

Annual CIPC Update 2021

Presenter: **Lettie Janse van Vuuren CA(SA)**

20 OCTOBER 2021



***A focus on CIPC as a Regulator
News & Developments : January to September 2021
(up to the 1st half of October 2021)***

Presenter

Lettie Janse van Vuuren CA(SA)

- Lettie joined SA Accounting Academy in November 2017 as Head of Technical. She is a Chartered Accountant, Qualified Auditor, Assessor and Moderator.
- She is a **professional trainer and webinar host**, and with her relaxed and humorous presentation style, she is able to hold the attention of an audience. She has a unique ability to communicate with delegates at their respective levels of knowledge and experience. Over the last 20 years, she has trained thousands of partners, managers, trainee accountants and other professionals.
- She is responsible for our MCLU (Monthly Compliance and Legislation Updates).
- She was the Professional Development Manager at SAICA for 4 years and in charge of accrediting new training offices and monitoring existing ones (including the moderation of training offices and trainee assessments).
- Lettie is passionate about improving the efficiency and standardisation at practices. She has extensive experience on a variety of technical and practical topics which she consults on, including: SAICA re-accreditation assistance and preparation, IRBA inspection assistance and preparation, audit file reviews (post-issuance monitoring and EQCR), Quality control implementation, other office-specific manuals, and FASSET skills development facilitation.



WHAT'S ON THE AGENDA?



Contents

- **CIPC:** Company Secretarial Update, consisting of:
 - New notices;
 - Practice Notes and Guidelines;
 - Compliance requirements;
 - Operational and administrative matters of importance;
 - FAQs; and
 - Useful links to CIPC guides.

Focus on HIGHLIGHTED items listed on individual slides



Quotes

The guiding purpose
of the government
regulator is to
prevent rather than
to create something

- Alan Greenspan



“You regulators are never satisfied. You wanted more transparency, so we put more windows in the building.”

Abbreviations used

- **CIPC** = Companies and Intellectual Property Commission
- **FAQs** = Frequently Asked Questions
- **iXBRL** = an Inline eXtensible Business Reporting Language

CIPC UPDATE

JANUARY 2021 – SEPTEMBER 2021



Companies and Intellectual
Property Commission

a member of **the dti** group

CIPC Update **FEB & MAR**

➤ *Each notice is available to you as a Source Document*

The following items are dealt with here:

1. Notice 6 of 2021: Business Rescue Mailboxes

- provides the Business Rescue Mailboxes that should be used for applications and document submissions.
- This is as a result of the volume of non-application documents and e-mails to the various business rescue processing mailboxes which have increased over the past years

Feb & Mar Update *(continued)*

- 2. Notice 7 of 2021:** Clarification on requirement for letter of no objection from the Department of Public Works on company and close corporation re-instatements
- provides clarification on requirement for letter of no objection from the Department of Public Works on company and close corporation re-instatements (form CoR40.5).
 - It confirms that the Department of Public Works should only be contacted for such “no objection letter” in terms of practice note 8 of 2017 where the company or close corporation has immovable property registered in its name, as reflected on the Multiple Deed Search (for all 10 regional deeds offices)

Feb & Mar Update *(continued)*

- 3. Notice 8 of 2021:** New registration system called K2 (automated processes)
 - This includes Name Reservation, Co-operative and Private company registration in a fully automated environment as a first phase
- 4. Notice 10 of 2021:** Name Reservation E-Service Process
 - CIPC is moving its services to the new e-service system in a phased approach as per the notice published on 09 February 2021.
 - The rollout of name reservations has already been implemented

Feb & Mar Update *(continued)*

- **Notice 11 of 2021:** New E-Service: New Company Registration (Short Standard Profit (Cor15.1a) and Non Profit Company without Members (CoR15.1C)
 - CIPC launches the Automated New Company Registration EService platform.
 - The automated service will form part of the current e-services transactional website of CIPC and will allow customers to process company registration directly with same day approval without attaching supporting documents
- **Notice 14 of 2021:** Discontinuation of primary co-operatives manual submission
 - Effective from the 1 April 2021, CIPC will no longer be accepting manually completed primary Co-operative registrations submitted through email (Cooperativesonline@cipc.co.za) or post. Primary Co-operative registration applications completed and submitted via these channels will on or after this date be automatically rejected without further communication to the customer

