

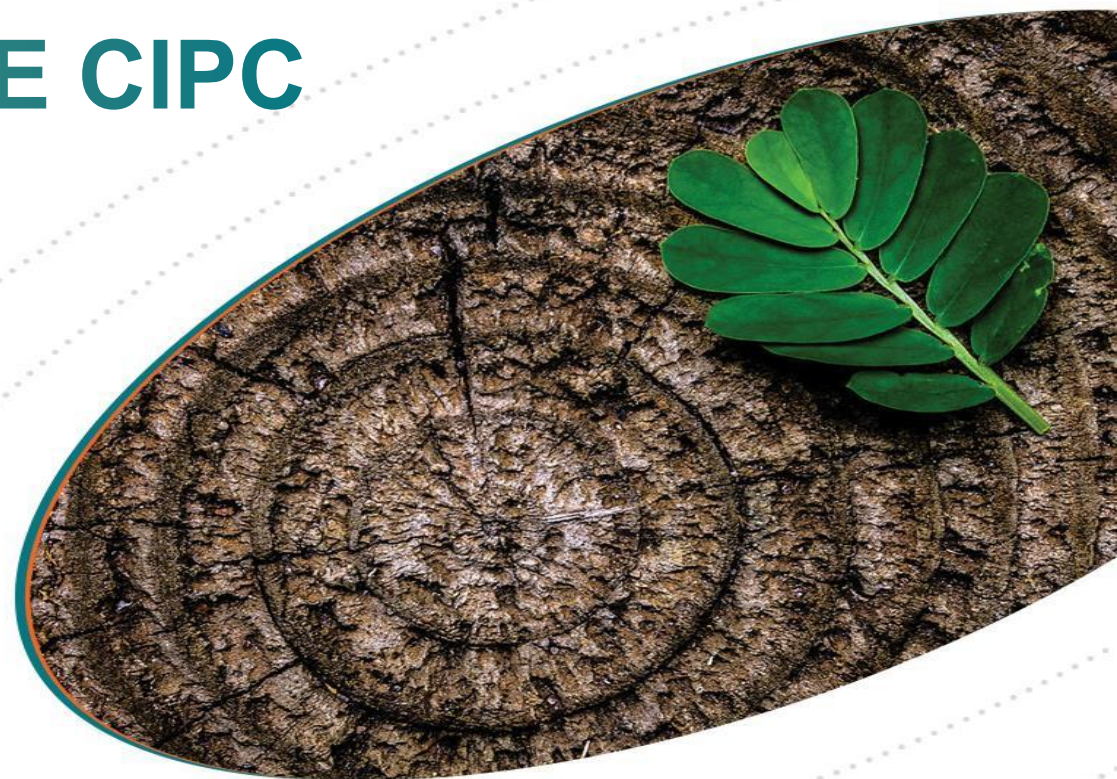


Companies and Intellectual  
Property Commission

a member of the dtic group

# PRACTICE NOTE 2 OF 2022 AND CERTIFICATION REQUIREMENTS FOR DOCUMENTS WITH THE CIPC

## JULY 2024



# General

- Practice Note 2 of 2022
- Specifically applicable to all documents submitted to the CIPC for companies, close corporations and co-operatives

Content of this presentation is a simplification of legal concepts and purpose is only to provide guidance to what CIPC expects for purposes of CIPC processes – therefore, no legal reliance can be placed on the content of concepts or broader application with other organizations

# Practice Note 2 of 2022

## PRACTICE NOTE 2 OF 2022

### CERTIFICATION REQUIREMENTS FOR DOCUMENTS FILED WITH THE CIPC

In terms of Regulation 4(1)(a) of the Companies Act Regulations, 71 of 2008, a Regulatory Agency may issue a guidance document with respect to a matter within its authority, which provides for recommended procedures, standards or forms advising on best practice.

The Companies and Intellectual Property Commission ("CIPC") has noted an increase in the submission of suspicious and possible fraudulent certified documents to the CIPC and thus, further to Notices 54 and 63 of 2016, hereby advises customers that the CIPC will apply strict verification of such supporting documentation (ID / passport copies) as part of its business processes from 1 April 2022. Failure to adhere to the certification requirements may result in the CIPC rejecting the application for incompleteness.

