basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

BUSINESS STUDIES - FORMS OF OWNERSHIP

GRADE 10 (GRADE 12 RECAP)

Table of Content

Acronyms

AFS	Annual Financial Statement
AGM	Annual General Meeting
CIPC	Companies and Intellectual Property Commission
FRSC	Financial Reporting Standards Council
“Inc.”	Personal liability company
“Ltd”	Limited
MOI	Memorandum Of Incorporation
“NPC”	Non-profit company
“(Pty) Ltd”	Proprietor limited
PIS	Public Interest Score
“SOC Ltd”	State-owned company
TRP	Takeover Regulation Panel

Background

One of the most important decisions to be made by a prospective proprietor is choosing the appropriate the business to establish. There are various investment vehicles available to investors interested in setting up a business in South Africa. One of these vehicles is to become an entrepreneur. The decision as to which business is appropriate will depend on numerous factors. This decision must be based on considerations regarding the characteristics of each type of business, as well as the advantages and disadvantages of the different types of businesses.

There are various types of business entities to choose from and each one has advantages and disadvantages. The business types dealt with in this study guide are:

1. Sole Traders;
2. Partnerships;
3. Co-operatives;
4. Close Corporations; and
5. Companies (Profit and non-profit companies).

The purpose of the guide

This guide is developed to give a brief outline of the forms of ownership and assist teachers and learners to understand the forms of ownership including new companies governed by the Companies Act 71 of 2008. The information provided in this guide will help teachers and learners to be able to understand the most important issues affecting the forms of ownership in South Africa. Learners will be able to identify the definitions, characteristics, advantages, disadvantages and the differences between the different forms of ownership in South Africa.

This document is not intended to serve as a complete guide on the form of ownership, but as a guide to assist teachers and learners to cope and manage the curriculum and have more information about the identified content. The document will form part of many other strategies and resources that will assist learners to understand the forms of ownership in Business Studies. This guide will not only assist Grade 10 learners, but also Grade 12 learners when they recap the same content in Grade 12.

How to use this document

The guide needs to be used in conjunction with all other resources. The self-study guide outlines the definitions, characteristics, advantages disadvantages of each form of ownership and the comparisons of the different forms of ownership.

Sole Trader / sole proprietorship

Definition of a Sole Trader

Sole trader or sole proprietor is a business is owned and controlled by one person who takes all the decisions, responsibility and profits from the business they run.

Characteristics of Sole trader

1. The business is owned by a single individual.
2. Being small in size, it is managed by the owner himself. However, he may have some paid workers to assist him, but the ultimate control rests in his hands.
3. The necessary capital to run the business is provided by the sole owner. However, he may borrow from other sources such as friends or bank as need arises.
4. The sole trader is personally liable for the debts of the business. He bears all the risks and nobody else has any stake in the business. The creditor can lay claim not only on his business assets but also his personal property such as car, houses, furniture etc to recover the loan.
5. The sole trader tries to keep good relationship with his customers. The customers are generally personally known to the proprietor and their orders are higher valued.
6. The sole trader can set up or close the lawful business as and when he likes because the operation of his business is not governed by any special act or ordinance.
7. The sole trading business is as easy to end or dissolve as is its formation. The decision of the proprietor alone ends the business.
8. There is no specific suffix to be reflected in the name of the sole trader.
9. A sole trader does not have a legal personality. The owner is liable for all the debts of the business.
10. Sole traders are not compelled by law to preparation and audit financial statements.

Advantages of a Sole Trader

1. There are no restrictions on the capital employed in the business.
2. The owner has full control over the business for daily operations as well as how large they wish to grow it.
3. There are no legal requirements for the creation or running of the business. There isn't much paperwork in establishing this type of structure.
4. The owner takes all of the profits made by the business and are entitled the ownership of assets.
5. A sole trader does not need to complete many of the forms and accounting information that companies need to produce except when preparing for annual self assessment tax return where you declare your annual profits and tax liability.

6. There are less stringent reporting obligations compared with other structures and all financial information is kept private.
7. Decision making is also quick as it's just the owner who decides where the business is heading.
8. Sole traders are generally closer to their customers and offer a more personalised approach and improved customer service as they are the person each customer has contact with.
9. It's relatively straightforward to wind up. The termination of a sole proprietorship is far simpler than in other cases.
10. A sole trader can close contracts and trade in his own name.
11. Information in a sole trade business is available to the owner.

Disadvantages of a Sole Trader

1. A sole trader does not have a legal personality. The owner is solely liable for all the debts of the business, i.e. any consequences of business failure or any other liability.
2. The liabilities of a sole trader are unlimited. Personal property may be vulnerable for debts and other business liabilities, i.e. the owner's personal assets can be attached for debt.
3. Large sums of capital are less likely to be available to a sole trader, and you may have to rely more on overdrafts and personal savings. Raising funds is difficult as the business is owned and managed by one.
4. It may also be quite difficult to get larger jobs not only because large corporations have many staff that can work on tenders and offers but because most organisations won't work with a business that only has a staff of one.
5. A sole trader lacks of continuity especially in the event of death or illness. The business needs to be shut down on the sole proprietors' death; there is no automatic continuation of the business on death. Special provision can be made via the "will" though.
6. A sole trader may require enormous investments of time without the normal employee recreation leave and other benefits.

Partnership

Definition

A partnership is an agreement between two or more parties that have agreed to finance and work together in the pursuit of common business goals. All partners bear equal responsibility for debts incurred.

Characteristics of a Partnership

1. A partnership is an agreement between 2 or more people.

2. A contractual relationship can be in writing or oral.
3. There are no legal requirements in starting a partnership except the drawing up of a partnership agreement.
4. Partners are jointly and severally liable for debts on the business.
5. Each partner must make a contribution to the Partnership.
6. The capital of the partnership is controlled by partners.
7. The partnership does not have a separate legal person independent of the partners. Each partner can bind the Partnership.
8. The profits and net assets are usually distributed amongst the partners in proportion of their respective interests.
9. The Partnership is not a "person" for tax purposes and is not taxed as a company would be. Profits generated vests in the partners personally and individually and the partners are personally taxed on such profits of the business.
10. On dissolution, the assets are liquidated, creditors are paid and partners must stand in for any shortfall.
11. If the Partnership's estate is sequestrated, the estates of the partners can follow unless the partners undertake to pay the debts of the Partnership.
12. The life of the Partnership is not separate from the lives of the partners. If one partner dies, leaves or is declared personally insolvent the Partnership becomes null and void unless indicated otherwise in the partnership agreement.
13. It is optional to prepare the financial statements and there are no statuary audit requirements.
14. There is no specific suffix to be reflected in the name of the partnership.

