

Church Square Association of Advocates

Church Square Association of Advocates
Church Square Bar

Kerkplein Vereniging van Advokate
Kerkplein Balie

7 November 2017

NOTICE

PLEASE TAKE NOTE THAT:

GOVERNMENT NOTICE NO. R.1210 PROMULGATED IN GOVERNMENT GAZETTE NO. 41224, DATED 3 NOVEMBER 2017, PRACTICE NOTE 3 OF 2017, this practice note is issued in terms of Regulation 4 of the Companies Regulations 2011 and is applicable to Business Rescue filings by Companies and Close Corporations.

GOVERNMENT NOTICE NO. R.1211 PROMULGATED IN GOVERNMENT GAZETTE NO. 41224, DATED 3 NOVEMBER 2017, PRACTICE NOTE 9 OF 2017, In some instances it is required for legal documents such as Notices of Motions, Subpoenas to provide documentation, etc. to be served on CIPC as an interested party, as the outcome of the court proceedings may entail action to be taken by CIPC.

GOVERNMENT NOTICE NO. R.1213 PROMULGATED IN GOVERNMENT GAZETTE NO. 41224, DATED 3 NOVEMBER 2017, take note that **PRACTICE NOTE 6 OF 2008** is hereby withdrawn from 1 May 2017 and replaced with **PRACTICE NOTE 8 OF 2017.**

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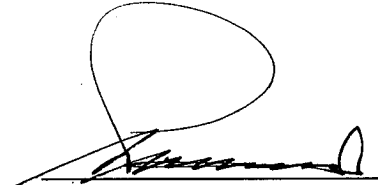
Adres | Address: Standard Bank Chambers
4th Floor, Suite 410
238 Paul Kruger Street
Church Square

Webwerf | Website: www.churchsquarebar.co.za
Posadres | Postal Address: PO Box 5267
Pretoria
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Same is available on our website at www.churchsquarebar.co.za under legal amendments.

Should you not have internet access, same is available at our Chambers, Suite 410, Standard Bank Chambers, Pretoria, for your perusal.

MEMBERS ARE URGED to take note thereof and to comply with the said amendments in order to avoid embarrassment.



**ADV. W F PIENAAR
CHAIRMAN**

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DEPARTMENT OF TRADE AND INDUSTRY

NO. 1210

03 NOVEMBER 2017

PRACTICE NOTE 3 OF 2014

BUSINESS RESCUE FILING PROCEDURE

This practice note is issued in terms of Regulation 4 of the Companies Regulations 2011 and is applicable to Business Rescue filings by Companies and Close Corporations.

The following forms and supporting documents are required by the Companies and Intellectual Property Commission (CIPC) regarding business rescue proceedings. All applications stated below must be submitted via e-mail to businessrescue@cipc.co.za.

Notice to Start Business Rescue Proceedings (Form CoR123.1):

Documents to be submitted:

- CoR123.1 (duly completed including customer code and signature of an active director/member as per the CIPC register);
- Certified ID copy of the owner of the customer code;
- Certified ID copy of the director / member undertaking the sworn statement;
- Sworn statement which contains *inter alia* the following information:
 - Full name, surname and ID number of person undertaking the sworn statement;
 - Reasons for resolution to start business rescue proceedings;
 - Physical address where most of the business activities in the current financial year were undertaken; and
 - All legal proceedings the company or close corporation is involved in (especially proceedings/against the company or close corporation), the nature of such legal proceedings and the status thereof
(If the company or close corporation is not involved in any legal proceedings such must be indicated as well);
- Letter from the business on its letter head stating:
 - PI Score break down and total (as indicated in Companies Regulation 26(2));
 - Primary business activities (industry) undertaken in the current financial year; and
 - Nomination of Business Rescue Practitioner (BRP) with declaration of his independence
- Resolution by the company or close corporation to start business rescue; and
- Letter from the nominated BRP declaring his/her:
 - Capacity to accept the new nomination;
 - Independence from the business; and
 - Not disqualified as prescribed in the Act.

It should be noted that the CoR123.2 cannot be filed together with the CoR123.1. Confirmation of the filing of the CoR123.1 by CIPC will enable the filing of the CoR123.2.

It should be noted further that the date of filing will be the date the minimum legal requirements, completed CoR123.1, sworn statement and resolution are submitted to the CIPC.

Business Rescue Status Report (Form CoR125.1):

Documents to be submitted:

- CoR125.1 (duly completed including customer code and signature of the appointed Business Rescue Practitioner); and
- Progress report which can be in a form of an attachment to the CoR125.1 (optional).

