



COMPANIES TRIBUNAL

ANNUAL PERFORMANCE PLAN 2020/2021 – 2022/2023

30 June 2020

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Mr Ebrahim Patel - Minister of Trade, Industry and Competition

Accounting Authority's Statement

The Revised Annual Performance Plan 2020/21, is hereby submitted in accordance with the Revised Framework on Strategic and Annual Performance Plans.

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MR EBRAHIM PATEL
MINISTER OF TRADE, INDUSTRY AND COMPETITION



Accounting Authority's Statement

It is a pleasure to present the 2020/21-2022/23 Annual Performance Plan (APP) for the Companies Tribunal (the Tribunal). The APP sets out a three-year plan for the Tribunal to deliver on its mandate and realize its new vision of being “the preferred adjudicatory and alternative dispute resolution forum” that contributes to the promotion of fair and ethical corporate practices.

The Tribunal's APP is informed by the values and founding provisions of the Constitution, and the Companies Act, No. 71 of 2008 (the Act). It is further informed by the Department of Trade, Industry and Competition's (**the dtic**'s) strategic objective of creating a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner. The APP is further informed by the six priorities of the new Sixth Administration particularly the six focus areas in the trade, industry and competition portfolio, within which the Tribunal resides.

The mandate of the Tribunal remains two-fold: adjudication and resolution of disputes through Alternative Dispute Resolution (ADR). The Tribunal may also perform any other functions assigned to it in terms of the Act or any laws mentioned in Schedule 4 of the Act. In an environment characterised by a difficult economic climate, the use of ADR as a preferred mode of resolving company disputes is expected to rise over the next 5 years. ADR saves costs usually associated with litigation.

The major challenges that may impact negatively on the Tribunal's ability to deliver on its plans include limited funding and as a direct consequence of this, the inability to fully market the institution, to grow the caseload and fully capacitate the institution as per the approved structure. These are long standing but urgent challenges that need urgent solutions failing which, the Tribunal's ability to execute its mandate will be limited.

As it is the case the world over, compounding the challenges above, is COVID-19 whose devastating impact has sent rippling effects through the whole of the Tribunal. As the Minister puts it, the Tribunal has not been spared. Prior to the lock down the business of the Tribunal which consists of adjudication and dispute resolution relied to a significant extent on personal contact either with the parties to a case appearing before the tribunal or papers relating to a case being delivered at a member's place of work for a decision to be made. During the initial two stages of the lock down, this was not possible thus valuable time was lost. Beyond the impact on the business, Members and the governance Committees of the Tribunal have been negatively impacted through the disruption in the business processes and by the unexpected increased use of data.

Despite the continuing threat of COVID-19 and the difficult times of reduced public spending, I believe that under the adjusted business plans presented here, the Tribunal will satisfactorily deliver.

A handwritten signature in black ink, appearing to read 'Alli Chicktay', written in a cursive style.

Dr Mohamed Alli Chicktay

Chairperson: Companies Tribunal



Accounting Officer's Statement

The Companies Tribunal (the Tribunal) was established to increase access by companies, to the justice system, through efficient adjudication and resolution of disputes through appropriate dispute resolution mechanisms (ADR). The targeted beneficiaries of the Tribunal include the start-up companies, small to medium companies and companies in financial distress who cannot afford the fees associated with protracted litigation. The Tribunal offers an expeditious and cost-free mechanism of resolving companies' disputes. This impacts positively on the economy of the country as it saves costs associated with lost productivity and legal fees. The decisions of the Tribunal are part of South Africa's jurisprudence. Information on the Tribunal's decisions are easily available on the Tribunal's website. This is a contribution to the fourth industrial revolution and further makes South African an attractive investment destination.

The types of applications that the Tribunal handles include name and directorship disputes, review of compliance notices issued by CIPC, application to hold annual general meetings (AGMs), an extension of time to hold an AGM as well as applications for exemption from establishing social and ethics committees. The Tribunal's case load is expected to increase over the MTEF because the envisaged amendments to the Companies Act are expected to increase the powers of the Tribunal.

The Tribunal plans to have increased campaign using mainly social media to raise awareness about the Tribunal's services. Stakeholders such as business chambers, and law societies will be engaged with a view of forming strategic partnerships to disseminate information about the Tribunal throughout the country. The Tribunal's recently reviewed organisational structure is only partly filled as the Tribunal is under-funded. The new automated case management system launched on 1st August 2019 is expected to improve efficiency in the management of cases. The systems' introduction despite the challenges was a bold move and perfect timing barely six (6) months before the crippling impact of COVID-19 reached South Africa. Owing to the system's recent introduction, the stakeholder uptake is still low. Due to the COVID-19 related budget cuts the plans to increase the uptake will now be limited to social media. Marketing plans that require travel and related costs has now been cut, making an even lower number of applications than received before likely.

With the Tribunal delivering mainly remotely via activated continuity business plan, relying mainly on the core contingent of managers during the first quarter, there is no doubt that 2020-2021 is truly a year-unusual. I however remain optimistic that with its adjusted plans the Tribunal will deliver on its mandate.

