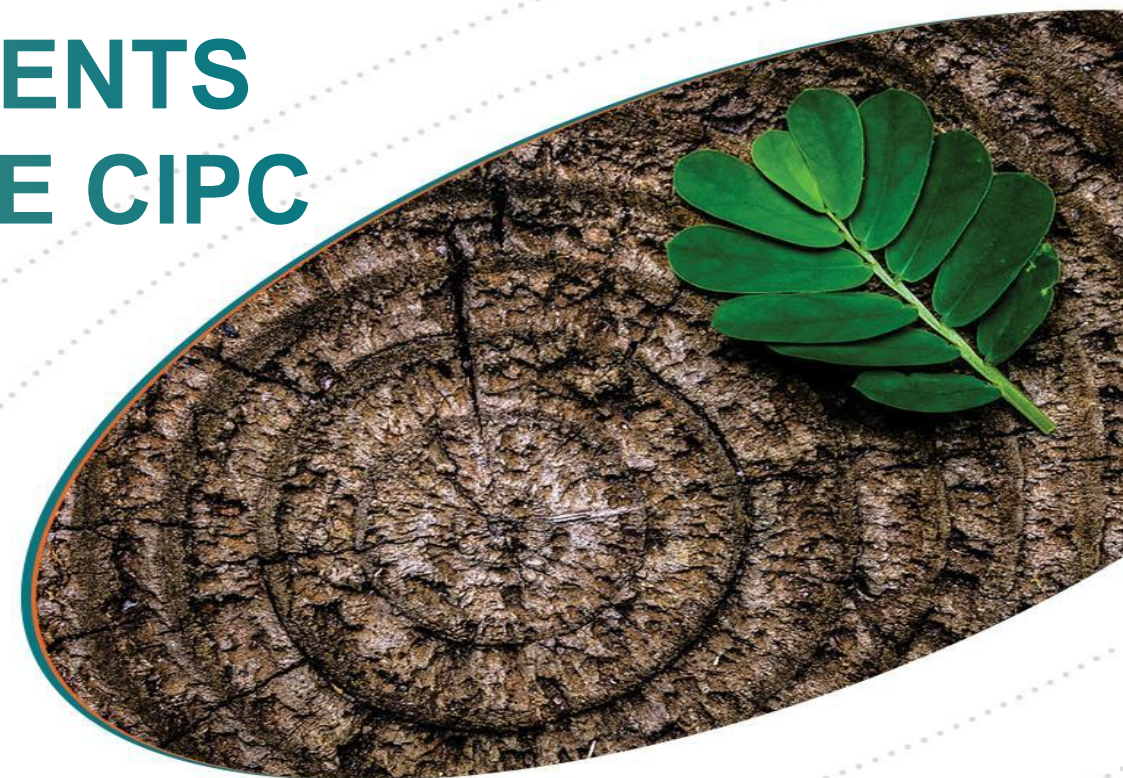




Companies and Intellectual
Property Commission

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



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

Practice Note 2 of 2022

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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 of the Commissioner of Oath requirements
- Additional: rank and rank number
- Can have two stamps – certification stamp and then police station stamp containing station name and address

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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THANK YOU