Advantages of a partnership

1. Partnerships are relatively easy to establish. There are no formal requirements for the creation and running of a partnership. This makes partnerships an inexpensive business entity to run. There are few legal requirements involved in drawing up a partnership agreement.
2. Partners invest new capital into the business to finance expansion.
3. Partners contribute new skills and ideas into a business. A partnership may benefit from the combination of complementary skills of two or more people and this eases a burden on one man.
4. Partners share responsibilities for decision making and managing the business.
5. Partners share any profits and are therefore motivated to work hard.
6. Raising additional capital to finance further business expansion is easy, because there is no limit on the number of partners allowed in each partnership.
7. Partnerships can be cost-effective as each partner specializes in certain aspects of their business.
8. Partners are taxed in their own capacities, which could lead to lower taxation, depending on the level of income of the individual.
9. Partnerships provide moral support and will allow for more creative thinking and brainstorming.

10. Partnership information is available to partners.
11. Partnerships are not compelled by law to prepare audited financial statements.

Disadvantages of a partnership

1. Partnership is not a separate legal entity and therefore partners are liable for the debts in their own capacity.
2. Partners are jointly and severally liable for the actions of the other partners. The personal, individual assets of the partner may be attached for the liabilities of the partnership under certain circumstances.
3. Discussion between partners can slow down decision making and they may disagree on important business decisions.
4. Problems can arise if one or more partners are lazy, inefficient or even dishonest. There may be arguments, the business may lose money and other partners will have to work harder.
5. The partnership may terminate on the death of a partner, unless there are sufficient funds available to buy the deceased partner's interest or indicated otherwise in the partnership agreement .
6. Changes or transfer of ownership can be difficult and generally require a new partnership to be established unless indicated otherwise in the partnership agreement.
7. On dissolution, the assets are liquidated, creditors are paid and partners must stand in for any shortfall.
8. If the Partnership's estate is sequestrated, the estates of the partners can follow unless the partners undertake to pay the debts of the Partnership.

Co-operatives

Definition

Co-operative refers to autonomous association of persons united voluntarily to meet their common economic and social needs and aspirations through a jointly owned and democratically controlled enterprise organised and operated on co-operative principles.

Categories of Co-operatives

a primary co-operative; - co-operative formed by a minimum of five natural persons whose object is to provide employment or services to its members and to facilitate community development;
a secondary co-operative- co-operative formed by two or more primary (primaries) co-operatives to provide sectoral services to its members, and may include juristic persons; and
a tertiary co-operative - co-operative whose members are secondary co-operatives and whose object is to advocate and engage organs of state, the private sector and stakeholders on behalf of its members, and may also be referred to as a co-operative apex;.

Type of Co-operatives

1. Housing co-operative.
2. Worker co-operative.
3. Social co-operative.
4. Agricultural co-operative.
5. Co-operative burial society.
6. Financial services co-operative.
7. Consumer co-operative.
8. Transport co-operative

Note: Co-operatives can sometimes be categorised as primary, secondary or tertiary co-operatives, for example:
"Housing co-operative - a **primary co-operative** which provides housing to its members, or a **secondary co-operative** that provides technical sectoral services to primary housing co-operatives.
"Financial services co-operative" - a **primary co-operative** whose main objective is to provide financial services *to* its members or a **secondary co-operative** that provides financial services to a primary co-operative.

Characteristics of Co-operatives

1. A minimum of 5 natural persons in the case of a primary co-operative; 2 or more primary co-operatives in the case of a secondary co-operative; or a minimum of 2 or more secondary co-operatives in the case of a tertiary incorporate the Co-operative societies.
2. After registration a co-operative becomes a separate legal entity, with limited liability of its members. It can enter into agreements with others and can purchase or sell properties in its own name.
3. Co-operatives are owned and democratically controlled by their members (i.e., those that use the cooperative's services or buy its goods) and not by outside investors. Equalities are the essence of Co-operatives, governed by democratic principles. Every member has got equal right over the function management of that society.
4. The affairs of a co-operative must be managed by a board of directors appointed for such period which may not be more than four years and consisting of such number of persons as may be set out in the constitution of the co-operative.
5. On registration, the co-operative's application, the constitution and the name must comply with the key principles of the co-operatives.
6. Co-operatives return surplus income (revenue over expenses and investment) to members in proportion to their use or patronage of the cooperative, and not proportionate to their investment or ownership share.
7. Co-operatives are not formed to maximise profit like other forms of business organisation. The main purpose of a Co-operative Society is to provide service to its members.

8. Co-operatives pay taxes on income retained for investment and reserves and surplus revenues are returned, according to patronage, to individual members who pay taxes on that income.
9. A co-operative must have the words- “co-operative” or “co-op” as part of its name; and the word “limited” or the abbreviation “Ltd” as the last word of its name, unless the constitution of a co-operative does not limit the liability of its members. (A secondary co-operative must have the words “secondary co-operative” as part of its name and a tertiary co-operative must have the words “tertiary co-operative” as part of its name).
10. The constitution may provide for membership shares to be issued to members and transfer its assets, rights, liabilities and obligations by mutual agreement to any other co-operative.
11. Members contribute capital in the form of entrance fee.
12. In the case of a primary co-operative, each member has only one vote; The constitution of a secondary or tertiary co-operative may provide that the members have more than one vote: Provided that in the case of a secondary co-operative no member shall have more than fifteen per cent of the vote of all the members of the co-operative.
13. Death, insolvency or lunacy of a member does not affect the existence and continuity of a co-operative.
14. Information of the co-operative is available to members.
15. The co-operatives prepare the financial statements and annual audit of the affairs of the co-operative is required.

Advantages of Co-operatives

1. Persons having common interest can form a co-operative society and co-operatives allow for more members to work as a team
2. A co-operative society is controlled in a democratic manner. The members cast their vote to elect their representatives to form a committee that looks after the day-to-day administration. This committee is accountable to all the members of the society.
3. The liability of a member of a co-operative is limited to an amount equal to the nominal value of the shares, for which the member has not paid, that the member holds in the co-operative. Unlike sole proprietors and partners, the personal properties of members of the co-operative societies are free from any kind of risk because of business liabilities.
4. Through co-operatives the members or consumers control their own supplies and thus, middlemen’s profit is eliminated.
5. By pooling resources, each member pays less for inputs, marketing, distribution and selling of produce
6. Formation of a co-operative society is very easy compared to the companies.
7. Any competent person can become a member at any time he/she likes and can leave the co-operative at will.

8. A co-operative must be incorporated as a legal person with effect from the date of registration, and it can enter into any contract using its name.
9. The government (Dti) may provide a co-operative with the necessary support, the co-operative is registered in terms of the Act; complies with the co-operative principles; and its members are previously disadvantaged persons.
10. An audit of the affairs of a co-operative is conducted annually to report generally as to whether the assets and facilities of a co-operative are being properly managed and the operations of a co-operative are being conducted in accordance with co-operative principles.