A handwritten signature in black ink, appearing to read 'M Ledingwane', with a stylized, circular flourish to the left.

'Maletlatsa Monica. Ledingwane

Chief Operations Officer: Companies Tribunal

Official Sign-Off

It is hereby certified that this Annual Performance Plan:

- Was developed by the management of the Companies Tribunal under the guidance of Dr. Mohamed Ali Chicktay
- Considered all the relevant policies, legislation and other mandates for which the Companies Tribunal is responsible
- Accurately reflects the Impact, Outcomes and Outputs which the Companies Tribunal will endeavour to achieve over the period 2020/21 to 2022/23.



Irene Mathatho
Chief Financial Officer



Maletlatsa Monica Ledingwane
Accounting Officer

Approved by:



Accounting Authority
Dr Alli Chicktay

Part A: Our Mandate

1. Relevant legislative and policy mandates

The Companies Tribunal is established in terms of the Companies Act, Act No. 71 of 2008, as a juristic person. In terms of the Act, the Tribunal has jurisdiction throughout the Republic. It is independent and subject only to the Constitution and law.

In terms of the Companies Act, the Companies Tribunal's mandate is to:

- a) Adjudicate in relation to any application that may be made to it in terms of the Act and make any order provided for in the Act in respect of any such application.
- b) Assist in the resolution of disputes as contemplated in part C of Chapter 7 of the Act.
- c) Perform any other function assigned to it by or in terms of the Act or any law in Schedule 4.

In delivering on this mandate the Companies Tribunal is expected to exercise and perform its functions in line with the spirit, purpose and objects of the Constitution, International Law and Companies Act, and in a manner which is simple, ethical, efficient, equitable, transparent, accountable, impartial and without fear, favour or prejudice.

2. Institutional Policies and Strategies

To ensure proper Governance, the Tribunal has a recorded number of 46 policies in various units (functional areas). The 46 policies referred to above are listed on a Policy Schedule that the Tribunal maintains for control and review purposes. In addition to the 46 policies mentioned above, the Tribunal has various other plans and registers.

3. Relevant Court Rulings

The Tribunal will on a regular basis analyse recent key decisions of the High Court and Constitutional Court and evaluate the potential impact on its mandate and functions.

Part B: Our Strategic Focus

4. Situational Analysis

4.1.1 External Environment Analysis

Political Economic Social Technology Legal Environment (PESTLE)

POLITICAL	ECONOMIC
<ul style="list-style-type: none"> • Perception of political alignment on decision-making or being non-partisan • Change of administration 	<ul style="list-style-type: none"> • Business fronting
SOCIAL	TECHNOLOGICAL
<ul style="list-style-type: none"> • Limited access to the Tribunal (by the public) • Low literacy rate • Language diversity • Limited public awareness of the Tribunal • Misconception about Tribunal jurisdiction 	<ul style="list-style-type: none"> • Limited access to technology by the public
LEGAL	ENVIRONMENTAL
<ul style="list-style-type: none"> • Limited jurisdiction to meet public expectations • Inconsistencies in Tribunal members' decisions • Unenforceability of some decisions 	<ul style="list-style-type: none"> • Geographical location

4.1.2 Internal Environment Analysis

Strengths Weaknesses, Opportunities and Threats (SWOT)

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> • Strong institutional values and ethics • Founding legislation (mandate) • Skills, knowledge and expertise of staff and Tribunal Members • Systems, procedures and policies in place • Independence and impartiality • Good corporate governance • Good financial management • IT infrastructure in place 	<ul style="list-style-type: none"> • No professional, equipped hearing rooms • Limited parking space • External dependencies (e.g. Internal Audit function and IT infrastructure outsourced) • Limited budget to carry out mandate, marketing and fill vacancies • Limited jurisdiction of Companies Tribunal • Limited foot-print (No provincial offices) • Inconsistencies in the Tribunal members' decisions • Unenforceability of some decisions

OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> Increasing access through technology usage case management system online, video conferencing for hearings) Benchmarking on best practice models from similar entities Contribution to research, jurisprudence and the development of company law Technology – systems and processes to improve efficiency Increasing referrals from the CIPC, TRP, B-BBEE Commission and other Tribunals and the judiciary 	<ul style="list-style-type: none"> Staff turnover Case backlog (potential) Competition from other alternative dispute resolution bodies The voluntary nature of ADR

4.1.3 External Environment Analysis

Political Economic Social Technology Legal Environment (PESTLE) – interventions

POLITICAL	POSSIBLE SOLUTIONS
Perception of political alignment and non-partisan on decision-making	Training and open discussions Compliance to institutional values
Change of administration	Change Management
ECONOMIC	
Business fronting	Training and upfront discussions
SOCIAL	
Limited access to the Tribunal (by the public)	Holding hearings in areas convenient to parties
Low literacy rate	Help line and help desk
Language diversity	Publish CT documents in various languages Diversify employment and staff linguistic ability
Limited public awareness of the Tribunal	Education and stakeholder management
Misconception about Tribunal jurisdiction	Education and stakeholder management
TECHNOLOGY	
Limited access to technology by the public	Use of free Wi-Fi-hot spot to access Tribunals' services
LEGAL	
Limited jurisdiction to meet public expectations	Legislative amendment of Companies Act Increase mandates through other legislation
Inconsistencies in the Tribunal members' decisions	Training /internal discussion/decisiveness Judicial precedent (reasons for conflicting members decisions)
Unenforceability of some decisions	<ul style="list-style-type: none"> Training Workshops
ENVIRONMENTAL	
Geographical location	Temporary CT centres for outreach

