



Companies and Intellectual  
Property Commission

a member of the dtic group

# CIPC

## ANNUAL RETURNS, DEREGISTRATION & RE-INSTATEMENT

MAY 2023



# PRESENTATION PURPOSE & AGENDA

To provide information on Company and Close Corporation annual returns and processes that follow if annual returns are not lodged.

## Agenda

1. Learn-i-Biz
2. Annual Returns
3. FAS & AFS & XBRL
4. Deregistration
5. Re-Instatement

# LEARN-I-BIZ COURSE

The CIPC has developed the **Learn-i-Biz Course**.

- It is a short educational course aimed at assisting new and existing SMME company directors to gain basic knowledge of their duties and responsibilities in order to improve compliance to the Companies Act of 2008.
- The course is free of charge and anyone who is interested can register on the CIPC website ([www.cipc.co.za](http://www.cipc.co.za)) to join the short course. The course consist of a number of short videos and a few questions that must be answered after each video. The course should take roughly 2 to 2½ hours to complete. However, one do not need to do it in one sitting. One can follow the course in your own time and at your own pace.
- Persons that attended the course can obtain a certificate of attendance after completing the course. Please note it is not an accredited course.
- Enquiries can be sent to [elearning@cipc.co.za](mailto:elearning@cipc.co.za) or phone the CIPC Call Centre.

# ANNUAL RETURNS LEGISLATIVE FRAMEWORK & PLATFORMS FOR LODGEMENT

## **Companies**

- Section 33 of Companies Act
- Regulation 30

## **Close Corporations**

- Section 15A of Close Corporation Act
- Regulation 16

**Use one of the following platforms to lodge annual returns:**

**BizPortal** – [BizPortal.gov.za](http://BizPortal.gov.za)

**eServices** – [annualreturns.cipc.co.za](http://annualreturns.cipc.co.za)

## **CIPC Self-Service Centres and Partner Sites:**

Use this option if you prefer to receive assistance from a CIPC official in your registration. This service can only be used if the directors are holders of a South African Identity Book or Smart Card. Find centre addresses on CIPC website.

# ANNUAL RETURNS (ARs)

**All Companies and Close Corporations are required by law to file their annual returns with the CIPC on an annual basis, within a prescribed time period.**

The purpose of the filing of annual returns is to confirm whether a Company or Close Corporation is still in business/trading, or if it will be in business in the near future. The annual return may be regarded as a type of annual “renewal” of the Company or Close Corporation registration.

If annual returns are not filed within the prescribed time period, the assumption is that the Company or Close Corporation is inactive, and as such CIPC will start a deregistration process to remove the company or close corporation from its active records. The legal effect of the deregistration process is that the juristic personality is withdrawn and the Company or Close Corporation ceases to exist.

An **Annual Return Fee** is also payable.

Annual Returns is **not** related to SARS Tax Returns.

# ANNUAL RETURNS (ARs)

## PLATFORMS FOR CALCULATION & PAYMENT OF ANNUAL RETURN FEE

- **eServices** on CIPC website
- **BizPortal**
- **CIPC Self-Service Centre / Partner Site**

## CARD PAYMENTS

Payments are done with **Debit or Credit Cards and** can be done directly after calculation on eServices and BizPortal.

# ANNUAL RETURN FEES

## COMPANIES

ANNUAL TURNOVER	WHEN TO PAY?	IF NOT ON TIME?
	File Within 30 Business Days After Anniversary Date	Penalty for late lodgement
Less than R1 million	R100	R150
R1 million and more but less than R10 million	R450	R600
R10 million and more but less than R25 million	R2 000	R2 500
R25 million and more	R3 000	R4000

## CLOSED CORPORATIONS

ANNUAL TURNOVER	WHEN TO PAY?	IF NOT ON TIME?
	Filing within 2 months from beginning of anniversary month	Penalty for late lodgement
Between R0 and R50 million	R100	R150
R50 million and above	R4 000	R150



# FAS, AFS & XBRL

- **Before payment of AR fees, a Financial Accountability Supplement (FAS) or Annual Financial Statement (AFS) must be filed on eServices.** It can be filed as part of the AR process or on its own.
- **FAS (CoR30.2)** is a summary of information regarding a company's record keeping and the maintenance of the financial records. Private Companies that do not need to submit financial statements **must file FAS through eServices**. FAS is an easy questionnaire that has to be answered.
- Companies that **must file audited AFS** in terms of **Regulation 28 of the Companies Act**, must do so through XBRL. XBRL is an eXtensible Business Reporting Language for electronic communication of business information. A computer programme that is required to transfer the audited AFS to eServices. XBRL makes it easier for companies to report their financial information in an electronic format.
- For more FAS and AFS information consult our website FAQs (see XBRL programme).  
**Email queries: [XBRL@cipc.co.za](mailto:XBRL@cipc.co.za)**
- A copy of the **Companies Act, 2008, and the Regulations** are available on the CIPC website.



