



Companies and Intellectual
Property Commission
a member of **the dtic** group

Notice No 33 of 2021

NOTICE TO ALL CLOSE CORPORATIONS WITHOUT ACCOUNTING OFFICERS

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.

Legislative Mandate

Section 59

Appointment of accounting officers

- (1) Every corporation shall appoint an accounting officer in accordance with the provisions of this Act.*
- (2) The appointment of the first accounting officer of a corporation referred to in section 12(g) (i) shall take effect on the date of the registration of the corporation.*
- (3) If a vacancy occurs in the office of an accounting officer, whether as a result of a removal, resignation or otherwise, the corporation shall within 28 days appoint another accounting officer and comply with the provisions of subsection (2) of section 15: Provided that the provisions of subsection (3) of the said section 15 shall apply where the said subsection (2) of that section has not so been complied with, whether or not an appointment of such other accounting officer has been made.*
- (4) A corporation shall inform its accounting officer in writing of his removal from office.*

(5) (a) An accounting officer shall on resignation or removal from office forthwith inform every member of the corporation thereof in writing, and shall send a copy of the letter to the last known address of the registered office of the corporation and shall in addition forthwith by registered post inform the Registrar- (i) that he has resigned or been removed from office; (ii) of the date of his resignation or removal from office; (iii) of the date up to which he performed his duties; and 29 (iv) whether, at the time of the resignation or removal from office of the accounting officer, that officer was aware of any matters in the financial affairs of the corporation which are in contravention of the provisions of this Act: Provided that an accounting officer who was aware of any such matter shall submit the full particulars thereof in writing to the Registrar.

(b) If an accounting officer who has been removed from office is of the opinion that he was removed for improper reasons, he shall forthwith by registered post inform the Registrar thereof, and shall send a copy of the letter to every member.

Members of close corporations must further take heed of the serious consequences that may follow when a close corporations fail to appoint or fill a vacancy of the accounting officer in terms of section 63 (h) of the Close Corporations Act 69, of 1984.

Section 63 (h) if the Close Corporations Act, 69 of 1984

Joint liability for the debts of the corporation

“where the office of accounting officer of the corporation is vacant for a period of six months, any person who at any time during that period was a member and aware of the vacancy, and who at the expiration of that period is still a member, shall be so liable for every debt of the corporation incurred during such existence of the vacancy and for every such debt thereafter incurred while the vacancy continues and he still is a member.”

Enforcement

Companies Act applicability to Close Corporations:-

“Schedule 3 (7) Amendment of laws as prescribed in Schedule 3 of the Companies Act, whereby section 82 of Act 69 of 1984, has been substituted for part D,E and F of Chapter 7 and part A of Chapter 9 of the Companies Act , read with the changes required by the context; apply with respect to any alleged contravention of the Act or contravention of any provision of the Companies Act to the extent the provision applies to a corporation or its members.”

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 Close Corporations in our register and as part of our regulatory mandate, we have noted that a number of CCs do not have Accounting Officers on record. **Please visit www.cipc.co.za for a published list of CCs without Accounting Officers.**

CIPC is hereby notifying all members of Close Corporations to appoint an accounting officer as required by the provisions of the Close Corporations Act. Members of Close Corporations should take note of the serious consequences that may occur when their close corporation 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.

How to appoint and or change accounting officers

Submit a duly completed and signed CK2A including the Customer Code;

- All members must sign the CK2A document in the space provided and the consent letter of the accounting officer must be attached and not be older than 3 months;
- Changes in postal and or registered office address, one member or the accounting officer can sign the CK2A;
- Name change of accounting officer to “Incorporated”, will be seen as a new accounting officer, and all members must sign the CK2A and the accounting officers consent letter must be attached;
- Certified and dated ID copies of applicant, all active members and Accounting Officer must be submitted; and • Email form and supporting documents to manualck2@cipc.co.za



Adv. Rory W. Voller

Commissioner

30 / 6 / 2021