4.1.4 Internal Environment Analysis

Strengths, Weaknesses, Opportunities and Threats (SWOT) - interventions

WEAKNESSES	POSSIBLE SOLUTIONS
No professional, equipped hearing rooms	Re-partition existing space
Limited parking space	Continue current arrangement for staff
External dependencies (e.g. Internal Audit function and IT infrastructure outsourced)	Better management of the MOUs
Limited budget to carry out mandate, marketing and fill vacancies	Continued engagements with the dtic /Treasury
Limited foot-print (no provincial offices)	Make use of partnerships
Limited jurisdiction of Companies Tribunal	Proposed amendments Take the services outside Tribunal services
The voluntary nature of ADR	Amendment of the Act
Inconsistencies in the Tribunal members' decisions	Training/discussion/decisiveness
Unenforceability of some decisions	<ul style="list-style-type: none"> • Training • Workshops
THREATS	
Staff turnover	Staff engagements and use of the existing incentives
Potential backlog	Use of temporary/contract staff for relief
Competition from other dispute resolution bodies	Sharing of best practice

Part C: Measuring Our Performance

5. Institutional Programme Performance Information

5.1 Programme: Adjudication

5.1.1 Purpose of the programme

The purpose of the programme is to adjudicate and make orders in relation to applications made in terms of the Companies Act, 2008 as well as to facilitate the resolution of company disputes in terms of Alternative Dispute Resolution.

Members of the Tribunal are appointed by the Minister of Trade and Industry to adjudicate applications based on the papers filled by the Tribunal. Where necessary, hearings are held, depending on the nature of the case.

5.1.1.1 Outcomes, Outputs, Performance Indicators and Targets

Outcome	Outputs	Output indicators	Annual Targets						
			Audited actual/ performance			Estimated performance	MTEF Period		
			2016/17	2017/18	2018/19	2019/ 20	2020/21	2021/22	2022/23
1. Improved access ¹ to the justice system	1.1 Adjudicated applications	Percentage of decisions and orders issued ² within 40 working days after the final date of the hearing ³ or final submission by parties, whichever is applicable	80%	100%	100%	90%	93%	93%	95%
	1.2 Adjudicated applications	Percentage of decisions and orders issued within 30 days after the date of allocation ⁴ or final submission by parties whichever is applicable	98%	96%	93%	90%	93%	93%	95%
	1.3 Resolved disputes	Percentage of cases finalised ⁵ in terms of Alternative Dispute Resolution (ADR) within 25 working days after the date of final hearing or final submission by parties whichever is applicable	79%	100%	100%	90%	90%	95%	95%

¹ **Improved access** means simple, speedy and cost- effective decisions delivered within the stipulated turnaround time

² **Decisions and orders** issued are as prescribed by the Companies Act, 2008. Issued means formal communication of the decision and order to the client

³ **Final date of hearing** refers to the last day of a hearing of a matter of a Tribunal sitting

⁴ **Date of allocation** refers to the date of sending an e-mail allocating a case to a Tribunal Member

⁵ **Finalized** refers to decision making and issuing of failed certificates, withdrawals and cancellations

5.1.1.2 Indicators, Annual and Quarterly Targets

Output Indicator	2020/21 Annual Target	Quarterly Milestones			
		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Percentage of decisions and orders issued within 40 working days after the final date of the hearing or final submission by parties, whichever is applicable	93%	93%	93%	93%	93%
Percentage of decisions and orders issued within 30 working days after the date of allocation or final submission by parties whichever is applicable	93%	93%	93%	93%	93%
Percentage of cases finalized in terms of Alternative Dispute Resolution (ADR) within 25 working days after the date of final hearing or final submission by parties whichever is applicable	90%	90%	90%	90%	90%

5.2 Programme 2: Administration

5.2.1 Purpose of the programme

The purpose of the programme is to ensure operational efficiency and effectiveness as well as effective stakeholder engagement. The Programme further aims to efficiently support and manage the operations by ensuring that there is proper Financial Management, Human Resource Management, Information Technology, Knowledge Management, Stakeholder Management and Legal Services.