- Certification of documents (including ID documents) filed with the CIPC may not be older than **3 (three)** calendar months.
- The Commissioner of Oaths, certifying / affirming any documents **MUST** state the date of certification.
- Only one ID/Passport may appear on a single page and in the case of the SA ID Card, both sides have to be scanned in on the same single page.
- Only validly issued passports will be accepted.
- No asylum seeker / temporary resident document will be accepted as valid confirmation of identity.

#### South African certified documents

The following information of Commissioner of Oaths must appear on documents:

- Full name and Surname
- Business Address
- Signature
- Designation
- Documents certified by police officials also need to indicate the persons rank and rank number.
- Date of certification

The above information is required to ensure that the Commissioner of Oaths is traceable for accountability purposes.

Not older than 3 months

- Stamp or
- Hand written
- Must have a date

Must state copy of original document – or similar phrase/confirmation

- Stamp or
- Hand written

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### One document per page

- Not multiple passports or id documents on one page
- All parts of the passport or id document must be on one page

If foreigner with SA ID document – NO FAV to be done since person reflects on the records of DHA

Any person other than a person with SA ID – asylum seeker, temporary resident, foreign national – FAV to be done since information cannot be assured against DHA



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### Commissioner of Oath

- Full name and Surname (identification)
- Signature (identification)
- Business Address (traceability)
- Designation (authority to certify)
- Date

### Police officials

- All the Commissioner of Oath requirements
- Additional: rank and rank number
- Usually two stamps on document

### Bank Officials

- All the Commissioner of Oath requirements
- Additional: Employee number and branch address (or name)

# Practice Note 2 of 2022

CIPC will only accept documents that have been commissioned by a Commissioner of Oaths in South Africa.

## International certified documents

If a person is based in another country and has to submit documents to CIPC, a **certificate of authentication** needs to accompany those documents to confirm authenticity.

A Notary Public is an internationally recognized form of certification or affirmation of documents, and the CIPC will accept both South African and international Notary Public certifications. A Notary Public certified document, must be accompanied by a Notary Public certification seal and/or certificate.

## International Certified Documents

- Refer to sections below

## Language

- Since CIPC officials need to assure the document, it must be in English. If in any other language, a translation must be provided with the documents

# Certification - General

- The **Commissioner of Oaths takes responsibility** for a document that is certified by **confirming** that the *(i) document is a true copy of the original* and that *(ii) the person (ID copy / signatory of affidavit) appeared before him/her in person.*

**If any fraud takes place with such document, the Commissioner of Oaths that certified it can be held liable (personally) as they confirmed it was correct by certifying the document.**

- The Commissioner of Oaths certify documents to confirm that it is a true copy of the original – which they need to see before certifying a document.
- Commissioner of Oath may not commission or certify a document to whom he/she has an interest
  - Thus person whose ID/passport is presented cannot certify his/her own document as a true copy of the original.
  - Also CIPC do not allow a family member or spouse to certify

# Certification – South Africa

- Who can certify documents?
  - A person who was appointed as a Commissioner of Oaths by Department of Justice.
- Example of persons who can be appointed:
  - All members appointed by the South African Police Force
  - Attorney
  - A Notary
  - Accountant
  - Advocate
  - Certain individuals in clerical/ admin positions at South African Post Office
  - Clerk of the Court
  - Etc.
    - There is a more extended list Gazetted: GN 903 in GG 19033 of 10 July 1998
- Or a person may apply and be granted the authority (ex officio)



# Certification - CIPC

- Commissioner of Oath
  - Wording that “True copy of the original” or similar wording
  - Identifiable (full names and surname and Signature)
  - Traceable (address – physical not postal)
  - Designation (authority)
  - Date (not older than 3 months)
- Common challenges experienced by CIPC
  - Only surname instead of full names and surname
  - Illegible (either poor visibility of stamp or scanning quality)
  - No address
  - Documents not on a single page
  - No date

# Notary

- A **Notary Public**, often referred to simply as a **notary**, is an individual officially licensed by a governmental body to perform specific actions related to legal matters or documents
- **Role of a Notary Public:**
  - A **Notary Public** is a specialist attorney who possesses in-depth knowledge of certain legal acts and the prescribed processes
  - Legally empowered, a notary can:
    - Officially witness signatures
    - Take statements
    - Certify the validity of documents
    - They also just not certify that document is a true copy of the original but also that the person signing is who he/she say they are
- Notarized documents carries a higher evidentiary weight than a normal certification

# Notary – South Africa

- This is done by a Notary Public, which is an attorney admitted and authorized by the High Court of South Africa. A Notary witnesses the signature of certain documents, draw and attest to contracts and statements and **authenticate** the validity of certain documents.
- A document certified by a Notary will have a stamp or a seal to that effect and will in most cases be accompanied by a certificate confirming the Notary's credentials. Can be electronic or a seal.

