



Companies and Intellectual
Property Commission

a member of the dti group

NOTICE TO CUSTOMERS

(Notice No. 42 of 2019)

REASON(S) FOR REMOVAL OF DIRECTOR BY THE SHAREHOLDERS IN THE NOTICE OF MEETING

CIPC would like to draw your attention to the following requirement to avoid rejection of your application:

Whenever the shareholders decide to remove the director from the company, a Notice must be sent to the affected director.

The shareholders are not required to have any particular reason to remove a director, it is the right of the majority of shareholders to do so. However the status quo changed since the Pretorius case wherein the Western Cape High Court held that the notice was defective in that it didn't comply with s71(2) and thus the resolution for the removal of the directors was invalid. The court held that the requirement that the director be afforded a "reasonable opportunity to make a presentation" is to be interpreted as requiring the shareholders to furnish the director concerned with the reason(s) for the proposed resolution in advance, in order to properly make a presentation at the meeting.

So as matters stand, the Pretorius judgment was not taken for appeal, therefore it is binding and shareholders are thus required to provide reasons to directors in advance of a meeting proposing their removal.

To ensure that your COR39 application is not rejected, clearly specify the reason(s) for removal in the Notice to the affected director.

Yours Sincerely

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Advocate Rory Voller

CIPC Commissioner

Date: 18/6/19

ISO 9001: 2008 Certified

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