5.2.1.2 Outcome, Outputs, Performance Indicators and targets

Outcome	Outputs	Output Indicators	Audited Actual Performance			Estimated Performance	Medium Term Targets		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
2. Operational Efficiency	2.1 Increased user uptake of the Case Management System (CMS)	Increase in the number of applicants applying online	N/A	N/A	N/A	N/A	50%	60%	70%
	2.2 Staff retention	Percentage of staff retained	93%	93%	92%	85%	85%	85%	85%
	2.3 Stakeholder engagements	Number of seminars held	Hosted three seminars on: (1) Corporate Governance, Business Ethics and Social and Ethics Committee (2) Company Law (3) the role of CT	Hosted a seminar on name disputes	Hosted a seminar on Alternative Dispute Resolution (ADR)	Host a seminar on the impact of the Tribunal's mandate	Host a seminar on legislative gaps in implementing the Tribunal's mandate: A case for further amendments	Host a seminar on functions that can be assigned to CT under Schedule 4 of the Act	Host a seminar on the impact of the amendments to the Act on the work of CT
		Number of media engagements (media statements)	Released two (2) media statements	Released two (2) media statements	Released three (3) media statements	Release two (2) media statements	Release two (2) media statements and one (1) radio activity	Release two (2) media statements	Release two (2) media statements
	2.4 Research reports or rules or guidelines	Number of research reports or rules or guidelines produced or	One (1) research report on the impact and effectiveness of the CT in delivering on its	Code of Conduct and Ethics for mediators was	Arbitration Rules and Adjudication rules for CT were produced	One research report on assessing the value of Social and Ethics Committees as	One research report on legislative gaps in implementing the Tribunal's mandate: A	One research report on functions that can be assigned to	One research report on the impact of the amendment

		reviewed and approved	mandate produced	produced earlier than targeted period	earlier than targeted period	stipulated in Section 72 (5)	case for further amendments	CT under Schedule 4 of the Act	s to the Act on the work of CT
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5.2.1.3 Indicators, Annual and Quarterly Targets

Performance Indicator/ Measure	2020/2021 Annual Target	Quarterly Milestones			
		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Case Management System (CMS) user uptake	Percentage of user uptake	50%	50%	50%	50%
Percentage of staff retained	85%	85%	85%	85%	85%
Number of seminars hosted	Host a seminar on legislative gaps in implementing the Tribunals mandate: A case for further amendments.		Draft a detailed proposal and consult	Incorporate inputs and obtain approval for the proposal, topics and Speakers Send invitation to Speakers, stakeholders and confirm venue	Host the seminar
Number of media activities (statements and radio activities)	Release two media statements Participate in one radio activities	Release one media statement		Release one media statement	Participate in one radio activity
Number of research reports or rules, or guidelines produced/reviewed and approved	One research report on legislative gaps in implementing the Tribunals mandate: A case for further amendments.	Draft research Report	Consultation on the research report	Consolidation on the research report	Approval on the research report

6. Explanation of planned performance over the medium-term period

6.1 Contribution of outputs towards achieving the outcomes and impact in the Strategic Plan aligned to the Mandate:

6.1.1 Outcome 1: Access to simple, speedy and cost-effective justice system

a) The number of applications adjudicated within the turn round times

The Tribunal adjudicates on applications at no charge to the parties. The targeted beneficiaries of this output include the start-ups, small to medium companies and companies in financial distress who cannot afford the fees associated with protracted litigation. This means that even the applicants that would normally be excluded from litigation by the high prohibitive costs of a normal court litigation are able to lodge cases at the Tribunal. Small companies can take on big companies in litigation. The affordability of the Tribunal's services has an impact on economic inclusion and transformation. Furthermore, the Tribunal's targeted maximum turnaround time is 40 days. Very few applications exceed this period. In the ordinary courts, cases may take months on the roll and years before coming before the court. Hence the Tribunal services offer an affordable and quicker option from normal litigation that may cripple a business both financially and operationally. With the Tribunal, Companies can initiate litigation and remain sustainable and competitive. This ensures achievement of the impacts stated in the Strategic Plan of economic inclusion, transformation and making South Africa an attractive investment destination.

b) The number of disputes-applications resolved within the turn round times

The same benefits of cost and time efficiency offered by the output of adjudicated applications are applicable to the output of resolved disputes. In addition, the turn-around time for resolution of disputes is 25 days which makes it even shorter than that of adjudicated applications. Further benefits of dispute resolution through appropriate dispute resolution (ADR) are that it is informal and confidential, more flexible and responsive to the individual needs of the parties involved. Parties have a chance to tell their story as they see it, and the parties' involvement in the process creates greater commitment to the result so that compliance is more likely. Through ADR, it is more likely to preserve goodwill or at least not escalate the conflict. This is especially important in situations where there is a continuing relationship as with companies in business. Clearly ADR contributes to economic inclusivity and to making South Africa an attractive environment for both local and international investment. In offering an expeditious and cost-free mechanism of resolving company disputes, the Tribunal saves costs associated with lost productivity and legal fees and as such increases access to justice and impacts positively on South African economy.