Notice of Termination of Business Rescue Proceedings (Form CoR125.2)

Documents to be submitted:

- CoR125.2 (duly completed including customer code and signature of the appointed business rescue practitioner); and
- Indication by the practitioner, either on a separate letterhead or CoR125.2 itself, of the grounds or circumstances for the termination of the business rescue proceedings e.g. the business rescue plan was not approved and no further action is going to be taken by the practitioner or an affected person, the practitioner is intending to apply to court to start liquidation proceedings since there is no reasonable prospect for the entity to be rescued or, the entity is not financially distressed as initially understood.

Notice of Substantial Implementation of Business Rescue Plan (Form CoR125.3):

Documents to be submitted:

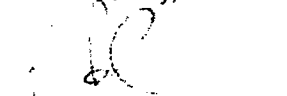
- CoR125.3 (duly completed including customer code and signature of the appointed business rescue practitioner); and
- Public Interest (PI) Score breakdown and total PI Score (as indicated in Companies Regulation 26(2)) as at end of the implementation of the business rescue plan.

Court orders relating to business rescue proceedings (including liquidation) and business rescue practitioners:

All court orders relating to business rescue proceedings and BR practitioners must be submitted to businessrescue@cipc.co.za.

Court orders should be accompanied by a covering letter/e-mail indicating the contact details and customer code of the person submitting the court order to CIPC.

Yours sincerely,



Ms. A Ludin

CIPC: Commissioner

27/11/2014

DEPARTMENT OF TRADE AND INDUSTRY

NO. 1211

03 NOVEMBER 2017

PRACTICE NOTE 9 OF 2017

SERVICE OF SUBPOENAS AND OTHER COURT DOCUMENTS ON CIPC

In some instances it is required for legal documents such as Notices of Motion, Subpoenas to provide documentation, etc. to be served on CIPC as an interested party, as the outcome of the court proceedings may entail action to be taken by CIPC.

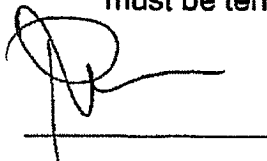
Uniform Rules of Court, specifically Rule 4 and 4A describes the requirements of service of legal documents in detail and allows for the service of documents by way of electronic means. Annexure 3, Table CR3 of the Companies Act, 2008 details the methods and times for delivery of documents, and provides for service thereof by electronic means. To this end, CIPC has provided for a dedicated e-mail box to receive legal documentation – corporatelegalservices@cipc.co.za

All legal documents where CIPC is stated as an interested party, and must be provided with a copy of the documents for record purposes, may be sent to the dedicated e-mail address as valid service thereof.

With regards to subpoena's, where specific action is required by CIPC, service via corporatelegalservices@cipc.co.za is also accepted.

Subpoenas must comply with the following requirements:

- All documentation must be signed by the Registrar of the relevant court;
- Enough time must be provided for CIPC to respond in terms of Rule 4 of the Uniform Rules of Court, which advocates a "reasonable time" period;
- Only information that CIPC is in a position to provide and have knowledge of, should be requested;
- Costs for providing documentary evidence, and/or giving evidence in a hearing must be tendered.



Adv Rory Voller
COMMISSIONER: CIPC

3 July 2017

DEPARTMENT OF TRADE AND INDUSTRY

NO. 1213

03 NOVEMBER 2017

**PRACTICE NOTE 08 OF 2017
REQUIREMENTS FOR RE-INSTatement IN TERMS OF REGULATIONS 4(2)(b)**

Note that PRACTICE Notice 6 of 2008 is hereby withdrawn on 1 May 2017 and replace with Practice Note 08 of 2017.

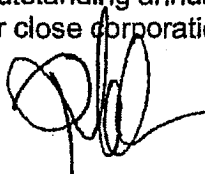
This practice note is issued in terms of Regulation 4(2)(b) of the Companies Regulations, 2011, and is applicable to the re-instatement of companies and close corporations in terms of Companies Regulation 40(6) and (7)

In order to re-instate a company or close corporation from 1 May 2017, the re-instatement application on a form CoR40.5 must comply with the following requirements regardless of the cause or date of deregistration;

- (1) Certified identity copy of the applicant;
- (2) Certified identity copy of the owner of the customer code;
- (3) Multiple Deed search (deed search of each of the 10 regional deeds offices);
- (4) Letter from the Department of Public Works, ONLY if the multiple deed search reflects immovable property;
- (5) Sufficient **documentary** proof indicating that the company or close corporation was in business or that it had any outstanding assets or liabilities (e.g property, intellectual property rights), **at the time of deregistration.**
- (6) Mandate from the applicant confirming that the customer may submit on his/her behalf.

CIPC will only consider re-instating a company or close corporation if it can provide proof that it was conducting business at the time of deregistration, or has any other economic value.

Upon the successful processing of the re-instatement application, all outstanding annual returns must be filed in order to complete the process. If the close corporation or company fails to file all outstanding annual returns within 30 business days from date of the re-instatement, the company or close corporation will be finally deregistered again without any further notification.



Adv Rory Voller
Commissioner: CIPC

18/4/2017