

Part B
National Consumer Tribunal

Establishment and constitution of Tribunal

- 26.** (1) There is hereby established a body to be known as the National Consumer Tribunal, which— 5
- (a) has jurisdiction throughout the Republic;
 - (b) is a juristic person;
 - (c) is a tribunal of record; and
 - (d) must exercise its functions in accordance with this Act or any other applicable legislation. 10
- (2) The Tribunal consists of a Chairperson and not less than 10 other women or men appointed by the President, on a full or part-time basis.
- (3) The President must—
- (a) appoint the Chairperson and other members of the Tribunal no later than the date on which this Act comes into operation; and 15
 - (b) appoint a person to fill any vacancy on the Tribunal.
- (4) Sections 20 and 21, each read with the changes required by the context, apply to the Tribunal and each of its members.

Functions of Tribunal

- 27.** The Tribunal or a member of the Tribunal acting alone in accordance with this Act may— 20
- (a) adjudicate in relation to any—
 - (i) application that may be made to it in terms of this Act, and make any order provided for in this Act in respect of such an application; or
 - (ii) allegations of prohibited conduct by determining whether prohibited conduct has occurred and, if so, by imposing a remedy provided for in this Act; 25
 - (b) grant an order for costs in terms of section 147; and
 - (c) exercise any other power conferred on it by law.

Qualifications of members of Tribunal 30

- 28.** (1) The members of the Tribunal, viewed collectively—
- (a) must represent a broad cross-section of the population of the Republic; and
 - (b) must comprise sufficient persons with legal training and experience to satisfy the requirements of section 31(2)(a). 35
- (2) Each member of the Tribunal must—
- (a) be a citizen of South Africa, who is ordinarily resident in the Republic;
 - (b) have suitable qualifications and experience in economics, law, commerce, industry or consumer affairs; and
 - (c) be committed to the purposes of this Act.

Term of office of members of Tribunal 40

- 29.** (1) Each member of the Tribunal serves for a term of five years.
- (2) The Resident may re-appoint a member of the Tribunal at the expiry of that member's term of office, but no person may be appointed to the office of the Chairperson of the Tribunal for more than two consecutive terms.
- (3) The Chairperson, on one month written notice addressed to the Minister, may— 45
- (a) resign from the Tribunal; or
 - (b) resign as Chairperson, but remain as a member of the Tribunal.

(4) A member of the Tribunal other than the Chairperson may resign by giving at least one month written notice to the Minister.

(5) The President, on the recommendation of the Minister—

- (a)** must remove the Chairperson or any other member of the Tribunal from office if that person becomes subject to any of the disqualifications referred to in section 20(2); and 5
- (b)** other than as provided for in paragraph **(a)**, may remove the Chairperson or a member from office only for—
 - (i)** serious misconduct;
 - (ii)** permanent incapacity; or 10
 - (iii)** engaging in any activity that may undermine the integrity of the Tribunal.

Deputy Chairperson of Tribunal

30. **(1)** The President must designate a member of the Tribunal as Deputy Chairperson of the Tribunal.

(2) The Deputy Chairperson performs the functions of Chairperson whenever— 15

- (a)** the office of Chairperson is vacant; or
- (b)** the Chairperson is for any other reason temporarily unable to perform those functions.

Tribunal proceedings

31. **(1)** The Chairperson is responsible to manage the caseload of the Tribunal, and must assign each matter referred to the Tribunal to— 20

- (a)** a member of the Tribunal, to the extent that this Act provides for a matter to be considered by a single member of the Tribunal; or
- (b)** a panel composed of any three members of the Tribunal, in any other case.

(2) When assigning a matter to a panel in terms of subsection **(1)(b)**, the Chairperson must— 25

- (a)** ensure that at least one member of the panel is a person who has suitable legal qualifications and experience; and
- (b)** designate a member of the panel to preside over the panel's proceedings.

(3) If, because of resignation, illness, death, or withdrawal from a hearing in terms of section **29**, a member of the panel is unable to complete the proceedings in a matter assigned to that panel, the Chairperson must— 30

- (a)** direct that the hearing of that matter proceed before the remaining members of the panel, subject to the requirements of subsection **(2)(a)**; or
- (b)** terminate the proceedings before that panel and constitute another panel, which may include any member of the original panel, and direct that panel to conduct a new hearing. 35

(4) The decision of a panel on a matter referred to it must be in writing and include reasons for that decision.

(5) A decision of a single member of the Tribunal hearing a matter as contemplated in subsection **(1)(a)**, or of a majority of the members of a panel in any other case, is the decision of the Tribunal. 40

Conflicts and disclosure of interest

32. **(1)** A member of the Tribunal may not represent any person before the Tribunal.

(2) If, during a hearing in which a member of the Tribunal is participating, it appears to that member that the matter concerns a financial or other interest of that member contemplated in section 20(2)(b), that member must— 45

- (a)** immediately and fully disclose the fact and nature of that interest to the Chairperson and to the presiding member at that hearing; and
- (b)** withdraw from any further involvement in that hearing. 50

Acting by member of Tribunal after expiry of term of office

33. If, on the expiry of the term of office of a member of the Tribunal, that member is still considering a matter before the Tribunal, that member may continue to act as a member in respect of that matter only.

Remuneration and benefits

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34. During the term of office of a member of the Tribunal, the member's salary, allowances or benefits may not be reduced.