6.1.2. Outcome 2: Operational Efficiency

(a) Increased user uptake of Case Management System

To achieve operational efficiency, the Tribunal implemented the electronic case management system (CMS) as of 1st August 2019. Post implementation, the targeted output of the Tribunal is to increase user uptake. The benefits of CMS include an effective performance management (improved turnaround time for completion of cases), interfacing of administration of cases with finance office in order to minimize risk of overpayment on cases, effective records management, production of monthly, quarterly and annual reports and statistics and improved accessibility. As a tool, CMS enhances operational efficiency. It makes the Tribunal a serious player and contributor to the forth industrial revolution and certainly makes South Africa an attractive investment destination. The system further contributes to inclusivity. Irrespective of location, it is now easy for an applicant who has access to internet, computer or a smart device to lodge an application with the Tribunal without incurring travel and other operational costs.

(b) Staff retention

Over the 2019-2020 financial year, the Tribunal has recruited all but one of the funded and vacant positions. To achieve operational efficiency, in the 2020-2021 financial year, the Tribunal intends to focus on staff retention as one of the outputs. The value of an employee increases the longer they stay with an organization. With time, employees' knowledge and experience continue to grow making them important for networking inside and outside the sector. Employees build relationships with other employees and clients. These relationships are vital to the success of an organization. Their skills and organizational memory make it easy to run effective operations. For these reasons, staff retention contributes to the operational efficiency. Operationally efficient organizations are attractive to the investors.

(C) Research Report or Developed Rules or Guidelines

To achieve operational efficiency, the Research Unit of the Tribunal contributes the body of knowledge, it closes knowledge gaps, and creates new knowledge. Research contributes to jurisprudence and precedent. The contribution to South African's jurisprudence also makes South Africa an attractive investment destination. Reports provide quick reference for decision making purposes which in turn leads to consistency and efficiency in decision making. To further improve efficiencies, rules or guidelines are developed and or reviewed. Rules or guidelines help to make the application process easier and quicker for the applicants especially those not assisted by legal practitioners. This output is therefore another contributor to the Tribunal's operational efficiency. It contributes to the fourth industrial revolution, a better South Africa, a better Africa and a better world.

6.2 Explanation of the planned performance in relation to outputs

(a) Adjudicated Applications:

The Tribunal's performance on this output will be measured by the percentage of decisions and orders issued within 30 or 40 days depending on whether a case is decided on paper only or parties give evidence before the Tribunal. The longest targeted turn-around time for adjudication is 40 days. The planned annual performance in 2020-2021 is 90%. This is intended to increase to 95% in the last year of the MTEF period.

(b) Resolved disputes:

The Tribunal's performance on this output will be measured by the percentage of cases finalized within 25 days in terms of appropriate Dispute resolution (ADR). Thus, the Tribunal planned turn-around time for resolution of disputes is a shorter period than even that of adjudicated applications. The planned annual performance in 2020-2021 is 90%. This is intended to increase over the MTEF Period.

(c) Increased user uptake of Case Management System

The Tribunal implemented the electronic case management system (Case Management System) in August 2019. Following the implementation of CMS, the targeted output of the Tribunal is to increase user uptake. The Tribunal's performance will be measured by the percentage of the user uptake as an output indicator. The planned performance for 2020-2021 is 50%. The percentage increased to 95% at the end of the MTEF period. The low base at the beginning of the MTEF is due to the fact that the users are external thus the tribunal will have little control over the output result except through marketing and or stakeholder engagement efforts.

(d) Staff retention

During the 2019-2020 financial year, the Tribunal has recruited all but one of the funded and vacant positions. Most of the new recruits are women who also fall within the youth bracket. In 2020-2021 financial year, the Tribunal intends to focus on staff retention. Thus, staff retention is one of the Tribunal's outputs over the three years. Retention strategies will include training of staff from which these young women will benefit.

The Tribunal's performance on this output will be measured by the percentage of the staff retained. The starting base in 2020-2021 financial year is 85%. This target stays the same over the three years due the Tribunal's under-funding. The under-funding limits the number of retention incentives the Tribunal may offer. The limitations on staff incentives and the anxiety created by the knowledge of limited funding, are likely contributors to the Tribunal's high staff turn-over.

(e) Stakeholder engagement

The Tribunal's indicators on this output include hosting one (1) seminar, and two (2) media statement. This output carries the most amount of activities (indicators) because, as stated above, the since 2016/2017 the number of cases received by the Tribunal has been in decline. Unless the public is aware of the Tribunals services, the Tribunal will not achieve its mandate. Creation of public knowledge and interest around the mandate of the institution is therefore critical.

(f) Research Report or developed rules or guidelines.

Production or research reports or rule or guidelines is amongst the Tribunal's planned outputs. The Tribunal's performance will be measured by the number of research reports/rules/guidelines produced /reviewed and approved. The number of reports or rules or guidelines produced or reviewed targeted is planned to stay constant over the three years. This is because the unit Research is currently unfunded and unfilled. It is foreseeable that with more funding and better staffing, the output number may change over the three years.