# Notary - CIPC

- Notary
  - Wording that “True copy of the original” or similar wording
  - Identifiable (full names and surname and Signature)
  - Traceable (address – physical and not postal)
  - Notary or Notary Republic (authority)
  - Seal
  - Date (not older than 3 months)
- Common challenges experienced by CIPC
  - Seal is illegible
  - Seal is in another language and therefore cannot confirm what it is

# Apostille

- **Purpose:** An **Apostille** is specifically used for documents that need to be recognized internationally. It verifies the authenticity of a public document issued in one country and intended for use in another country.
- **Applicability:** The **Apostille** process is governed by the **Hague Convention of 1961**, which simplifies the certification of public documents across participating countries.
- **Issuing Authority:** The **Competent Authority** in the country of origin (where the document was issued) provides the **Apostille** certificate.
- **Verification:** The **Apostille** verifies the legitimacy of the person signing the document and the official stamp or seal on it.
- **Attachment:** The **Apostille** is physically attached to the original document, usually by a ribbon or other means.
- **Examples of Documents:** Birth certificates, marriage certificates, police clearance certificates, and other public documents often require an **Apostille** for international use.



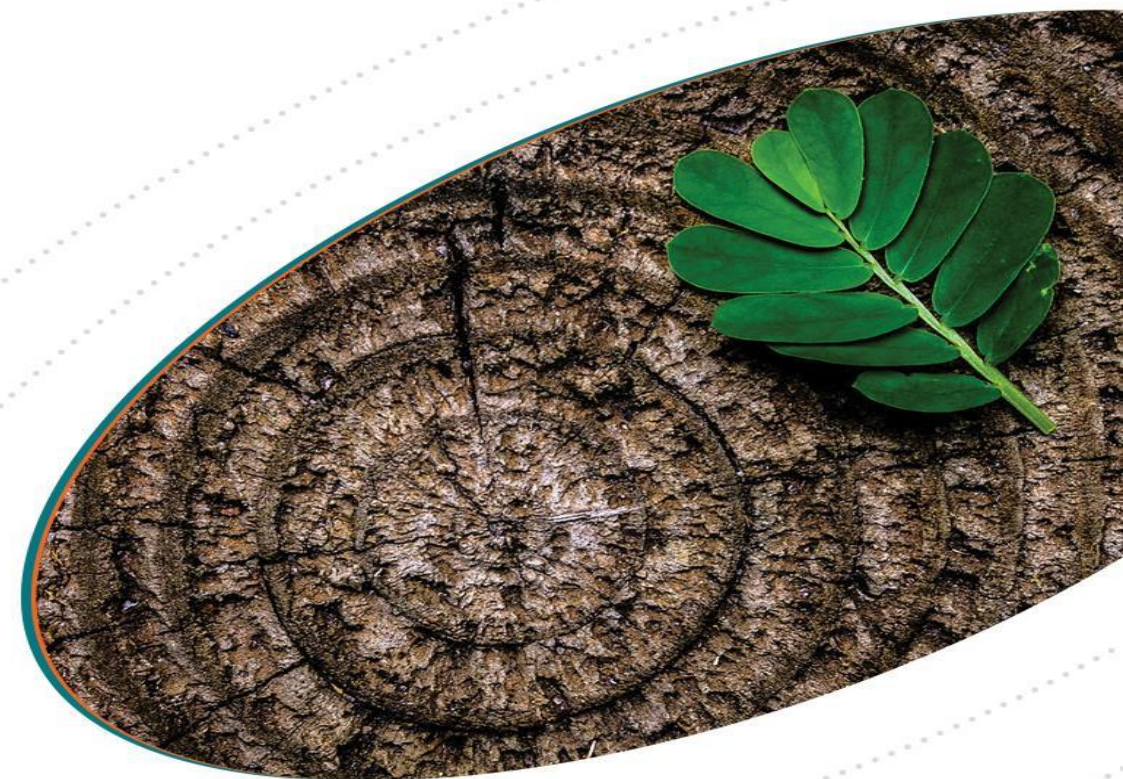


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# WEBINAR RE-INSTATEMENTS

## JULY 2024





**ANNUAL RETURN FINAL DEREGISTRATION**

# Final Deregistration



**Any finally deregistered company or close corporation may be re-instated (same requirements)**



## **AR Final Deregistration January 2024**

Status description: AR Final Deregistration

- Not voluntary final deregistration

How to determine status: BizProfile



- [www.bizportal.gov.za](http://www.bizportal.gov.za) / login / BizProfile

Current final deregistration date: 19 January to 23 January 2024

- Over 1.7 million final deregistrations

Companies and Close Corporations only – not co-operatives

# What Now?

- Confirm status of the company or close corporation 