Feb & Mar Update *(continued)*

- **Notice 15 of 2021: Solvency and liquidity test**
 - CIPC identified non-compliance with Section 4 of the Companies Act. Requesting companies to voluntarily disclose Solvency and Liquidity test performance in AFS
 - The notice issued by CIPC in this regard recaps on the entities that should disclose the solvency and liquidity test in their AFS
 - CIPC recommends that entities disclose in their annual financial statements that they have performed a solvency and liquidity test as prescribed in terms of the Companies Act, for transactions mentioned in the notice
 - CIPC proposes that the Directors' Report should include a statement in the AFS, and have provided an example in this Notice.
 - It is an offense to disclose false information in the annual financial statements, CIPC is legally obliged to investigate such matters in terms of the Companies Act

CIPC Update **APR & MAY**

➤ *This notice is available to you as a Source Document*

The following items are dealt with here:

1. Notice 20 of 2021: Amended Notice in Respect of Issuing Patent Certificates

- *Notice regarding issuing of patent certificate that has DNA Sequence Listing in the Patent Journal of November 2015.*
- *However, the current Schedule 5 certificate as previously published does not cover all relevant sequence listings.*
- *This is a Notice to amend Schedule 5 to include amino acids and nucleotide acids sequence listings.*

CIPC Update **JUN & JUL**

➤ *Each notice is available to you as a Source Document*

The following items are dealt with here:

- 1. Notice 29 of 2021:** List of Accredited Professional Bodies whose members are eligible to be licensed as business rescue practitioners as at 1 June 2021
 - *Issued 10 June 2021*
 - *Note that Notice 14 of 2018 is hereby withdrawn on 1 June 2021, and replaced with Notice 29 of 2021*

Jun & Jul Update *(continued)*

2. Notice 33 of 2021: Close Corporations without Accounting Officers

- *Issued 30 June 2021*
- The purpose of this notice is to inform members of close corporations that it is mandatory to appoint accounting officers as prescribed in Section 59 of the Close Corporations Act, Act 69 of 1984.
- Members of CCs must further take heed of the serious consequences that may follow when a CC fails to appoint or fill a vacancy of the accounting officer in terms of section 63 (h) of the Close Corporations Act 69, of 1984.
- Failure to adhere to the above-legislated requirements is a contravention of the Close Corporations Act and can lead to a possible investigation as prescribed in section 168 of the Companies Act 71, of 2008 as amended. Upon review of records of CCs in CIPC's register and as part of their regulatory mandate, they have noted that a number of CCs do not have Accounting Officers on record

Jun & Jul Update *(continued)*

3. Practice Note 1 of 2021: Service of Subpoenas and other corporate legal court documents on the CIPC

- *Issued 7 April 2021, but only uploaded to website in June 2021*
- CIPC emphasizes that ALL corporate legal documents, where the CIPC is an interested party or where certain action is required to be taken by the CIPC, in terms of a court order or SAPS issued subpoena, **MUST** be served electronically via corporatelegalservices@cipc.co.za
- No electronic service of legal documents on CIPC officials via personal e-mail boxes will be accepted as validly served

Jun & Jul Update *(continued)*

- 4. Notice 35 of 2021:** Notice regarding the Rotation of Auditors In terms of section 92 of the Companies Act
- *In May 2011 the Companies Act came into effect, which came with many new provisions which were not part of the 1973 Act. Amongst the new provisions is the rotation of auditors after the expiration of 5 years.*
 - *Subsection 1 of the abovementioned Section provides that, the same individual may not serve as the auditor or designated auditor of a company for more than 5 consecutive financial years.*
 - *In 2016 it was the first rotation for the auditor or designated auditor, the next 5-year cycle started May 2021 and CIPC reminds companies to comply accordingly. CIPC advises companies to make use of their on-line transaction for the change of auditors available on their website for quick turnaround times.*