7. Programme Resource Considerations

7.1 Financial Plan

The grant allocation for the year 2019/20 reflect the estimated amounts allocated on ENE. From the year 2020/21 to 2022/33, the Tribunal based the budget estimate on the allocation letter received from **the dtic**. The funds allocated over the MTEF period are insufficient for the Tribunal to continue as a going concern. There is a need to increase the Tribunal's baseline for it to be able to pay for its operating and administrative expenditure. The spending focus over the MTEF period will be on providing the services as stipulated in the Companies Act, ongoing maintenance of the electronic case management system and ensuring that there are advocacy services to make the services of the Tribunal known to the public.

Over the MTEF period, the Tribunal 's grant allocation is projected to increase from R17,3 million in (2019/20) to R19,9 million in (2022/23). The allocated funds for each financial year are insufficient to meet the operational requirements of the Tribunal and to fill all unfunded posts on the approved organisational structure. The unavailability of funds affects the going concern of the Tribunal.

The Tribunal is exploring options of generating its own revenue through charging filling fees, but this process might take some time to materialise due to extensive consultations and planning required. However, the fees expected to be generated from filling fees would not be enough to fund day to day operational and administrative expenditure of the Tribunal. This process also involves the amendment of the Companies Act.

The Tribunal's major expenditure is on compensation of employees and Tribunal member's fees, with no surplus to fill additional post as approved on the organisational structure. Due to inadequate funding, the amount estimated for member's fees is inadequate as cases are expected to increase hence the funding for fees needs to be increased proportionally.

(i) Projections of revenue and expenditure

STATEMENT OF FINANCIAL PERFORMANCE	Audited outcome			Revised estimate	Medium-term estimate			
	R thousand	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Revenue								
Non-tax revenue	1,383	1,259	819	846	250	11	8	
Transfers received	15,069	15,822	16,740	17,352	16 167	19 233	19 952	
Donations received/Revenue in-kind	1,266	1,393	1,532	1,685	1 854			
Income from surplus funds	-	-	-	4,267	3 120	-	-	
Total revenue	17,718	18,474	19,091	24,150	21 391	19 244	19 960	
Expenses								
Current expenses								
Compensation of employees	11,725	12,333	11,692	13,706	13 771	15,924	17,037	
Goods and services	8,677	9,102	8,430	10,242	14, 048	3,320	2, 923	
Depreciation	223	302	259	202	277			
Total expenses	20,625	21,737	20,381	24,150	21 391	19,244	19,960	
Surplus/ (Deficit)	(2,907)	(3,263)	(1, 290)	-	-	-	-	

(ii) Budget Allocation per Programme

Programme Name: Adjudication							
Economic classification	Audited outcome			Revised Estimates	Medium-Term Expenditure Estimate		
	2016/17 R '000	2017/18 R '000	2018/19 R '000	2019/20 R '000	2020/21 R '000	2021/22 R '000	2022/23 R '000
Current payment							
Member's fees	3,513	3,117	2,826	3,032	2,492	2,567	2,095
Goods and services	713	849	180	387	127		
Payments of capital assets Building and other fixed structure Machinery & equipment	-	-	-	-	-	-	

Programme Name: Administration							
Economic classification	Audited outcome			Revised Estimates	Medium-Term Expenditure Estimate		
	2016/17 R '000	2017/18 R '000	2018/19 R '000	2019/20 R '000	2020/21 R '000	2021/22 R '000	2022/23 R '000
Current payment							
Compensation of employees	11,725	12,333	11,692	13,706	13,771	15,924	17,037
Goods & services, etc.	4,674	5,438	5,683	7,025	4,971	753	828
Payments of capital assets							
Building and other fixed structure	-	-	-	161	-	-	-
Machinery & equipment	458	1,200	521	758	30		

8. Key Risks

Outcome	Output Indicator	The Risk	Root causes	Risk Mitigation
1. Improved access to the justice system	1.1. The number of applications adjudicated or finalized within the stipulated turn-around times.	Decline in applications	• Limited mandate	• Investigative study on the root causes
			• Inconsistency in members decisions	• Amendments proposed to the Act • Expansion of mandate through other legislation
			• Unenforceability of some decisions	• Training • Workshops
			• Perceptions of bias in decision making	• Public engagements
			• Delays in decision making /resolutions	• Guidelines and consistent consequence management
			• Limited marketing	• Creative use of affordable marketing tools • Partnering with other relevant stakeholders
	1.2. The number of applications resolved or finalised through Alternative Dispute Resolution (ADR)	Voluntary nature of ADR	• The Act states that ADR is not compulsory	• Amendments proposed to the Act (make ADR compulsory) • Public education of benefits of ADR
2. Operational Effectiveness	2.1 Percentage of uptake (use) of the Case Management System	Low uptake on new case management system (CMS)	Resistance to change Limited access to technology	Increased stakeholder education/marketing Use of wi-fi availability
	2.2 Number of stakeholder engagements held	Limited funds to do engagements	Limited funding	Increased engagements with the dtic
	2.3 The percentage of staff retained	Loss of institutional memory		Increased engagements with the dtic Increase non-monetary rewards

9. Materiality and Significance of Framework

9.1 Statutory requirements

In terms of the Treasury Regulation 28.3.1, Accounting Authorities must “for purposes of material [section 55(2) of the Act] and significant [section 54(2) of the Act], develop and agree a framework of acceptable levels of materiality and significance with the relevant executive authority.” The Tribunal is required by law to operate within the PFMA and its accompanying Treasury Regulations as a Schedule 3A public entity, the two above-mentioned sections of the Act are therefore very significant for operational and reporting purposes. Materiality and significance levels will be influenced by considerations such as legal and regulatory requirements.