Disadvantages of Co-operatives

1. The co-operatives are formed with the idea of mutual co-operation. But it is often seen that there is a lot of friction between the members because of personality differences, ego clash, etc. The selfish attitude of members may sometimes bring an end to the society.
2. The amount of capital that a cooperative society can raise from its member is very limited because the membership is generally confined to a particular section of the co-operative.
3. Due to low rate of return the members do not invest more capital, i.e. it is less incentive to invest additional capital.
4. Due to a limited capital the co-operative is not able to get the benefits of professional management. Generally it is seen that co-operative do not function efficiently due to lack of managerial talent. The members or their elected representatives are not experienced enough to manage the co-operative.
5. Every co-operative is formed to render service to its members rather than to earn profit. This does not provide enough motivation to the members to put in their best effort and manage the co-operative efficiently.
6. The co-operative is compelled by law to hold its first annual general meeting within 18 months of its registration.
7. Financial statements of a co-operative need to be audited and the co-operative need to appoint an auditor six months after the end of a financial year.
8. Co-operative shares are not freely transferable.
9. After the death of a member the co-operative may defer the payment of the amounts owed to the diseased for a period not exceeding two years after the date of death if the co-operative feels that the payment would adversely affect its financial well-being.

Close Corporation (CC)

Definition

A Close Corporation CC is an optional association of one or more persons, not exceeding ten, who qualify for membership in terms of the Act 69 of 1984, and secure its incorporation by complying with the requirements of this Act.

Characteristics of Close Corporation

1. A Close Corporation is subject to Close Corporations Act 69 of 1984 and the Companies Act 71 of 2008. Under the new Act, close corporations are treated a lot more like companies
2. The name must end with the suffix CC.
3. A Memorandum of Incorporation is not required, but a founding statement (K1 no longer in use because there are no new registrations) signed by, or on behalf of, every prospective member used to be lodged with the Registrar. Amended founding statement CK2 is still in use.
4. A Close Corporation is a legal person so members are not liable in their personal capacity. It is a separate entity that exists separately from its members
5. Members of the CC both own and control the business
6. Usually two or more members have to sign legal documentation
7. Initial contributions are required to be made by members, but are usually nominal or it does not have to be equal to other contribution
8. Members do not have shares but ‘interests’ expressed as percentages, and they may not dispose of their interests without the consent of the other members.
9. The same requirements of maintaining accurate and complete accounting records, satisfying the financial reporting standards (by Financial Reporting Standard Council) and preparing annual financial statements applies to CC’s unless it has been dormant or on application to and exemption by CIPC, or if the CC has only one member.
10. Close corporation financial statements may be required to be audited unless exempted by law or independently reviewed by the accounting officer depending on its Public Interest Score at the end of the financial year.
11. All members of the CC may take part in management
12. A Close Corporation does not need an auditor but does need an accounting officer.
13. The ‘Business Rescue’ clause in the companies Act 71 of 2008, also apply to CC’s
14. A Close Corporation is subjected to double taxation like companies, i.e. they are taxed on CC’s income and Standard Tax of Company (STC) on members’ dividends can be terminated in a Court of Law.
15. Close Corporation information is available to its members.
16. The life span of the CC is perpetual. It is not influenced by the withdrawal of a member.

17. Members of the CC are paid according to the percentage interest owned by each.
18. The voting rights of the members should correspond with their respective member interest or ownership percentage.

Advantages of a Close Corporation (CC)

1. A Close Corporation is easy to establish and to operate because there are fewer legal requirements than companies.
2. A Close Corporation is not required to hold annual general meetings (AGM). Meetings are not compulsory and can be held on an ad hoc basis
3. A Close Corporation is regarded as a legal entity/person; this is an advantage because it means that the continuity of a CC is not linked to the status and life of the members. The life of the close corporation is perpetual.
4. Liability of members for debts is limited except under certain exceptional circumstances. The proprietor or member is not personally liable for the debts of a CC
5. A Close Corporation can be converted to a Private company and members may become shareholders.
6. The 'Business Rescue' clause work to the advantage of the CC because it facilitates the rehabilitation of a CC when it is financially distressed.
7. Transfer of ownership is easy. It can be transferred to individual if all members agree.
8. You're somewhat protected from other members. If there's no association agreement in place, then all important decisions are made by majority vote. Each member has a vote equal to the percentage of the close corporation that they own.
9. There are no directors therefore, no complex rules like in companies where directors are subjected to more rules.
10. Close Corporation may be exempted by CIPC from auditing its financial statement.

Disadvantages of a Close Corporation

1. The number of members allowed in a Close Corporation (CC) is 10. This could limit and hamper the growth and expansion of the business.
2. A member of a CC can be personally held liable for the losses of a CC if the member acts carelessly or irresponsibly on behalf of the business, or without skill.
3. Banks or loan establishments might require the financial documents of the CC to be audited when a CC applies for a loan. Funds will not be released until the auditing has been completed.
4. All members must agree to dispose of a member's interest. This could make it difficult for members to leave the CC or to pay a member their portion.
5. Every member acts as an agent of the CC and the CC is bound by the member's actions.

6. It is not possible to sell a CC to a company because companies cannot be converted into CCs. First the CC needs to be converted into a private company, and this can take time.
7. A Close Corporation is subjected to double taxation like companies, i.e. they are taxed on CC's income and Standard Tax on Company (STC) on members' dividends. The company tax rates are significantly higher than personal tax rates that apply to partnerships and sole traders.
8. A Close Corporation is governed by CC Act 69 of 1984 and the Companies Act 71 of 2008. There are more legal requirements than sole proprietorship and partnership.
9. A Close Corporation may be expected to audit its financial statement unless exempted by law.

Companies

A company is a legal person which has capacity and powers to act on its own (i.e. the law sees a company in the same light as a natural person)

The Companies Act 71 of 2008 took effect from 1 May 2011. The Act introduces fundamental changes to South African company law and corporate actions. The companies are governed by the Companies Act 71 of 2008 and they are incorporated in terms of the Memorandum of Incorporation (MOI).

A company is incorporated by completing and filing a Memorandum of Incorporation (MOI) and a Notice of Incorporation. The MOI represents the founding statement of a company under the Act. A company becomes a juristic person from the date and time that its incorporation is registered, as stated in its Registration Certificate. A person who is an incorporator, shareholder or director is not liable for the obligations of the company except to the extent that the Act or the company's MOI expressly provide otherwise.
Registration of a company is effected by signature of the MOI by the requisite number of persons and by filing it together with the prescribed Notice of Incorporation at CIPC, together with payment of the prescribed fee.

Types and Categories of companies as per Company Act 71 of 2008

Types of companies:

1. Profit Companies - A company incorporated for the purpose of financial gain for its shareholders.
2. Non-Profit Companies to be reflected as NPC

Categories of Companies:

1. Categories of Profit Companies
   - Private Companies: to be reflected as Proprietary Limited or (Pty) Ltd

- Personal Liability Companies: to be reflected as Incorporated or Inc
- Public Companies: to be reflected as Limited or Ltd
- State-owned Companies: to be reflected as SOC Ltd

2. Non-profit companies: to be reflected as "NPC"

Private Company

Definition

A private company is a voluntary association of 1 or more persons, governed by the company Act 71 of 2008, incorporated in terms of the Memorandum of Incorporation and its name ending with the word "Proprietary Limited (Pty Ltd)". It is a company with legal personalities and is prohibited by MOI from offering its shares to the public, i.e. the transferability of its shares is restricted.