Jun & Jul Update *(continued)*

5. Notice 36 of 2021: Discontinuation of enterprise search from 13 July 2021

- *Due to the POPI Act, CIPC needs to be able to determine who is conducting searches on the CIPC database.*
- *Customers will be able to do searches on BizPortal once they have logged in.*
- *The number of searches will be limited to 20 per day to prevent abuse of the systems and data.*
- *CIPC will soon be introducing a subscription service for customers who require to do high volumes of searches per day.*

6. Notice 38 of 2021: File Transition Project

- *Refer to Notice 44 for an update on this project*

Jun & Jul Update *(continued)*

7. Notice 2 of 2021: Unauthorised change of directors

- *From 1 August 2021, CIPC require additional documents to be submitted with all changes of directors*

In addition to the current requirements that are in place, the following documentation will be required to accompany for all applications to be filed as from the 1 August 2021 and failure to submit them will result in your filing being rejected.

- 1. Signed Letter of consent to accept the appointment as a director in that company, when a director is being appointed.*
- 2. A signed letter of resignation by the director in a case of resignation.*
- 3. In an event that a company has a sole director and the board decides to effect the resignation simultaneous with the appointment of a new director, the resolution must be co-signed by both directors.*

CIPC Update **AUG & SEP**

➤ *Each notice is available to you as a Source Document*

1. Notice 39 of 2021: Compliance with Regulation 29

- *& Practice Guideline re Independent Review – Refer to detail in document*
- *This notice is issued in terms of Section 188(2) (b) in conjunction with Regulation 4(b) of the Companies Act, No. 71 of 2008 as amended.*
- *CIPC states that Independent Review practitioners are not complying with the requirements of Regulation 29 (6-8).*
- *CIPC also states that they are not receiving reportable irregularity reports as prescribed for the independent review process (this practise continues as initially reported in 2016).*

Aug & Sep Update *(continued)*

- 2. Notice 42 of 2021:** Temporary change in submission requirements for changes to company MOI (FORM COR15.2)
 - *CIPC will require, in addition to the supporting documents for the current application, copies of the recent registered application with proof of the current shares, if such application was submitted before 1 June 2014*
- 3. Notice 43 of 2021:** External Company Registration (FORM COR20.1)
 - *Confirming documentary requirements*
- 4. Notice 44 of 2021:** Status on file transition to the new bulk storage facility
 - *The project of moving approximately 7.2 million Companies, Close Corporations, Patents, Trade Marks, Copyright, Cooperatives and Designs files to the new storage facility started on 26 July 2021 and is ongoing*
 - *Expect delays until end of November 2021*
- 5. Notice 45 of 2021:** The protection of personal information and the CIPC
 - *CIPC clarifies that it must comply with the Companies Act, and other relevant legislation in relation to access to its registers and the data*

Aug & Sep Update *(continued)*

6. Notice 48 of 2021: Notice to accounting and auditing professional bodies: Independent review survey 2021

- *The Commission has issued an Independent Review Survey 2021 accessible on the website and through the link in the notice. The purpose of the survey is to gauge the practical problems experienced in the performance of independent reviews and reporting of reportable irregularities as required in terms of Regulation 29 of the Companies Regulations 2011.*
- *Deadline was 1 October 2021*

Aug & Sep Update *(continued)*

7. **Notice 49 of 2021:** Important changes to CIPC electronic platforms relating to short standard private and short standard non-profit without members company registrations

- *short standard private company (Form CoR15.1A) and short standard non-profit company without members (Form CoR15.1C).*
- *Forms CoR15.1A and CoR15.1C may only be filed via the indicated electronic platforms. Submission of these applications have been temporarily deactivated on the E-Services platform from 22 September 2021. BizPortal has been temporarily amended to allow more customers to transact on the paperless, digitized platform.*

The temporary changes to BizPortal inter alia are:

- *Allowance for intermediaries to submit Forms CoR15.1A and CoR15.1C; and*
- *Additional payment option namely the so-called declining balance option (declining of fees into customer codes and then deduction of prescribed fees from such customer code upon submitting applications).*