9.2 Assessment and determination of materiality for the Tribunal

The Companies Tribunal has strengthened its control environment. This is evidenced by the fact that the Tribunal has been obtaining the clean audit opinion for the past four financial years. However, there are inherent risks associated with implementation of new unproven process, change in leadership as a result of appointment and resignation and/or retirement of staff and may result in lack of teamwork. The risks must be however discounted by the unqualified audit report obtained by the Tribunal over the past six years and the significance of the related audit findings. This therefore requires the entity to set the threshold at a reasonably conservative level of the Treasury guideline matrix.

The following guideline will be applied to the basis selected:

The best indicator with regard to the Tribunal’s non-capital-intensive business activity is the higher of revenue or expenditure. For this reason, 0.60% of budgeted expenditure is chosen with regard to this framework, and this basis is consistent with prior years.

9.3 Annual review of materiality

The materiality framework and significance levels will be reviewed each financial year in line with the preparation of the annual performance plan by management based on the levels of risks and the adequacy of the internal controls and accounting systems.

Part D: Technical Indicator Descriptions (TID)

Output 1: Applications Adjudicated within the turn-around time	
1. Indicator title	Percentage of decisions and orders issued within 40 working days after the final date of the hearing.
2. Short definition	<p>Percentage of cases resolved within 40 days after the final hearing date or final submission by parties, whichever is applicable.</p> <p><i>Final hearing date refers to the last date of hearing of a matter of a Tribunal sitting or the last date of submission of documentation requested by the Tribunal Member at the final hearing.</i></p> <p><i>Days refer to working days excluding weekends, public holidays and days on which CT is officially closed.</i></p>
3. Purpose/importance	The entity shows its efficiency and effectiveness in managing cases and the turnaround times to revert to the applicants after the date of hearing.
4. Source/collection of data	Electronic case management system report or Excel spread sheet and reports which reflect date received, date of final hearing, date finalized and date of issuing order/decision
5. Method of calculation	The number of decisions and orders issued within 40 working days after the last hearing date divided by the total number of hearings concluded and multiply by hundred. The number of hearings concluded where the 40 working days of issuing a decision or order fall outside the reporting period will not be calculated. The number of decisions or orders issued after the 40 working days after the last day of the hearing will not be counted as percentage achieved but will be counted as total number of hearings concluded.
6. Data limitations	Incorrect capturing of data
7. Type of indicator	Quantity – output
8. Calculation type	Cumulative – it is calculated on a quarterly basis to obtain the annual target
9. Reporting cycle	Monthly
10. New indicator	No – continuous from the previous financial year
11. Desired performance	Target - performance 90% - 95%
12. Indicator responsibility	Manager: Registry

Output 2: Applications Adjudicated within the turn-around time	
1. Indicator title	Percentage of decisions and orders issued within 30 days after the date of allocation
2. Short definition	Percentage of cases resolved within 30 days after the allocation date. <i>Date of allocation refers to the date of sending an e-mail allocating a case to a Tribunal member or the last date of submission of documentation requested by the Tribunal Member within 5 business days of allocation.</i> <i>Days refer to working days and exclude weekends, public holidays and days on which CT is officially closed.</i>
3. Purpose/importance	The entity shows its efficiency and effectiveness in managing cases and the turnaround times to revert to the applicants after the date the case was allocated.
4. Source/collection of data	Electronic case management system report or Excel spread sheet and reports which reflect date received, date allocated, date finalised and date of issuing decision/ order
5. Method of calculation	The number of decisions and orders issued within 30 working days after the date of allocation divided by the total number of allocated cases and multiply by hundred. The number of allocated cases, where the 30 working days of issuing a decision or order fall outside the reporting period will not be calculated. The number of decisions or orders issued after the 30 working days after the last day of the allocation will not be counted as percentage achieved but will be counted as total number of cases allocated.
6. Data limitations	Incorrect capturing of data
7. Type of indicator	Quantity – Output
8. Calculation type	Cumulative – it is calculated on a quarterly basis to obtain the annual target
9. Reporting cycle	Monthly
10. New indicator	No – continuous from the previous financial year
11. Desired performance	Target 98% - 100%
12. Indicator responsibility	Manager: Registry