  - [www.BizPortal.gov.za](http://www.BizPortal.gov.za) / login / BizProfile
  - If AR final deregistered or Deregistered, can apply for re-instatement
  - If any other status, cannot apply for re-instatement
- Determine whether economic value in name of business **AND** can proof economic value of business 
  - If economic value – re-instate
  - If no economic value – new company registration

# What Now?



Name of companies and close corporations finally deregistered January 2024 for Annual Return non-compliance is protected for 6-month period after final deregistration

Administrative protection – not legal  
Thereafter, any customer/person may reserve the name



Deposit made / money in customer account but finally deregistered?

Deposit / money -

- Use for re-instatement process
- Use for new company registration
- Request refund



# What Now?

- Did not yet the CoR40.3, CoR40.4 and/or Final Deregistration Notice?
  - Contact details of directors or members are outdated
  - Use contact details of a service provider
  - After re-instatement update director / member detail – CoR39 or CK2
  - Directors must provide their own contact details not that of service providers



**RE-INSTATEMENT**

# Re-instatement Requirements

- Confirm status 1
- MUST had economic value on date of final deregistration 2
- Example of proof -
  - Bank statements (most common evidence)
  - Immovable property - Windeed / Letters from land registry
  - IP rights e.g., Trade Marks – Extract from Trade Mark registry
  - Shares – Letter / notification from issuer of shares that company or close corporation hold shares
  - Outstanding liabilities – e.g., letter / notification from SARS that credit/rebate or outstanding tax liabilities
  - Lease agreement – must indicate parties and one of the party must be the company or close corporation AND must not have expired
  - Assets – e.g, car then statement of financier or confirmatory letter or notice from Department of Transport

# Re-instatement Requirements

## **Principle**

Proof must originate from an independent third party to the company or close corporation

## **Need clarification**

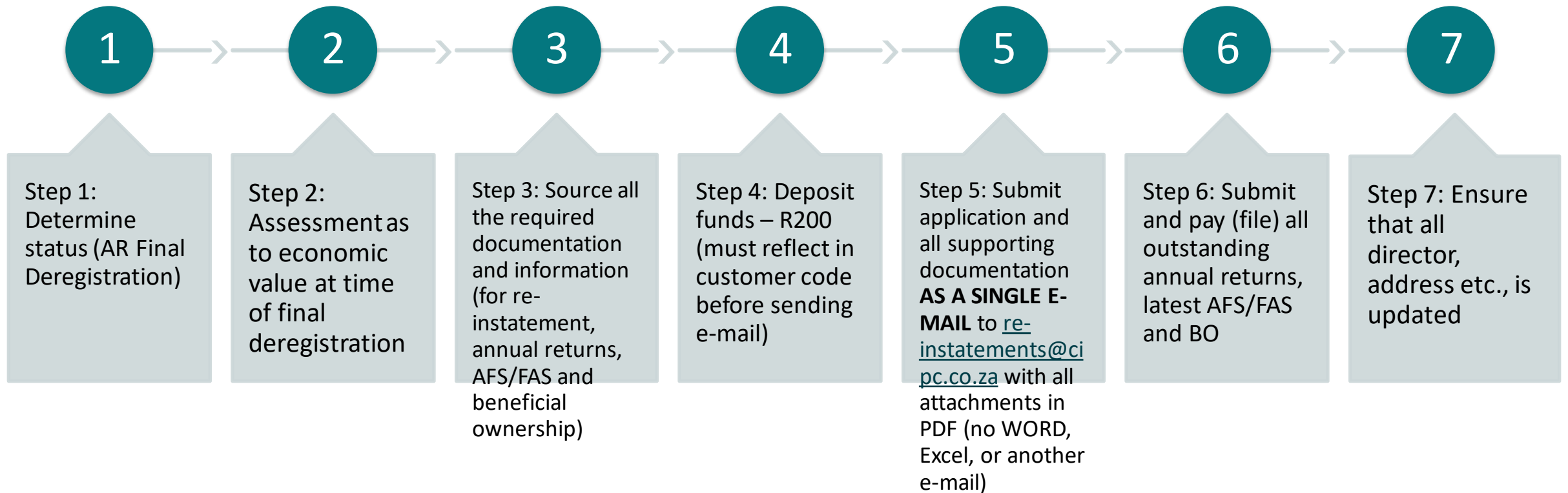
Log enquiry by emailing [enquireinstatements@cipc.co.za](mailto:enquireinstatements@cipc.co.za)

