**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA
("THE TRIBUNAL")**

CASE NO: CT02462/ADJ/2025

Ex Parte Application:-

THE INSTITUTE OF BANKERS IN SOUTH AFRICA

Registration number 2002/011503/08

Applicant

Presiding Member: Hlaleleni Kathleen Dlepu

Date of Decision: 27 November 2025

DECISION AND REASONS

1. INTRODUCTION

- 1.1 The Applicant is The Institute of Bankers in South Africa NPC Limited (the Applicant), registered in terms of the Company Laws of the Republic of South Africa under Registration No. 2002/011503//08 with its place of business being Business Exchange (TBE) Building ,4th Floor, Office 102 ,96 Rivonia Road ,Sandton ,2057.

- 1.2 The application is deposited by the Juan-Pierre Greyling, Operations & Compliance Manager duly authorized by the Board of Directors to act on the Company's behalf.

2. THE APPLICANT'S SUBMISSION

- 2.1 The Applicant is required in terms of clause 1.5 of the company's Memorandum of Incorporation Company the Company does not elect, in terms of section 34(2) of the Act, to comply with the provisions of chapter 3 of the Companies Act, Notwithstanding this provision the Company will be governed by the following accountability and transparency provisions

“ 1.5.1.1 The Company shall be audited annually.

1.5.1.2 The Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of:

1.5.1.2.1 the Act;

1.5.1.2.2 any other law with respect to the preparation of financial statement to which the Company may be subject and IFRS;

1.5.1.2.3 this MOI.

1.5.2 The Company shall each year prepare annual financial statements within six (6) months after the end of its financial year and shall be presented to the members at the first general meeting following the approval of such statements by the board.

1.5.3 The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable or non-elective provision of the Act and shall:

- 1.5.3.1 satisfy, as to form and content, the financial reporting standards of IFRS;
- 1.5.3.2 subject to and in accordance with IFRS;
- 1.5.3.3 present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company
- 1.5.3.4 show the Company's assets, liability and equity, as well as its income and expenses
- 1.5.3.5 set out the date on which the statements were produced and the accounting period to which they apply; and
- 1.5.3.6 bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them."

2.2 The Board Resolution of the Directors of the Company held on the 6th November 2025 by "Round Robin" the resolution confirms that an application to the CIPC for the extension to convene an AGM reads as follows:

"Whereas:

- 1 . In terms of Section 61(7) of the Companies Act, 71 of 2008, a Non -Profit Company is required to convene an Annual General Meeting (AGM) of its members once in every calendar year and no more than 15 months after the date of the previous AGM:
2. Due to the Company being unable to finalise its Annual Financial Statements (AFS) for the financial year ended 2024 due to the ongoing issues that require clarification by our appointed external auditors .These issues ,which relate to material accounting adjustments and financial

disclosures ,were identified during the audit process.The audit firm has not yet provided the final clarification or feedback on these adjustments required to conclude the AFS:

3. The Company is unable to convene its AGM within the prescribed timeframe

4. The Company is required to submit a formal application to the Companies and Intellectual Property Commission (CIPC) to request an extension of time to hold its AGM”

2.3 The Applicant held its last Annual General Meeting (AGM) on the 11th May 2023 and submits that it would not be able to hold its annual general meeting within the stipulated time mainly due to the following reasons: -

2.3.1 There was a delay in the finalization of the audited financial statements (AFS) and integrated report, for the financial year ending the 23rd of February 2023.

3. APPLICABLE LAW

3.1 Section 9(1) provides that: *“Subject to section 5(4) and (5), any provision of this Act that applies to a public company applies also to a state-owned company, except to the extent that the Minister has granted an exemption in terms of subsection (3)”*

3.2 Section 61 of the Companies Act 71 of 2008 provides for the shareholders’ meetings and section 61(7) specifically provides as follows:

“A public company must convene an annual general meeting of its shareholders:

(a) Initially, no more than 18 months after the company’s date of its incorporation; and

(b) Thereafter, once every calendar year, but no more than 15 months after the date of the previous annual general meeting, or within an extended time allowed by the Companies Tribunal on good cause shown”.

Section 61(8) provides that “*A meeting convened in terms of subsection (7) must, at a minimum, provide for the following business to be transacted:*

(a) Presentation of –

- i. The director’s report*
- ii. Audited financial statements for the immediately preceding financial year; and*
- iii. An audit committee report*

(b) Election of directors, to the extent required by this Act or the company’s Memorandum of Incorporation

(c) Appointment of –

- i. An auditor for the ensuing financial year; and*
- ii. An audit committee; and*
- iii. Any matters raised by shareholders, with or without advance notice to the company*

Section 29 provides that:

“Financial statements

(1) of a company provides any financial statements, including any annual financial statements, to any person for any reason, those statements must –

- a. satisfy the financial reporting standards as to form and content, if any such standards are prescribed.*

- b. present fairly the state of affairs and business of the company, and explain the transactions and financial position of the business of the company,”*

Section 30 provides that “*each year, a company must prepare annual financial statements within six months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of an annual general meeting in terms of section 61(7)*”

