



Companies and Intellectual
Property Commission

a member of **the dti** group

NOTICE 38 of 2020

AUDITED ANNUAL FINANCIAL STATEMENTS: REQUIREMENT TO DISCLOSE REMUNERATION AND BENEFITS OF DIRECTORS AND PRESCRIBED OFFICERS

PURPOSE

The purpose of this notice is to inform companies that are required to have their annual financial statements (AFS) audited and those that have had their AFS voluntarily audited in terms of Section 30 (2) of the Companies Act 71 of 2008, as amended (the Act); that it is mandatory to disclose directors' or prescribed officers' remuneration and other benefits paid, payable or receivable as per Section 30 (4)(5)(6) of the Act .

OBSERVATIONS

The CIPC, through its compliance monitoring activities stemming from Regulation 30(5), has observed a trend where some companies are not disclosing directors' or prescribed officers' remuneration as required and prescribed by the Act. In terms of Section 30 (4), the remuneration, as defined in subsection (6), and benefits received by **each director**, or individual holding any prescribed office in the company; must be disclosed. This is required in **all audited (including voluntarily audited)** annual financial statements.

Section 30(6) below describes what "remuneration" includes:

(6) For the purposes of subsections (4) and (5), "remuneration" includes—

(a) fees paid to directors for services rendered by them to or on behalf of the company, including any amount paid to a person in respect of the person's accepting the office of director;

(b) salary, bonuses and performance-related payments;

(c) expense allowances, to the extent that the director is not required to account for the allowance;

(d) contributions paid under any pension scheme not otherwise required to be disclosed in terms of subsection (4) (b);

(e) the value of any option or right given directly or indirectly to a director, past director or future director, or person related to any of them, as contemplated in section 42;

(f) financial assistance to a director, past director or future director, or person related to any of them, for the subscription of options or securities, or the purchase of securities, as contemplated in section 44; and

[Para. (f) substituted by s. 20 (e) of Act No. 3 of 2011.]

(g) with respect to any loan or other financial assistance by the company to a director, past director or future director, or a person related to any of them, or any loan made by a third party to any such person, as contemplated in section 45, if the company is a guarantor of that loan, the value of—

(i) any interest deferred, waived or forgiven; or

(ii) the difference in value between—

(aa) the interest that would reasonably be charged in comparable circumstances at fair market rates in an arm's length transaction; and

(bb) the interest actually charged to the borrower, if less.

PRESCRIBED ORDER

It is incorrect to disclose remuneration as a single aggregated amount or as a single amount under each director without the name(s) of the director(s)/prescribed officer(s) and description of the payment/compensation. Where no remuneration was paid, a note is still required in the notes to the financial statements indicating that there were no payments made to directors. Below are examples (for illustrative purposes only, not prescribed template) of what is expected in terms of the Act:

Incorrect:

	<u>2020</u> R'000	<u>2019</u> R'000
Director remuneration	5 470	4 600

Incorrect:

	<u>2020</u> R'000	<u>2019</u> R'000
Director A	1 400	1 100
Director B	2 200	1790
Director C	3 800	2 620

Correct:

Directors	Basic remuneration R'000	Retirement/ medical benefits R'000	Other benefits and allowances R'000	Cash incentives R'000	Benefit arising from the exercise of options R'000	Total emoluments R'000
A Gomez	3 009	221	480	575	4 499	8 784
DE Bruyn	3 600	205	120	459	4 510	8 894
FG Ntuli	3 850	244	305	457	-	4 856
HK Elliot	4 400	268	270	276	-	5 214
2020Total	14 859	938	1 175	1 767	9 009	27 748

BEST PRACTICE

The disclosure of remuneration and other benefits paid to, payable or receivable by directors or prescribed officers is one of the key disclosures which ensure that companies comply with the *principles aimed at* transparency, accountability and integrity and maintain high standards of corporate governance. Failure to adhere to the above-legislated requirements is a contravention of the Act and may lead to a possible investigation as prescribed in Section 168 of the Companies Act, 71 of 2008 as amended.

Companies are therefore, urged to comply with the legislated disclosures as prescribed in the Act.

Yours Sincerely



Adv Rory Voller

Commissioner

Date: 21/07/2020