# Who May Apply For Re-instatement

- Section 82(4) of the Companies Act - any interested person may apply to re-instate a company or close corporation
- Only company or close corporation or its duly appointed representative may
  - 
  - File annual returns;
  - File Beneficial Ownership Declaration / security register etc.
  - File AFS/FAS
  - Third parties do not have such information, and therefore cannot complete re-instatement process since all annual returns and other documents MUST be submitted to complete the process
- Third parties, must apply to court



# Steps For Re-instatement



# Steps for Re-instatement

- Court order to be e-mailed to [Corporatelegalservices@cipc.co.za](mailto:Corporatelegalservices@cipc.co.za) for service and recordal
- Important -
  - Advised that court order must also mandate company or close corporation to bring all obligations up to date within a period of time
  - Failure of which, company or close corporation will be placed back into AR deregistration for non-compliance

# Re-instatement Resources

- Re-instatement requirements
  - [https://www.cipc.co.za/?page\\_id=1355](https://www.cipc.co.za/?page_id=1355) / Select the Type of enterprise / Changes to Management, Admin & Governance / Re-instating a company
  - Practice Note - [https://www.cipc.co.za/wp-content/uploads/2022/02/Practice\\_Note\\_1\\_of\\_2022\\_Re-instatement\\_requirements\\_v1.0.pdf](https://www.cipc.co.za/wp-content/uploads/2022/02/Practice_Note_1_of_2022_Re-instatement_requirements_v1.0.pdf)
- CIPC banking details
  - [https://www.cipc.co.za/?page\\_id=976](https://www.cipc.co.za/?page_id=976)

# Re-instatement Resources

- Beneficial Ownership user guide
  - [https://www.cipc.co.za/?page\\_id=4447](https://www.cipc.co.za/?page_id=4447) / Beneficial Ownership / User Guide
- Beneficial Ownership Webinars
  - <https://www.youtube.com/watch?v=ZqBWg1EdpBw>
  - TheCIPC on YouTube

# Annual Return Resources

- Annual Return step by step guide
  - [Step-by-step-guide-on-how-to-file-AR\\_v4.0.pdf \(cipc.co.za\)](#)
- Annual Return Webinar
  - [https://www.youtube.com/watch?v=fUhE5QgBxWM](#)
  - theCIPC YouTube channel





# COMMON REASONS FOR NON PROCESSING OF RE- INSTATEMENTS

# Common reasons for non processing of Re-instatements

- Total application size (e-mail and attachments) exceeds 6 MB
  - must be less than 6 MB
- Insufficient funds (R200) at the time of indexing/tracking the application
  - must have R200 available at all times until indexed
- Customer code illegible
  - Clearly indicate for example zeros and o's, and small caps L's, I's and one's.
- Company or close corporation name does not correspond with registration number on the CoR40.5

# Common reasons for non processing of Re-instatements

- Some or all the attachments are not in PDF
  - The system only accepts PDF documents (no Word, Excel, JPEG, WinZip files or e-mail attachments are excepted) and cannot download from links and other sites. Ensure that all attachments are in PDF only.
- The application submitted in multiple e-mails
  - Must be submitted as a single e-mail