Aug & Sep Update *(continued)*

Notice 49 of 2021 (continued):

Remember the following important pointers:

- If name reservation was reserved via New E-Services, then the company may only be registered via E-Services. Therefore if the reference number or tracking number for the name reservation begins with a 9, the name reservation may only be used via BisPortal, Banks, the Self Service Terminals (SSTs) or CIPC Mobile. For all other name reservation beginning with a 6, New E-Services must be used.*
- Customers are encouraged not to deposit large amounts of money into their customer codes due to the CIPC being in the process of reviewing its payment methodology.*
- The E-mail channel (companydocs@cipc.co.za) for CoR15.1B, D and E is still available.*
- To assist customers in the selection of an appropriate channel, the notice also sets out a table regarding the platforms and submission conditions applicable upon submission*

CIPC Update **OCT 1st half**

1. Notice 50 of 2021: Filing of joint business rescue practitioner appointments

- *applicants make 2 separate appointments for joint BRPs whereas the new eservices system is designed to cater for joint appointments*

2. Media Statement: CIPC enforces Sec 30 of the Companies Act - High court orders JCI Ltd to pay the CIPC an administrative fine of R1 million

- *The core issue of this case is that the Audited Annual Financial Statements of JCI Ltd were not compiled as per the requirements of Section 30 of the Companies Act, No. 71 of 2008, as amended, read with the International Financial Reporting Standards (IFRS).*
- *Section 30(1) requires that each year, a company must prepare annual financial statements within 6 months after the end of its financial year and Section 30(2) read with Regulation 27(4) which relates to IFRS requires that the annual financial statements must be audited in the case of a public company.*

Oct 1st half Update *(continued)*

CIPC enforces Sec 30 of the Companies Act (continued)

- *Post an investigation by CIPC inspectors which found that for the period 2011 – 2017, JCI Ltd had acted in contravention of the abovementioned regulations, a Compliance Notice was issued to the board of directors of JCI Ltd requiring the company to produce IFRS compliant financial statements. JCI Ltd initially applied to the Companies Tribunal to review and set aside the Compliance Notice, but thereafter conceded that it was unable to prepare financial statements fully compliant with IFRS in respect of the various periods specified in the Compliance Notice.*
- *Pursuant thereto, JCI Ltd and the CIPC engaged one another and concluded a Settlement Agreement, which resulted in JCI Ltd withdrawing its application to the Companies Tribunal.*
- *The settlement agreement, a first in terms of section 173 read with section 175 of the Companies Act, was made an order of court and inter-alia required: JCI Ltd to make a payment to the CIPC of an administrative fine of R1,000,000 (one million rand) for the non-compliance of the Compliance Notice and for JCI to convene a shareholders meeting to adopt a special resolution for the voluntary winding up of JCI Ltd.*

LINKS TO GUIDES & FAQs



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Links to Guides & FAQs

- **Step-by-step guides**

- ① <http://www.cipc.co.za/index.php/Access/how-2/>

- **Information guides**

- ① <http://www.cipc.co.za/index.php/access/information-guides/>

- **Email addresses for submitting applications**

- ① <http://www.cipc.co.za/index.php/Access/forms-and-fe/>

- **Company forms & fees**

- ① <http://www.cipc.co.za/index.php/Access/companies/>

Links to Guides & FAQs

- **Explanatory notes on specific forms**

① <http://www.cipc.co.za/index.php/Access/explanatory-notes/>

- **iXBRL Programme**

① <http://www.cipc.co.za/index.php/xbml-programme/>

- **FAQs**

① <http://www.cipc.co.za/index.php/publications/faqs/>

CIPC Call Centre Operating Hours

The call centre operating hours for CIPC are as follows:

- Monday to Thursday: 08h00 to 16h00
- Fridays: 09h00 to 16h00
- Closed on Public Holidays and during weekends.

1. The call centre is experiencing high volumes of calls at times.
Customers may use the CIPC
2. Enquiries system <https://enquiries.cipc.co.za> as an alternative.

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QUESTIONS





for your participation!