# VOLUNTARY DEREGISTRATION REQUIREMENTS AND OVERVIEW

## Companies & Close Corporation

- Section 82(3) of the Companies Act, 2008
- Regulation 40

A business may be referred for deregistration:

- Upon application by any party subject to section 82(3)(b)(ii)
- If annual returns are outstanding for 2 or more years in succession
- If the Commission believes that the company / close corporation has been inactive for 7 years or commissioner receive a request in the prescribed manner and form and determined that the company has ceased to carry business and has no assets or, because of inadequacy of its assets, there is no reasonable probability of the company being liquidated.
- Before 1 May 2011, and under the 1973 Companies Act and Close Corporations Act, business would have been referred for deregistration where annual returns were outstanding for a period of six months.

# AR DEREGISTRATION – NOTIFICATION OF PENDING DEREGISTRATION

- Mailed to the registered postal address as reflected on the CIPC records
- Informs Company and CCs of intended deregistration, and requesting it to either provide confirmation that it is still active, or to lodge the outstanding annual returns.
- At the time of notification, the legal persona still exist.

# AR DEREGISTRATION – ISSUES ON NOTIFICATION OF PENDING DEREGISTRATION

## Challenges

- Addresses as per CIPC registers are outdated and therefore the notices does not reach its intended destination.
- Result: high volume of return mail and no notification.
- Since notices are sent by registered mail, entities think it is AARTO fines and do not collect registered mail.
- Registered addresses on CIPC registers are that of e.g auditor or accounting officer and they do not always action.
- E-contact detail incorrect.
- No legal duty to submit e-contact detail.

# ANNUAL RETURN DEREGISTRATION - CANCELLATION

- If deregistration is due to non-compliance in respect of the lodging of annual returns: Filing the outstanding annual returns while in deregistration.
- If deregistration for any other reason: Written objection to [deregistrations@cipc.co.za](mailto:deregistrations@cipc.co.za)
- Once a Company or CC is finally deregistered, no annual return filing or objection can be processed.

# VOLUNTARY DEREGISTRATION - REQUIREMENTS

Main Forms:	Original written request on a letter head	R0.00
<b>Supporting Documents:</b>	<ul style="list-style-type: none"><li>• Certified ID copy of any of the persons signing the request</li><li>• Tax number (if available)</li><li>• Tax clearance certificate or any other written confirmation from SARS that no tax liability is outstanding</li><li>• Statement confirming that (i) the company or close corporation is not carrying on business or is dormant and (ii) has no assets, or because of the inadequacy of its assets, that there is no reasonable probability of the company being liquidated.</li></ul>	

[Deregistrations@cipc.co.za](mailto:Deregistrations@cipc.co.za)

5 working days to process request

4 months to complete the notification.

# VOLUNTARY DEREGISTRATION – REQUIREMENTS (THIRD PARTY)

Main Forms:	Original written request on a letter head	R0.00
<b>Supporting Documents:</b>	<ul style="list-style-type: none"><li>• Certified ID copy of any of the persons signing the request</li><li>• Tax number (if available)</li><li>• Tax clearance certificate or any other written confirmation from SARS that no tax liability is outstanding</li><li>• Statement confirming that (i) the company or close corporation is not carrying on business or is dormant and (ii) has no assets, or because of the inadequacy of its assets, that there is no reasonable probability of the company being liquidated</li><li>• Documentary proof that-<ul style="list-style-type: none"><li>○ the company or close corporation is not carrying on business or is dormant and</li><li>○ has no assets, or because of the inadequacy of its assets, that there is no reasonable probability of the company being liquidated (if third party, the statement must be supplemented with sufficient documentary proof confirming the statement)</li></ul></li></ul>	

# VOLUNTARY DEREGISTRATION OBJECTION

Main Forms:	Original written objection on a letter head	R0.00
	<p>The letter must clearly state the reason for objecting to the deregistration and such must be submitted to the CIPC before the date the company or close corporation is finally deregistered. If the company or close corporation was finally deregistered, the company or close corporation must apply for re-instatement. No supporting documents are required to object to the deregistration.</p> <p>It should be noted that this process cannot be used if the reason for the deregistration is non compliance with annual returns. If the company or close corporation was referred for deregistration due to non compliance with annual returns, the deregistration process will only be cancelled upon the filing of all outstanding annual returns.</p>	

[Deregistrations@cipc.co.za](mailto:Deregistrations@cipc.co.za)

5 working days to process request

Must be submitted before date of final deregistration



# DEREGISTRATION - CONSEQUENCES

- The legal effect of the deregistration process: Juristic personality is withdrawn and the entity ceases to exist.
- Directors / members may be held personally liable for all debts / action that it incurred during such period – common law.
- Immovable property becomes *bona vacantia*.