# Common reasons for non processing of Re-instatements

- Identity documents do not [comply with](#) the requirements of Practice Note 2 of 2022
  - click on the link - [Submissions.indd \(cipc.co.za\)](#).
  - The Commissioner of Oaths MUST be identifiable (full name and surname), designation (Attorney, Ex Officio), and traceable (physical address). The date of certification must also be clearly indicated and may not be older than 3 months.
- Poor scanning quality of scans
  - Ensure that the scanning quality is of decent quality and the content is legible upon processing. The entire content must be easily readable.
- No mandate
  - If the application is not submitted by the company or a close corporation itself but by its representative, then the Mandate must be included.

# Common reasons for non processing of Re-instatements

- Insufficient evidence that company or close corporation was conducting business at the time of final deregistration
  - Examples of possible proof -
    - Bank statements (most common evidence)
    - Immovable property - Windeed / Letters from land registry
    - IP rights e.g., Trade Marks – Extract from Trade Mark registry
    - Shares – Letter / notification from issuer of shares that company or close corporation hold shares
    - Outstanding liabilities – e.g., letter / notification from SARS that credit/rebate or outstanding tax liabilities
    - Lease agreement – must indicate parties and one of the party must be the company or close corporation AND must not have expired
    - Assets – e.g, car then statement of financier or confirmatory letter or notice from Department of Transport



# INCIDENTAL INFORMATION

# Incidental Information

- The submission of the **Annual Return Information together with payment** should have been made before final deregistration. Mere timeous payment or deposit of fee is not regarded as filing of Annual Returns. If payment or deposit was made, but company or close corporation was finally deregistered, the company or close corporation may be re-instated provided it meets the process and document requirements.
- If Annual Returns were filed, but not the latest Beneficial Ownership Declaration, such must be filed separately failure of which CIPC may initiate an investigation against the company or close corporation and issue a compliance notice.

# Incidental Information

- Technical questions on Beneficial Ownership must be logged via the CIPC enquiry system (<https://enquiries.cipc.co.za>) – Department *Corporate Legal Services*, and the Category *Beneficial Ownership*.
- Names of companies and close corporations which were finally deregistered between 19 and 23 January 2024 for Annual Return non-compliance, will be administratively protected for a period of 6 months only. After the expiration of the 6 months the name will become available for other customers to reserve.
  - If identical name registered – name objection process with Companies Tribunal (not CIPC)



# Incidental Matters

- Refund of deposits must be logged via the CIPC enquiry system (<https://enquiries.cipc.co.za>) – Department *Finance*, and the Category *Refund*
- Technical questions on Annual Financial Statements / Financial Accountability Supplement must be logged via the CIPC enquiry system (<https://enquiries.cipc.co.za>) – Department *Companies and Close Corporations*, and the Category *Financial Statements* or *iXBRL fault logging*.

# How to stay in the Know

- Follow CIPC only any of its social media platforms
- Refer to the CIPC website regularly [www.cipc.co.za](http://www.cipc.co.za)
- Check your company, or close corporation status regularly
  - [www.bizportal.gov.za](http://www.bizportal.gov.za) / login / View BizProfile
- CIPC online director training course
  - [https://www.cipc.co.za/?page\\_id=10431](https://www.cipc.co.za/?page_id=10431)

# How to stay in the Know

- Keep your company, or close corporation information easily accessible – e.g.,
  - Welcome Letter
  - Registration Certificate
  - All filing confirmations (and content)
  - Financial records
  - Minutes of meetings
  - Share registers

# LEARN-i-BIZ

[https://www.cipc.co.za/?page\\_id=10431](https://www.cipc.co.za/?page_id=10431)



## PURPOSE

The e-learning platform is aimed at allowing SMME directors and entrepreneurs to build their capacity in running successful businesses while ensuring compliance to statutory requirements. As a regulator of companies and Intellectual Property, the CIPC remain committed to working with its customers, partners and other stakeholder to ensure compliance, through providing access to information. The CIPC as the regulatory authority of companies and company registrations, has the responsibility to educate and create awareness on the legislative areas of its administration, to ensure compliance and adherence. The programme is developed to address this need and to help SMME directors better understand their statutory duties and ensure compliance to governance requirements.



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# THANK YOU