Characteristics of a private company

1. 1 or more persons (including juristic persons) may incorporate a private company.
2. The board of a private company must comprise at least one director (1 or more directors) or any other minimum number as stipulated in its MOI. Each incorporator is a first director of the company.
3. Private companies are subject to fewer disclosure and transparency requirements and not all private companies are obliged to comply with the additional transparency and accountability requirements.
4. Private companies are not obliged to establish committees of the board, but it is recommended in order to provide greater accountability and transparency within the company.
5. A private company is prohibited by MOI from offering its shares to the public and the transferability of its shares is restricted.
6. The name of a private company must end with the expression "Proprietary Limited" or its abbreviation "(Pty) Ltd.".
7. The company has unlimited number of shareholders and its life span is perpetual or it has continual life span.
8. A private company has a separate legal personality. Shareholders have limited liability
9. Where there are more than two shareholders (except in the case of a one-person company), the shareholder quorum at general meetings is three shareholders with voting rights, unless the MOI provide otherwise.
10. The person quorum for all meetings is the presence at the meeting of the holders of at least 25% of all the voting rights that are entitled to be exercised. The MOI may lower or higher the percentage required, i.e. the MOI may lower or higher the percentage.

11. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
12. Private company is required to give 10 business days notice for shareholder meetings.
13. Private company must prepare annual financial statements, but is not required to lodge its annual financial statements with the Commission.
14. Annual financial statements need not be either audited or independently reviewed, unless prescribed by regulation / voluntary audit / independently review except exempted by regulation if one person or every holder holds a beneficial interest.
15. Shareholders of a private company have a right of pre-emption in respect of the issue of new securities unless the MOI excludes this.
16. Information in the private company is available to shareholders.
17. Each share has one general voting right unless the class of shares; preferences, rights and limitations in MOI provides otherwise.
18. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests. Distributions are extremely widely defined and include dividends and share buy-backs. Payments will be according to the class, preferences, rights and limitations of shares held.
19. The new takeover regulations will only apply to certain private companies, (MOI provides for its application or if 10% or more of the shares of such private company have been transferred within the previous 24 months).
20. Private company is required to give 10 business days notice for shareholder meetings.

Advantages of a Private Company

1. The board of a private company must comprise at least one director (1 or more directors) or any other minimum number as stipulated in its MOI. Each incorporator is a first director of the company.
2. The company has unlimited number of shareholders and its life span is perpetual.
3. The company is a separate legal person it can buy property in its own name. Liabilities of the shareholders are limited.
4. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
5. Directors are not compelled to attend the Annual General Meeting (AGM)
6. Audited or independent reviewed of financial statements are optional.
7. Private company is not required to lodge its annual financial statements with the Commission.
8. Information in a private company is only available to shareholders.
9. Shareholders of a private company have a right of pre-emption in respect of the issue of new securities unless the MOI provides otherwise..

Disadvantages of a Private Company

1. A private company is subjected to many legal requirements
2. Difficult and expensive to establish a private company compared to Close Corporations and Sole Proprietorship
3. A private company is prohibited by MOI from offering its shares to the public, i.e. the transferability of its shares is restricted.
4. The company is subjected to double taxation, i.e. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends
5. A meeting may not begin or a matter may not be debated unless at least three shareholders are present.
6. The meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise in aggregate at least 25% of all the voting rights. The voting rights must be determined by MOI.
7. Private companies are compelled to prepare annual financial statements.
8. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests and the payment are also extremely widely defined.

Personal Liability Company

Definition

A **personal liability** company is a voluntary association of 1 or more persons, governed by the company Act 71 of 2008, incorporated in terms of the Memorandum of Incorporation and its name ends with the suffix 'Incorporated' or 'Inc'. The directors are jointly and severally liable with the company for all company debts and liabilities incurred.

Characteristics of a Personal liability company

1. 1 or more persons (including juristic persons) may incorporate a personal liability company. There is no limit on number of shareholders.
2. The board of a personal liability company must comprise at least one director (1 or more directors) or any other minimum number as stipulated in its MOI. Each incorporator is a first director of the company.
3. Personal liability companies are subject to fewer disclosure and transparency requirements.
4. The directors are jointly and severally liable with the company for all company debts and liabilities incurred. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner;

5. Certain professional persons, such as attorneys and accountants, who are statutorily prohibited from enjoying limited liability, often incorporate a personal liability company to regulate their affairs.
6. The company has the benefit of corporate existence and perpetual succession.
7. These companies are identified by the suffix ‘Incorporated’ or ‘Inc’.
8. A personal liability company is prohibited by MOI from offering its shares to the public and the transferability of its shares is restricted.
9. Personal Liability Company must prepare annual financial statements, but is not required to lodge its annual financial statements with the Commission.
10. Annual financial statements need not be either audited or independently reviewed, unless prescribed by regulation / voluntary audit / independently review except exempted by regulation if one person or every holder holds a beneficial interest.
11. Shareholders of a personal liability company have a right of pre-emption in respect of the issue of new securities unless the MOI provides otherwise.
12. Where there are more than two shareholders (except in the case of a one-person company), the shareholder quorum at general meetings is three shareholders with voting rights, unless the MOI provide otherwise.
13. The person quorum for all meetings is the presence at the meeting of the holders of at least 25% of all the voting rights that are entitled to be exercised. The voting rights must be determined by MOI, i.e. the MOI may lower or higher the percentage.
14. A personal liability company has a separate legal personality. Shareholders have limited liability
15. A personal liability company is required to give 10 business days notice for shareholder meetings. .
16. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
17. Information in the personal liability company is available to shareholders.
18. Each share has one general voting right unless class; preferences, rights and limitations in MOI provides otherwise.
19. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests. Distributions are unfortunately extremely widely defined and include dividends and share buy-backs. Payments will be according to the class, preferences, rights and limitations of shares held.
20. Personal Liability Company is required to give 10 business days notice for shareholder meetings.

Advantages of Personal Liability Company

1. The board of a personal liability company must comprise at least one director (1 or more directors) or any other minimum number as stipulated in its MOI. Each incorporator is a first director of the company.
2. The life span of a personal liability company is perpetual.
3. The company is a separate legal person it can buy property in its own name.

4. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
5. Directors of a personal liability company are not compelled to attend the Annual General Meeting (AGM)
6. Audited financial statements are optional; otherwise the financial statements need to be independently reviewed unless exempted by regulation.
7. A personal liability company is not required to lodge its annual financial statements with the Commission.
8. Personal liability companies are subject to fewer disclosure and transparency requirements.
9. Shareholders of a personal liability company have a right of pre-emption in respect of the issue of new securities unless the MOI provides otherwise.