# DEREGISTRATION - CONSEQUENCES

## Companies:

- Companies Act, 2008: Removal of company from the register does not affect the liability of any former director or shareholder of the company or any other person in respect of any act or omission that took place before the company was removed from the register.
- Companies Act, 1973: The liability of every director, officer and member of the company shall continue and may be enforced as if the company had not been deregistered.
- Continue to exist as an association whose members are personally liable for its debts.

# DEREGISTRATION – CONSEQUENCES

## Close Corporation:

- If deregistered after 1 May 2011 the same as for companies apply.
- If deregistered before 1 May 2011 repealed section 26 of the Close Corporations Act, 1984 apply.
- If close corporation was deregistered while having outstanding liabilities, the members at the time of deregistration shall be jointly and severally liable.
- Possible reckless trading if directors / members allows the deregistration while knowing that there is outstanding debts.

# RE-INSTATEMENT – LEGISLATIVE FRAMEWORK

	Companies	Close Corporations
Filing Requirements	Section 33 of Companies Act Regulation 30 of Companies Regulations	Section 15A of Close Corporations Act Regulation 16 of the Close Corporations Administrative Regulations
Restoration Requirements	Section 82(4) of Companies Act Regulation 40 of the Companies Regulations	Section 82(4) of Companies Act Regulation 40 of the Companies Regulations

# RE-INSTATEMENT – OVERVIEW

- Business may apply for re-instatement upon meeting the requirements.
- Ground for re-instatement by business itself:
  - Proof that it was in business at time of being finally deregistered.
  - Proof that it has immovable property.
- After the re-instatement application has been filed, all outstanding annual returns must be lodged in order to change the status to “in business” although the legal personality would have been re-instated upon the processing of the re-instatement application. (may have been an oversight).

# RE-INSTATEMENT – REQUIREMENTS

Main forms	CoR 40.5	
Supporting Documents	<ul style="list-style-type: none"> <li>• Cor 40.5 (duly completed and signed)</li> <li>• Certified identity copy of the applicant</li> <li>• Certified identity copy of the owner of the customer code</li> <li>• Proof that entity was in business at the time of deregistration example to follow:</li> <li>• Bank statements. Banks statements must be for a period of six months before the date of deregistration and six months after the date of deregistration and in the name of entity.</li> <li>• Sufficient documentary proof indicating that the company or close corporation was in business or that it has any outstanding assets or liabilities(property or intellectual property rights) at the time of deregistration</li> <li>• Mandate from the applicant confirming that the customer may submit on his or her behalf</li> </ul>	R200
	<a href="mailto:Re-instatements@cipc.co.za">Re-instatements@cipc.co.za</a> 5 working days to process request	

# RE-INSTATEMENT - CREDITORS

- It is not advisable for creditors to follow administrative re-instatement process.
- Any interested party may apply for re-instatement but Companies Regulation 40 states that process is only complete once outstanding annual returns have been filed.
- Only the Company or CC itself has the duty to file annual returns.
- Creditors are advised to approach the high court for a court order of re-instatement.
- Court order must be submitted to [re-instatements@cipc.co.za](mailto:re-instatements@cipc.co.za) for processing.
- Normal processing procedure applies for re-instatement court orders.
- Attach customer code when submitting court order in order to receive automatic notification of processing.
- Once court order is processed (status change to in business), the entity will be referred back into annual return deregistration within 2 – 3 week period.
- Legal personality is still in tact during the deregistration process.



# ENQUIRIES & CIPC WEBSITE NOTICES

- **ENQUIRIES**

**All Queries** may be logged via [www.cipc.co.za](http://www.cipc.co.za). Find the Query Resolution System (QRS) under “**Enquiries**”.

- **CALL CENTRE 086 100 2472**

- **FACEBOOK MESSENGER: thecipc**

## **CIPC NOTICES**

**Remember to regularly visit the CIPC website to view Notices** for any new developments at CIPC.



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# QUESTIONS & ANSWERS

## Thank you



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