



## GUIDANCE NOTE 3 of 2012

### RE-INSTATEMENT OF COMPANIES AND CLOSE CORPORATIONS

#### (A) Re-instatements due to non compliance with lodging of annual returns

The annual return re-instatement process consists of 3 main steps:-

1. The application for re-instatement is processed and the status of the entity is changed to "*deregistration process*", where after the entity is required to lodge all outstanding annual returns via the CIPC website.
2. Once all the outstanding annual returns have been brought up to date, the status will be changed to "*in business*".
3. After the status has been changed back to "*in business*", the CIPC will publish the successful re-instatement on its website under CIPC Publications & Documents/CIPC e-Gazette.

#### (B) Re-instatements with deregistration date 16 July 2010 / 21 February 2011 and due to non compliance with lodging of annual returns

A re-instatement application for a company or close corporation which was deregistered 16 July 2010 / 21 February 2011 for failure to comply with annual returns must consist out of the following:-

- (1) CoR40.5;
- (2) Certified copy of ID of applicant (owner of customer code); and
- (3) Certified copy of ID of director/member;

The official fee payable in respect hereof is R200.00.

Any person who intends to apply to re-instate a company or close corporation may apply for re-instatement by following steps 1 to 3 as indicated in paragraph A here above. The original application may either be posted, or hand delivered to the CIPC offices, or scanned copies may be e-mailed to [vvdyk@cipc.co.za](mailto:vvdyk@cipc.co.za).

For companies and close corporations deregistered on 16 July 2010 or 21 February 2011, an electronic lodgment facility has been made available on the CIPC website ([www@cipc.co.za](http://www@cipc.co.za)) and the processing of the application is immediate.

**Important: It is imperative to note that the re-instatement process is a two step process:-**

- a) The re-instatement application must be lodged and successfully processed, whereafter
- b) All outstanding annual return documents must be lodged and outstanding fees must be paid electronically before the re-instatement will become fully effective. It is only after all outstanding annual returns have been paid and filed that the status of the company or close corporation will be changed to "*in business*".

**If all the outstanding annual return forms and fees are not submitted after the successful processing of the re-instatement application, such failure would result in the company or close corporation being referred again for deregistration, and eventually final deregistered.**

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It should be noted that the above is a simplification of the prescribed re-instatement procedure for companies and close corporations, were the entity was deregistered for failure to comply with annual returns, and was implemented to simplify the re-instatement a process for entities which were deregistered during the bulk deregistration endeavor of CIPC.

This simplified procedure is therefore a courtesy and may be withdrawn and replaced by the normal re-instatement procedures by CIPC at anytime.

Subsequent to the above process, other re-instatement procedures exists based on the reason for the de-registration. Therefore, please ensure that the correct procedure is followed when applying for re-instatement of an entity.

**(C) Re-instatements where deregistration was due to annual returns, with a final deregistration date other than 16 July 2010 / 21 February 2011, or due to other reasons**

In cases where the company or close corporation was deregistered for non-compliance with lodging of annual returns, and the deregistration date is not 16 July 2010 / 21 February 2011, or a third party or the company or close corporation itself applied for deregistration, the normal re-instatement procedure as indicated in practice note 2 of 2011 must be followed.

**Important: It is imperative to note that the re-instatement process is a two step process:-**

- a) **The re-instatement application must be lodged and successfully processed, whereafter**
- b) **All outstanding annual return documents must be lodged and outstanding fees must be paid electronically before the re-instatement will become fully effective. It is only after all outstanding annual returns have been paid and filed that the status of the company or close corporation will be changed to “in business”.**

**(D) Re-instatement by court order**

Although the Companies Act, 2008 does not provide for the authority of a company or close corporation to approach the High Court for a court order in respect of re-instatement, such court orders are processed by the CIPC as and when same are received.

It is recommended that the Notice of Motion is either served on the CIPC (if the CIPC is cited as a party to the application), or a copy of the duly served Notice of Motion is filed with the CIPC before the court date.

Once the High Court has issued an order, an original or certified copy of the court order and copy of the Notice of Motion, if not provided before, must be submitted to the CIPC for processing. With the court order, the person lodging the court order for processing, must indicate the customer code under which such document must be processed.

If the application was made by the company or close corporation, or any of its directors or share holders (if a company), or members (if a close corporation) itself, the court order as well as other statutory forms (except annual returns) as stated in the court order must be submitted with the court order. If the order requires that annual returns must be lodged, such may only be lodged electronically after the court order and other statutory documents have been processed by CIPC. If the court order did not require the lodging of any other statutory documents, CIPC will require the company or close corporation to provide CIPC with updated information on its latest directors, registered addressed and auditors' information after the processing of the court order.



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Failure in respect of the above would result in a Compliance Notice being issued.

In instances where a creditor of the company or close corporation applied to the High Court for the re-instatement, the original or certified copy of such court order must be submitted. It is recommended that the creditor advise CIPC of all contact details of the company or close corporations and its directors or members, in order for CIPC to issue a Compliance Notice to the company or close corporation.

Yours faithfully



~~Astrid Ludin~~ Adv. Romy Volker  
Commissioner: CIPC (Acting)  
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