Disadvantages of Personal Liability Company

1. The directors and past directors are jointly & severally liable together with the company, for the debts and liabilities of the company that were contracted during their respective terms of office.
2. Subject to many legal requirements, hence it is difficult and expensive to establish compared to Close Corporations and Sole Proprietorship
3. A personal liability company is prohibited by MOI from offering its shares to the public and the transferability of its shares is restricted.
4. The company is subjected to double taxation, i.e. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends.
5. .A meeting may not begin or a matter may not be debated unless at least three shareholders are present.
6. The meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise in aggregate at least 25% of all the voting rights. The voting rights must be determined by MOI.
7. Personal liability companies are compelled to prepare annual financial statements.
8. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests and the payment are also extremely widely defined

Public Company

Definition

A public company is a voluntary association of 1 or more persons, governed by the company Act 71 of 2008, incorporated in terms of the Memorandum of Incorporation and its name ending with the word “Limited (Ltd”). A company that has issued securities through an initial public offering (IPO) and is traded on an open market.

Characteristics on a public company

1. The incorporators of a public company must consist of at least one person. The word “Person” includes a juristic person, as provided under section 1 of the Act. 1 or more persons (including juristic persons) may incorporate, i.e. no limit on number of shareholders or they can have an unlimited number of shareholders.
2. A public company must have at least three directors. 3 or more for a public (Ltd) company
3. The company is capable of raising capital from the general public and of being listed on the JSE Limited (South Africa’s stock exchange). Their MOI permits them to offer shares to the public, but restricts limits or negates their right of pre-emption. Shares of the public company are freely transferable.
4. The name of a public company must end with the word “Limited” or its abbreviation, “Ltd.”.
5. Financial statement of a public company requires to be audited
6. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
7. A public company is required to implement a reporting process for whistleblowers.
8. A public company is compelled to attend a annual general meeting (AGM).
9. Where there are more than two shareholders (except in the case of a one-person company), the shareholder quorum at general meetings is three shareholders with voting rights, unless the MOI provide otherwise.
10. The person quorum for all meetings is the presence at the meeting of the holders of at least 25% of all the voting rights that are entitled to be exercised. The voting rights must be determined by MOI, i.e. the MOI may lower or higher the percentage.
11. A public company has a separate legal personality. Shareholders have limited liability
1. Public companies are subject to disclosure and transparency requirements and are obliged to comply with the additional transparency and accountability requirements.
12. Information in the public company is available to shareholders and the public.
13. Each share has one general voting right unless the class of shares; preferences, rights and limitations in MOI provides otherwise.
14. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests. Distributions are unfortunately extremely widely defined and include dividends and share buy-backs. Payments will be according to the class, preferences, rights and limitations of shares held.
15. The new takeover regulations apply to every public company.
16. A nominee shareholder of a public company is required to disclose the beneficial holder of the securities.
17. A public company is required to provide a mechanism for electronic participation at shareholder meeting.
18. A public company is required to give 15 business days notice for shareholder meetings.

19. A public company is required to implement a reporting process for whistleblowers

Advantages of a public company

1. A public company is a separate legal entity from the owners and the company can own property in its name and the liabilities for the shareholders are limited.
2. A public company can be owned and operated by only one shareholder and 3 directors. This allows individuals to establish and a public company.
3. A public company can have an unlimited number of shareholders and its life span is perpetual.
4. A public company may make it easier to attract capital investment because of shareholders' limited liability.
5. The company is capable of raising capital by issuing shares to the public.
6. A public company must have at least three directors. 3 or more for a public (Ltd) company
7. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
8. Members of the public have an excess to the company's information and this can motivate them to buy shares from a company.

Disadvantages of a public company

1. Public companies can be complicated and expensive to establish and administer if it is a "large company".
2. A minority shareholder may be allowed little or no input into the affairs of the company.
3. A public company requires expensive procedures to comply with reporting regulations.
4. Public companies are compelled to prepare and audited annual financial statements.
5. Public companies are subject to more disclosure and transparency requirements.
6. The company is subjected to double taxation, i.e. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends
7. A meeting may not begin or a matter may not be debated unless at least three shareholders are present.
8. The meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise in aggregate at least 25% of all the voting rights. The voting rights must be determined by MOI.
9. Information in a public company is available to the shareholders and members of the public.
10. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests and the payment are also extremely widely defined

State-Owned Company (SOC)

Definition

A state-owned company (SOC) is a legal entity that is created by the government in order to partake in commercial activities on behalf of the owner. Its legal status varies from being a part of government into share companies with a state as a regular shareholder.

Characteristics of a state-owned company

1. 1 or more persons (including juristic persons) may incorporate. No limit on number of shareholders.
2. 1 or more directors are required in a state-owned company.
3. An SOC is either a company defined as a "state-owned company" in the Public Finance Management Act 1of 1999, or is owned by government or a municipality as contemplated in the Municipal Systems Act 32 of 2000,
4. The company is owned by the government or a municipality and otherwise similar to a public company.
5. A state-owned company enjoys financial autonomy because they are to depend on the government for initial investment.
6. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.
7. The name of a state-owned company must end with the word “SOC”.
8. State-owned company is compelled to have its financial statement audited
9. A state-owned company is compelled to attend an annual general meeting (AGM).
10. A state-owned company has a separate legal personality and have limited liability. Shareholders have limited liability
11. Where there are more than two shareholders (except in the case of a one-person company), the shareholder quorum at general meetings is three shareholders with voting rights, unless the MOI provide otherwise.
12. The person quorum for all meetings is the presence at the meeting of the holders of at least 25% of all the voting rights that are entitled to be exercised. The voting rights must be determined by MOI, i.e. the MOI may lower or higher the percentage.
13. Shares of a state-owned company are freely transferable.
14. State-owned companies are subject to disclosure and transparency requirements.
15. Information in the state-owned company is available to shareholders.
16. Each share has one general voting right unless the class of shares; preferences, rights and limitations in MOI provides otherwise.

17. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests. Distributions are unfortunately extremely widely defined and include dividends and share buy-backs. Payments will be according to the class, preferences, rights and limitations of shares held.
18. The new takeover regulations apply to every state-own company, unless exempted by law.
19. State-owned company is required to give 10 business days notice for shareholder meetings.
20. A state-owned company is required to implement a reporting process for whistleblowers

Advantages of a State-owned company

1. A state-owned company enjoys financial autonomy because they are to depend on the government for initial investment.
2. It provides a healthy competition to private sectors because of government contributions.
3. Most of the government companies run on sound business lines as they have their surpluses to run their projects.
4. A state-owned company facilitates all round industrial development by taking up projects in the neglected areas where private sectors hesitate to invest.
5. The profits of the companies are utilized for the further expansion activities.
6. State-owned company can be expanded by means of selling its shares to the public, i.e. the shares of a state-owned company are freely transferable
7. A state-owned company has a separate legal personality. The company can use its name to enter into contracts.
8. Shareholders have limited liability.
9. The Act imposes personal liability on directors who are knowingly part of the carrying on of the business in a reckless or fraudulent manner.

Disadvantages of a State-owned company

1. Due to legal formalities, the formation of a state-owned company becomes so complicated as compared to close corporations and partnerships.
2. A state-owned company is compelled to attend an annual general meeting (AGM).
3. State-owned companies are subject to disclosure and transparency requirements.
4. The company is subjected to double taxation, i.e. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends
5. State-owned company is compelled to have its Financial statement audited
6. State-owned companies are autonomy in theory, but in practice it is not autonomy because political people interfere in the day-to-day operation of the companies.
7. State-owned company are dependent on the government for taking important policy decisions, red-tapes in government departments affect the working of companies.

