

There are no secrets to success.  
It is the result of preparation, hard work, and learning from failure.

Colin Powell

## **Document retention under the New Companies Act**

According to the new Companies Act 71 of 2008 (the "New Act"), which is anticipated to come into operation later this year, a single retention period of 7 years is prescribed for all documents that need to be retained. A longer period can however apply in the event that another act requires a specific document be kept for a period exceeding 7 years. All documents, except for financial statements which should be kept at the companies registered address, can be kept at any location within South Africa.

Documents to be retained includes, amongst others, the company's Memorandum of Incorporation, a record of the company's current directors as well as previous directors, reports presented at the company's annual general meeting, annual financial statements, minutes of all shareholders meetings including all resolutions adopted by the shareholders and any written communications sent generally by the company to all holders of any class of the company's securities.

Subsequently the common practice of companies asking employees to delete e-mails to free up data space on computer systems could be illegal. The most important reason for the retention of documents is to provide evidence of what was agreed to in case of a legal dispute.

Document retention does not only apply to companies. All organisations including non profit organizations have to maintain their records under the New Act. Every company will now have the added responsibility of putting in place an adequate data storage plan in order to comply with the New Act.

### *Law & Laughter*

How many lawyer jokes are there?

Only three, the rest are true stories

Visit us online for the latest news and info on upcoming events!  
[www.vanhuysssteens.co.za](http://www.vanhuysssteens.co.za)

# Data protection bill to be passed into law during 2011

The Protection of Personal Information Bill will be South Africa's first specific legislation that regulates the processing and protection of personal information in line with our constitutionally protected right to privacy.

Information protection provides a person, and especially employees, with some control over their personal information and how it is being collected, stored, used or communicated by another person or institution. This includes information relating to religious belief, trade union membership, race, health, sexual life and criminal behaviour.

Employees for example are entitled to object to the processing of personal information, insist on the rectification or deleting thereof, may request the details of the information kept and may know who any third parties are that have access thereto.

Employers will have to comply with the following principles:

- Information processing must be fair and lawful ,
- Information may only be collected for specific purposes and must be complete, not misleading, up-to-date and accurate;
- Security measures must be put in place to protect information;
- Employers must justify any opinions recorded and must be able to deal with any employment issues arising from disputes regarding information kept;
- Information shared must be compatible with the purpose for which it was collected.

The Bill will influence protection of information in the public and private sector and will bring our legislation in line with international standards.

We advise employers to compile an audit as to any information kept and the purpose for the storage thereof.

## Contact van Huyssteens

**T** +27 12 349 2306

**F** +27 12 349-2308

### Address:

De Haviland Crescent Nr. 5,  
III Villaggio Nr.12, Torino Suite  
Persequor Park  
Pretoria, South Africa

## Van Huyssteens appreciates your feedback:

For information or editorial contributions, please e-mail: [commercial@vanhuyssteens.co.za](mailto:commercial@vanhuyssteens.co.za)

If you would like to subscribe to this service, please send a blank e-Mail to: [commercial@vanhuyssteens.co.za](mailto:commercial@vanhuyssteens.co.za) with the word 'subscribe' in the subject line. To unsubscribe send a blank e-Mail to: [commercial@vanhuyssteens.co.za](mailto:commercial@vanhuyssteens.co.za) with the word 'un-subscribe' in the subject line.

Van Huyssteens Commercial Attorneys disclaims all liability for any loss, damage, injury or expense however caused, arising from the use of, or reliance upon, in any manner or form, the information provided through this newsletter. It does not, in any form or manner, warrant, or purport to warrant, the truth, accuracy and/or completeness of the information provided. Should any of the information provided herein be applicable to (or interest) you, please consult with a legal professional for comprehensive advice and guidance thereon. The publisher's prior written permission is required to reproduce, publish, use and/or display the contents hereof in any form or manner and/or for any reason whatsoever.