4. EVALUATION

- 4.1 The Company was previously granted the Application for an extension to hold its AGM in the following case
- 4.1.1 In case CT02350/ADJ/2025, the Applicant applied for an extension and extension of time.
- 4.1.2 Similar to the current Application the Applicant stated the similar reasons, The justification for the extension was that the Company has been unable to finalise its Annual Financial Statements (AFS) for the year ending 2024 due to ongoing issues that require clarification from their appointed External Auditors.
- 4.1.3 These issues, which relate to material accounting adjustments and financial disclosures, were identified during the audit process. The audit firm has not yet provided the final clarification or feedback on these adjustments required to conclude the annual financial statements.
- 4.1.4 The current application, the Applicant is again requesting an extension of the AGM. The application only mentions one case wherein the

Applicant requested the extension but omits mentioning the one granted in 2023.

- 4.1.5 The justification for the application remains the same.
- 4.2 The Applicant reasons for not holding the Annual General Meeting on or before the 31st of August 2024 does justify an extension to hold its annual general meeting no later than the 30th November 2024.
- 4.3 The Applicants were given an opportunity by the Tribunal which extended the to finalise its financials before the end of November 2024 but has failed to do so and the reasons advanced by the Applicant are not factors beyond its control, on the contrary this is an indication of governance failures. The extended period was sufficient for the Applicant to comply.
- 4.4 Section 66(1) of the Companies Act 2008, the Board has the power to manage the companies affairs and has "authority to exercise all of the powers and perform any other functions of the company, except to the extent that this Act or the Company's MOI provides otherwise" The board has failed to demonstrate how it has exercised this legislative power to ensure compliance with the Tribunal's previous two orders.'
- 4.5 The S 61 (7) anticipates the scenario where the board has done everything possible to ensure compliance, but despite such efforts, compliance was unachievable. It is not a remedy that should be taken lightly, hence the requirement for just cause. I do not think the S 61 (7) remedy is automatic. It is reserved for deserving circumstances; consequently, the Tribunal has the discretion to consider the circumstance and grant an order accordingly. The Applicant's circumstances are not deserving, considering that it had

opportunities to ensure that its affairs are in order and legislative compliance is achieved. The issues raised in this application are not exceptional circumstances the Applicant could not foresee or timeously address should it put the necessary effort to do so. Granting further extension will not serve to deter the Applicant's non-compliance tendency.

- 4.6 The Act does not describe what good cause means in this context.¹ The Constitutional Court defined good cause as "a substantial or "legally sufficient reason" for a choice made or action taken."² It further said that "[a]ssessing whether there is good cause for a decision is a factual determination dependent upon the particular circumstances of the case at hand."³ In *The Highly Nutritious Food Company (Pty) Ltd v The Companies Tribunal and Others* (91718/2016) [2017] ZAGPJHC para 18, which relates an application brought in terms of 160 (2) (b) concerning name dispute, the court said this concerning good cause in that context:

"Section 160(2)(b) allows any person and at any time to bring an application on good cause shown. This does not refer only to the delay in bringing the application but to show good cause as to why the application must be entertained. The section requires the applicant to furnish a reasonable explanation as to why the application should be entertained by the Tribunal. It does not require an explanation only as to the delay in bringing the application but refer to the merit of the application as well."

- 4.7 In *Grant v Plumbers (Pty) Ltd* 1949 (2) SA 470, the court said when dealing with the application for rescission of judgment: “An applicant must give a reasonable explanation of his default. If it appears that his default was wilful or that it was due to gross negligence the court should not come to his assistance,...” In *The Government Employees Pension Fund v Kupa and another*,⁴ the court said “[i]n considering whether the applicant has shown “good cause” for its default, or its failure to deliver its answering affidavit or whether the applicant has a reasonable, satisfactory and acceptable explanation, I am enjoined to determine whether the reasons proffered by the applicant justify the rescission of the default judgment.”
- 4.8 Thus, in the context under consideration, the Applicant must not only show that it has failed to hold the AGM or it will fail to hold the AGM in the required period but must show the merit. In other words, it must advance a: reasonable, satisfactory and acceptable explanation: of why further extension is warranted.
- 4.9 No exceptional reason have been advanced in this application to show why the AFS are incomplete and what measures the Applicant took to expedite the process.
- 4.10 I am not satisfied that the Applicant has shown good cause to grant a second extension.

5. FINDINGS

- 5.1 The Tribunal has granted the Applicant one extension previously. The motivation in this application has not changed from the previous one, which is an indication that the Applicant has made no extra effort to take control of the situation in terms of governance prescripts. This application does not constitute a new circumstance and that the Applicant could not have foreseen timeously and addressed. Consequently, the Applicant has not provided a reasonable, satisfactory and acceptable explanation for the delay.
- 5.2 The Applicant has not shown good cause warranting the extension of the AGM as required by S 61(7).

6. ORDER

- 6.1 The Application is dismissed.

HLALELENI KATHLEEN DLEPU
MEMBER OF THE COMPANIES TRIBUNAL