8. Most of the state-owned companies experience slackness in management under the grab of public services. These are not treated as efficient as private units because of this state of affairs found.
9. As most of the state-owned companies take the assistance of civil servants, they cannot exercise better for the effectiveness of the organisation because they are not technical persons.
10. Where there are more than two shareholders (except in the case of a one-person company), the shareholder quorum at general meetings is three shareholders with voting rights, unless the MOI provide otherwise. A meeting may not begin or a matter may not be debated unless at least three shareholders are present.
11. The person quorum for all meetings is the presence at the meeting of the holders of at least 25% of all the voting rights that are entitled to be exercised. The meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise in aggregate at least 25% of all the voting rights. The voting rights must be determined by MOI.
12. State-owned companies are compelled to prepare annual financial statements.
13. All distributions to shareholders require board approval and need to satisfy the solvency and liquidity tests and the payment are also extremely widely defined

Non-profit company (NPO)

Definition

A non-profit company is an association incorporated not for gain. These companies are governed by the members and directors. The companies resemble business oriented (for profit) companies in their legal structure.

Characterised of the Non-profit company

1. 3 or more persons (including juristic persons) may incorporate and must complete and sign the MOI
2. The board of a non-profit company must comprise at least three directors (3 or more directors).
3. With or without members i.e. an NPC without members can be incorporated. If it chooses to have members, it is permitted to have two classes of members, namely, voting members and non-voting members.
4. NPC can have voting or non-voting members.
5. Each voting member has at least one vote and the vote of each member is of equal value to the vote of each other voting member on any matter to be determined by vote of the members, except to the extent that the company's MOI provides otherwise.
6. They are incorporated for a "public benefit purpose".
7. Income and property may not be distributed to the incorporators, members, directors or officers of a non-profit company, except for reasonable compensation for services rendered by them.
8. Membership can be held by juristic persons, including profit companies

9. The MOI will be amended by a special resolution. This requires agreement by 75% of the votes represented at a meeting, i.e. For Non-Profit companies who have members agreement by 75% of the members is required and For Non-Profit companies without members, the Board may amend that company's Memorandum of Incorporation
10. Upon its winding-up, no past or present member or director of a non-profit company is entitled to any part of the net value of the company after its liabilities have been satisfied
11. Non-profit companies do not have a share capital and cannot distribute shares or pay dividend to their members.
12. The company has an independent legal personality, but a director / directors will be liable for any loss, damage or costs sustained by the company if he/she was acting in the name of the company
13. The name of a non-profit company will end with "NPC".
14. All of a non-profit company's assets and income must be used to advance its stated objectives, as set out in its MOI.
15. Non-profit companies must prepare the financial statements at the end of the year, but are not compelled to audit the financial statements.
16. Non-profit companies are not compelled to attend the general annual meeting (AGM).
17. A non-profit company is required to give 15 business days notice for shareholder meetings.
18. The structure is applicable to not for gain associations and the drive for these entities is not for profits

Advantages of a non-profit company

1. The company has an independent legal personality, but a director / directors will be liable for any loss, damage or costs sustained by the company if he/she was acting in the name of the company
2. The assets of the company are in the name of the organisation, not its members
3. Non-profit companies continue to exist even if the membership changes.
4. The assets and liabilities (debts) of the organisation are held separately from those of its members.
5. May make a profit, but may not share any of the profits with its members – profits can only be used to carry out the work of the organisation. All of a non-profit company's assets and income must be used to advance its stated objects, as set out in its MOI.
6. The members exercise power in general meetings in the sense that they can appoint or remove directors, amend the MOI of the company and dispose of the NPO's assets.
7. Non-profit companies must prepare the financial statements at the end of the year and is not compelled to audit the financial statements.
8. Non-profit companies are not compelled to attend the general annual meeting (AGM).
9. A non-profit company is a legal person and must exist in its own right and is not dependent on who its members are, who works for the organization etc.

Disadvantages of a non-profit company

1. The company and not the members and staff, is responsible for the debts, contracts and other legal responsibilities.
2. Non-profit companies do not have a share capital and cannot distribute shares or pay dividend to their members
3. As the structure is applicable to not for gain associations, the drive for these entities is not for profits and members are not motivated in the running of this business.
4. The structure is applicable to not for gain associations and the drive for these entities is not for profits. Members are less motivated.
5. Non-profit companies are compelled to prepare annual financial statements
6. Upon its winding-up, no past or present member or director of a non-profit company is entitled to any part of the net value of the company after its liabilities have been satisfied
7. Non-profit companies do not have a share capital and cannot distribute shares or pay dividend to their members.

The difference between public and private companies

Private Company	Public Company
The MOI of a private company must restrict the transferability of its securities and prohibit an offer of its securities to the public	Public company is allowed to transfer its securities and offer its securities to the public
A private company requires one director	A public company requires a minimum of three directors
A private company is not compelled to hold an Annual General Meeting	A public company is required to hold an Annual General Meeting
A private company is not required to provide a mechanism for electronic participation at shareholder meeting	A public company is required to provide a mechanism for electronic participation at shareholder meeting
Private company is required to give 10 business days notice for shareholder meetings	A public company is required to give 15 business days notice for shareholder meetings.
Not applicable	A public company is required to implement a reporting process for whistleblowers
Not all private companies are is obliged to comply with the additional transparency and accountability requirements.	A public company is obliged to comply with the additional transparency and accountability requirements of Chapter 3 of the Act

Private Company	Public Company
Private company is not required to lodge its annual financial statements with the Commission	A public company is required to lodge its annual financial statements with the Commission
Not applicable	A nominee shareholders of a public company is required to disclose the beneficial holder of the securities
Shareholders of a private company have a right of pre-emption in respect of the issue of new securities unless the MOI excludes this	Not applicable
The new takeover regulations will only apply to certain private companies.	The new takeover regulations apply to every public company.

