

COMPANIES DEREGISTERED IN CIPC CHAOS

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Since implementation of the new Companies Act on May 1, thousands of companies and close corporations (CCs) across the country have been unable to register the sort of basic changes to their corporate profiles that are necessary to enter into contracts or set up accounts. In addition, hundreds of CCs and companies have been deregistered because they have been unable to lodge their annual returns on time.

"You may as well put a 'not open for business sign on the economy'," lamented one extremely frustrated corporate secretary, who has been unable to register annual returns, name reservations or special resolutions with the new Companies and Intellectual Properties Commission (CIPC) since it replaced the former Companies and Intellectual Property Registration Office (Cipro).

"The old Cipro system was bad, this is appalling," remarked another frequent user.

Companies are required by law to register certain corporate activities, such as annual returns, name changes, changes to the board of directors and resolutions with the CIPC. If such activities and changes are not registered then it is technically illegal for the company to enter into contracts or open up accounts.

One lawyer told Business Report on Friday that, while many companies had managed to file resolutions with the CIPC, he knew of no company that had received proof from the CIPC that those resolutions had been registered. "If a company doesn't have proof that the resolution has been registered then it's pointless."

Of immediate concern is the inability to electronically submit annual returns to the CIPC. This has resulted in hundreds, by some estimates thousands, of CCs and companies being deregistered.

Last Thursday, in a bid to deal with the growing frustration being experienced by companies and close corporations, acting commissioner Rory Voller issued a press release stating that the CIPC "is waiving the later filing fees and penalties for annual returns on both companies and close corporations". The concession is applicable for annual returns due between April 1 this year and March 31 next year.

While one lawyer welcomed the move, she said it was too little, too late. She also noted that although the CIPC had seemed almost incapable of processing submissions from CCs and companies, it had shown no trouble when it came to levying fines, overcharging users and deregistering companies.

The chaotic conditions at the CIPC have been attributed in part to the inability of the computer system to cope with the increased workload resulting from the new act. In addition, the website initially used by the CIPC was deemed to be extremely "user unfriendly" and has been replaced by a new website. The immediate effect of this change has been to aggravate the difficulties.

Department of Trade and Industry deputy director-general Zodwa Ntuli said the move to the new website had resulted in some "small glitches", such as people being unable to find the correct forms. She described the website problems as normal system challenges.

However, one party that has been involved in attempting to clear the backlog said on Friday that the major source of the difficulties was that the CIPC was using Cipro's old system. That system had proved to be totally inadequate even for processing the requirements of the old Companies Act and for that reason a new system had been bought by the Department of Trade and Industry.

However, the new system could not be put into use because of legal battles between the department and the vendor.