Comparison of the forms of ownership

TYPE	SOLE PROPRIETORSHIP	PARTNERSHIP	CO-OPERATIVES	CLOSE CORPORATION	COMPANIES				
					PROFIT COMPANIES				NON-PROFIT COMPANIES
					PRIVATE COMPANY	PERSONAL LIABILITY COMPANY	PUBLIC COMPANY	STATE OWNED COMPANY	
Statutory regulation / Legislation	No legal requirements,	There are some legal requirements	Subject to the Cooperative society Act 14 of 2005.	Subject to Close Corporations Act 1984 and Companies Act 71 of 2008.	Subject to the Companies Act 71 of 2008.	Subject to the Companies Act 71 of 2008.	Subject to the Companies Act 71 of 2008.	Subject to the Companies Act 71 of 2008 and PFMA No. 1 of 1999	Subject to the Companies Act 71 of 2008.
Legal prescriptions	None	Voluntary agreement between the parties. No formal requirements.	Application, the constitution and proposed name, all complies with the co-operative	Founding statement lays down the legal requirement in terms of the amended CCs Act.	MOI represent the founding document for the companies in terms of the Act.	MOI represent the founding document for the companies in terms of the Act.	MOI represent the founding document for the companies in terms of the Act.	MOI represent the founding document for the companies in terms of the Act.	MOI represent the founding document for the companies in terms of the Act.
Ownership	Owned and managed by an individual	No limitation on number of partners or persons – 2 and more	Minimum of 5 persons primary co-operative; 2 or more primary co-operatives for secondary co-operative; 2 or more secondary co-operatives for a tertiary co-operative	Minimum of 1 and maximum of 10 members	1 or more persons	1 or more persons	1 or more persons	1 or more persons	3 or more persons
Name of Owners	Owner	Partners	Members / shareholders	Members	Shareholders	Shareholders	Shareholders	Shareholders	Company is not required to have members unless obliged by MOI.
Formation documents	No requirements	Partnership Agreement (P.A)/ Articles	Application and the co-0perative constitution.	Founding Statement NOT applicable.	Memorandum of Incorporation (MOI)	Memorandum of Incorporation (MOI)	Memorandum of Incorporation (MOI)	Memorandum of Incorporation (MOI)	Memorandum of Incorporation (MOI)
Registration requirements	No legal requirements for registration except ensuring that owner is registered for income tax purposes	No legal requirements for registration except requiring a partnership agreement.	Application in accordance with the Act; Constitution complies with the Act and co-operative principles; and the proposed name of that co-operative complies with section 10 of the Act..	According to the Act 71 of 2008 no further registration of the CC.	Notice of Incorporation and signature of the MOI by number of persons and filing it with prescribed Notice of Incorporation at CIPC.	Notice of Incorporation and signature of the MOI by number of persons and filing it with prescribed Notice of Incorporation at CIPC.	Notice of Incorporation and signature of the MOI by number of persons and filing it with prescribed Notice of Incorporation at CIPC.	Notice of Incorporation and signature of the MOI by number of persons and filing it with prescribed Notice of Incorporation at CIPC.	Notice of Incorporation and signature of the MOI by number of persons and filing it with prescribed Notice of Incorporation at CIPC. It is incorporated for a "public benefit purpose"
Directors	N/A	N/A	Board of directors	N/A	1 or more directors required	1 or more directors required	3 or more for a public (Ltd) company;	1 or more directors required	3 or more directors required
Name	No specific suffix to be reflected in the name	No specific suffix to be reflected in the name	A co-operative must have the words- "co-operative" or "co-op" as part of its name	The name must end with CC	To be reflected as Proprietary Limited or (Pty) Ltd	To be reflected as Incorporated or Inc	To be reflected as Limited or Ltd	To be reflected as SOC Ltd	To be reflected as NPC

TYPE	SOLE PROPRIETORSHIP	PARTNERSHIP	CO-OPERATIVES	CLOSE CORPORATION	COMPANIES				
					PROFIT COMPANIES				NON-PROFIT COMPANIES
					PRIVATE COMPANY	PERSONAL LIABILITY COMPANY	PUBLIC COMPANY	STATE OWNED COMPANY	
Legal person	It does not have a legal personality	It does not have a separate legal personality	Incorporated as legal person with effect from the date of registration.	It is a separate legal entity that exists separately from its members	The company has a separate legal personality.	The company has a separate legal personality. unless MOI provides otherwise	The company has a separate legal personality.	The company has a separate legal personality.	The company and directors has a separate legal personality. It can indemnify to protect or indemnify itself against unlawful acts by directors.
Tax reliability	He is taxed in his personal capacity	Taxed on partners personal capacity	Co-operatives pay taxes on income retained for reserves and patronage to individual members who also pay taxes on that income.	Taxed as company tax, i.e. subjected to double taxation. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends	Subjected to double taxation. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends	Subjected to double taxation. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends	Subjected to double taxation. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends	Subjected to double taxation. on the taxable income and Standard Tax on Companies (STC) payable on declared dividends	Company may quality for tax exemption. It should satisfy the criteria laid down in the Income Tax Act
Liability	Unlimited. The owner is liable for all the debts in his personal capacity.	Partners are jointly and severally liable for the debts.	Limited. As a separate legal person.	Limited. As a separate legal person.	No one is liable for the debts of the company except if Act or the MOI provide otherwise.	The company, directors and previous directors are jointly and severally liable for the debts.	No one is liable for the debts of the company except if Act or the MOI provide otherwise.	No one is liable for the debts of the company except if Act or the MOI provide otherwise.	A director / directors will be liable for any loss, damage or costs sustained by the company if he/she was acting in the name of the company
Continuity	Limited. The owner can sell his business or liquidate it during his lifetime.	Unlimited. Different situations can cause the dissolution of the partnership, e.g. the expiry of the term for which the partnership was originally formed.	Unlimited. Death, insolvency or lunacy of a member does not affect the existence of a co-operative.	Unlimited. A CC exists separately from the members and therefore enjoys perpetual continuation so that death, resignation, etc of a member will not cause dissolution of the CC.	Unlimited. The duration of a company is perpetual except if it is limited in terms of its founding statement, or if it is liquidated.	Unlimited. The duration of a company is perpetual except if it is limited in terms of its founding statement, or if it is liquidated.	Unlimited. The duration of a company is perpetual except if it is limited in terms of its founding statement, or if it is liquidated.	The duration of a company is perpetual except if it is limited in terms of its founding statement, municipal regulations or statute, or if it is liquidated.	Unlimited. The duration of a company is perpetual except if it is limited in terms of its founding statement, or if it is liquidated. It carries on with its work even if its members or staff change
Capital acquisition	Contributed by the owner	Contributed or loans by partners	Contributed by members in the form of entrance fee, subscription fee, share held in the co-operative, member's funds and loans.	Contributed or borrowed by members	MOI must restrict the transferability of its securities and must prohibit an offer of its securities to the public	MOI must restrict the transferability of its securities and must prohibit an offer of its securities to the public	MOI allows the company to make an offer of its securities to the public	MOI allows the company to make an offer of its securities to the public	NPC has no securities and depends mainly on government and private sector funding.
Availability of Financial Information	Only available to the owner	Only available to the partners	Available to the members of the co-operative.	Only available to members of the CC	Only available to shareholders & perspective shareholders	Only available to shareholders & perspective shareholders	Information is freely available to the public.	Information is freely available to the public.	Info freely available to the members and interested stakeholders.
Transfer of Ownership	Owner can decide at any time to sell, close down to	Transfer is complicated unless stipulated otherwise	The constitution may provide for membership shares to be issued to	Not influenced by the withdrawal of members Can be transferred to	The Act prohibits an offer of securities to the public and restricts	The Act prohibits an offer of securities to the public and restricts the	Unlimited and free transfer of shares in a public company	Unlimited and free transfer of shares in a public company	The company do not have a share capital and cannot distribute shares. The

TYPE	SOLE PROPRIETORSHIP	PARTNERSHIP	CO-OPERATIVES	CLOSE CORPORATION	COMPANIES				
					PROFIT COMPANIES				NON-PROFIT COMPANIES
					PRIVATE COMPANY	PERSONAL LIABILITY COMPANY	PUBLIC COMPANY	STATE OWNED COMPANY	
	transfer to someone else The lifespan of the business is usually linked to the owner's capacity	in the partnership agreement. More members can be added because it allows unlimited number of partners.	members and may transfer its assets, rights, liabilities and obligations to any other co-operative by mutual agreement	individual if all members agree	the transferability of securities.	transferability of securities.			income and property are not distributable to its incorporators, members, directors, officers or persons related to any of them.
Pre-emptive rights on issue of securities	N/A	N/A	N/A	N/A	Shareholders have pre-emptive rights in respect of the issue of any new securities (subject to certain limitations) – this may be excluded by the MOI	Shareholders have pre-emptive rights in respect of the issue of any new securities (subject to certain limitations) – this may be excluded by the MOI	No pre-emptive rights unless MOI provides otherwise	No pre-emptive rights unless MOI provides otherwise	N/A
Management	Owner	All/some partners	Managed by board of directors appointed by members.	All/some members	1 or more directors required	1 or more directors required	3 or more for a public (Ltd) company	1 or more directors required	3 or more directors required
Payment to Owners	All profits are paid to the owner	Divided between partners according to the Partnership Agreement	Co-operative pay to its members a portion of the surplus that is not transferred as a reserve to a reserve fund and is allocated in proportion to the value of transactions conducted by a member	Paid according to % interest held by each member	Distributions require board approval and need to satisfy the solvency and liquidity test. Include dividends and share buy-backs. They are according to the class, preferences, rights and limitations of shares held.	Distributions require board approval and need to satisfy the solvency and liquidity test. Include dividends and share buy-backs. They are according to the class, preferences, rights and limitations of shares held..	Distributions require board approval and need to satisfy the solvency and liquidity test. Include dividends and share buy-backs. They are according to the class, preferences, rights and limitations of shares held..	Distributions require board approval and need to satisfy the solvency and liquidity test. Include dividends and share buy-backs. They are according to the class, preferences, rights and limitations of shares held.	No part of the Company's income may be paid to an incorporator, member, or director unless obliged to do so by law.
Voting rights	N/A	N/A	Primary co-operative, each member has only one vote. The constitution of a secondary or tertiary co-operative may provide that the members have more than 1 vote: a secondary co-operative no member shall have more than 15% vote of all the members of the co-operative.	Voting rights should correspond with their respective member interest or ownership percentage	Each share has one general voting right unless class; preferences, rights and limitations in MOI provides otherwise	Each share has one general voting right unless class; preferences, rights and limitations in MOI provides otherwise	Each share has one general voting right unless class; preferences, rights and limitations in MOI provides otherwise	Each share has one general voting right unless class; preferences, rights and limitations in MOI provides otherwise	Each voting member has at least one vote. May have voting or non-voting members or both. The votes are equal.

TYPE	SOLE PROPRIETORSHIP	PARTNERSHIP	CO-OPERATIVES	CLOSE CORPORATION	COMPANIES					
					PROFIT COMPANIES				NON-PROFIT COMPANIES
					PRIVATE COMPANY	PERSONAL LIABILITY COMPANY	PUBLIC COMPANY	STATE OWNED COMPANY	
Financial Statement	Optional	Optional	Must prepare annual financial statements	Must prepare annual financial statements.	Must prepare annual financial statements.	Must prepare annual financial statements.	Must prepare annual financial statements.	Must prepare annual financial statements.	Must prepare annual financial statements
Auditory requirements	Optional	Optional	Auditing of the affairs of a co-operative must be conducted annually unless exempted by registrar.	MAY be expected to audit its financial statements unless exempted or independently reviewed by the accounting officer', depending on its public interest score at the end of the year.	Voluntarily audited or Audit required only if prescribed by regulation.	Audited voluntarily	Compulsory audit	Compulsory audit	Audited voluntarily or Independently reviewed
Lodging of financial statements with the Commission	N/A	N/A	Annual financial statement to be lodged with the registered office of the co-operative for at least 21 days after approval.	N/A	Only required to lodge annual financial statements if it is a company that is required to be audited by regulation.	Only required to lodge annual financial statements if it is a company that is required to be audited by regulation.	Required to lodge annual financial statements.	Required to lodge annual financial statements.	Only required to lodge annual financial statements if it is a company that is required to be audited by regulation.
AGM	N/A	N/A	Requires an AGM	N/A	No requirement for an AGM unless required to be audited	No requirement for an AGM unless required to be audited	Requires an AGM	Requires an AGM	No requirement for an AGM unless required to be audited
Electronic participation at shareholder meeting	N/A	N/A	N/A	N/A	No requirement	No requirement	Required to provide a mechanism for electronic participation of shareholder meetings	Required to provide a mechanism for electronic participation of shareholder meetings	No requirement
Quorum	N/A	N/A	N/A	N/A	25% and at least 3 shareholders if the company has more than 2 shareholders	25% and at least 3 shareholders if the company has more than 2 shareholders	25% and at least 3 shareholders if the company has more than 2 shareholders	25% and at least 3 shareholders if the company has more than 2 shareholders	25% and at least 3 shareholders if the company has more than 2 shareholders
Whistleblower provisions	N/A	N/A	N/A	N/A	No requirement for reporting process	No requirement for reporting process	Public company required to implement a reporting process	State-owned company required to implement a reporting process	No requirement for reporting process
Governance	N/A	N/A	Require an audit, appoint an auditor.		Only require an audit if determined by regulation Only require audit committee and company secretary if	Only require an audit if determined by regulation Only require audit committee and company secretary if	Require an audit, audit committee and company secretary	Require an audit (but subject to Public Audit Act), audit committee and company secretary	Only require an audit if determined by regulation Only require audit committee and company secretary if

TYPE	SOLE PROPRIETORSHIP	PARTNERSHIP	CO-OPERATIVES	CLOSE CORPORATION	COMPANIES				
					PROFIT COMPANIES				NON-PROFIT COMPANIES
					PRIVATE COMPANY	PERSONAL LIABILITY COMPANY	PUBLIC COMPANY	STATE OWNED COMPANY	
					stipulated in MOI	stipulated in MOI			stipulated in MOI
Disclosure of beneficial interest in securities	N/A	N/A	N/A	N/A	No requirement to disclose beneficial interest of securities	No requirement to disclose beneficial interest of securities	Nominee required to disclose beneficial holder of securities	No requirement to disclose beneficial interest of securities	N/A
Application of the takeover regulations and TRP and "affected transactions"	N/A	N/A	N/A	N/A1	Only applies to a private company if provided for in MOI, or if there has been a transfer of more than 10% of the securities in the last 24 months	Only applies to a Personal liability company if provided for in MOI, or if there has been a transfer of more than 10% of the securities in the last 24 months	Applies to every public company	Applies to every SOC	N/A