Output 3: Disputes Applications resolved (Alternative Dispute Resolution) within the turn-around time	
1. Indicator title	Percentage of cases finalised ⁶ in terms of Alternative Dispute Resolution (ADR) within 25 working days after the date of final hearing or final submission by parties, whichever is applicable
2. Short definition	Percentage of cases finalized in terms of ADR within 25 working days after the date of final hearing or final submission by parties whichever is applicable <i>Hearing refers to a sitting of mediation, conciliation or arbitration as agreed by the parties.</i> <i>Finalized refers to instances where a certificate of failed ADR has been issued, arbitration award issued, order issued or withdrawal of the matter by the applicant, settlement agreement reached by parties or mediation report issued by the facilitator(s)⁷ within 25 working days after the date of final hearing.</i> <i>Date of final hearing refers to the last day set for mediation, conciliation or arbitration of a matter or the last date of submission of documentation requested by the facilitator at the final hearing from the party/ies</i> <i>Days refer to working days excluding the holidays, weekends and days on which the CT is officially closed.</i>
3. Purpose/ importance	The entity shows its effectiveness in terms of handling the ADR cases and the finalization of cases to revert to the applicants after the hearing of the case.
4. Source/collection of data	Electronic case management system report or excel spreadsheet and report will reflect the date received, the date of hearing and the date of finalizing of the case.
5. Method of calculation	The number of cases finalized in terms of ADR within 25 working days after the date of final hearing divided by the total number of cases set down for hearing multiplied by hundred. The total number of cases set down for hearing outside of the reporting period will not be counted including cases that were set down for hearing during the reporting period but were postponed allowing the parties to deal with the matter outside of the Tribunal mediation, conciliation and arbitration processes. The number of cases set down for hearing where the 25 working days for finalizing the case fall outside the reporting period will not be calculated. The number of cases finalized after the 25 working days after the date of final hearing will not be counted as percentage achieved but will be counted as total number of hearings set down for hearing.
6. Data limitations	Incorrect capturing of data
7. Type of indicator	Quantity – Output
8. Calculation type	Cumulative- it is calculated on quarterly bases to obtain an annual target.
9. Reporting cycle	Quarterly
10. New indicator	No
11. Desired performance	To retain the 100% baseline
12. Indicator responsibility	Manager: Registry

⁶ Finalised refers to instances where certificate of failed ADR has been issued, consent order issued or withdrawal of the matter by either party, settlement agreement reached by both parties or mediation report issued by the Tribunal Member(s)

⁷ Facilitator and Tribunal Member means the same thing or person

Output 4: Case Management System (CMS) user uptake	
1. Indicator title	Percentage of applications received online
2. Short definition	Online application means application submitted by an applicant using the system. Total number of cases means number of application captured online.
3. Purpose/ importance	The CMS is intended to enhance CT's efficiency, effectiveness and to modernize the application system for the benefit of both CT and the public entity shows its effectiveness in.
4. Source/collection of data	Electronic case management system report
5. Method of calculation	Number of applications received online divided by the number of cases multiplied by hundred
6. Data limitations	Incorrect capturing of information
7. Type of indicator	Quantity – Output
8. Calculation type	Cumulative- it is calculated on quarterly bases to obtain an annual target.
9. Reporting cycle	Quarterly
10. New indicator	Yes
11. Desired performance	To start form a baseline of 50%
12. Indicator responsibility	Manager: Registry

Output 5: Retained staff	
1. Indicator title	Percentage of staff retained
2. Short definition	The percentage of staff that is retained <i>Retained/ Retention means that the Tribunal has not lost staff as a result of resignations</i>
3. Purpose/importance	To ensure that employees do not resign so that there is limited interruption in service delivery and institutional knowledge and investment in employee development is realized
4. Source/collection of data	Resignation letters, salary reports and budget
5. Method of calculation	Total number of funded filled positions at the beginning of the year minus total number of staff resigned during the year, divided by total number of funded filled positions at the beginning of the financial year, multiplied by hundred
6. Data limitations	Human error
7. Type of indicator	Quantitative – Output
8. Calculation type	Cumulative
9. Reporting cycle	Quarterly
10. New indicator	No
11. Desired performance	Continuous employment with the Companies Tribunal ensuring a low staff turnover rate
12. Indicator responsibility	Human Resources

Output 6: Stakeholder Engagements	
1. Indicator title	Number of seminars held hosted
2. Short definition	Host a seminar on a research topic <i>Host means organize and present/ collaborate/ partner</i>
3. Purpose/importance	To create awareness and educate the public about services of CT and promote a positive corporate image
4. Source/collection of data	Transcript of the seminar and/or attendance register
5. Method of calculation	Seminar report and/or attendance register
6. Data limitations	Lack of resources (Human and Capital)
7. Type of indicator	Quantitative – Output
8. Calculation type	Cumulative
9. Reporting cycle	Quarterly
10. New indicator	No
11. Desired performance	Public awareness, accessibility and stakeholder management
12. Indicator responsibility	Manager: Communication and Marketing

Output 7: Stakeholder Engagements	
1. Indicator title	Number of media engagements (media statements and radio activities)
2. Short definition	Release 2 media statements in newspapers to create awareness of the services provided by the CT to the public and stakeholders by end of the year Participate in one radio activities to create awareness and educate the public about services of the Companies Tribunal <i>Release means to publish in newspaper(s) or online media</i> <i>Activities means interviews/advertisement or live reads</i>
3. Purpose/importance	To create awareness and educate the public about services of CT and promote a positive corporate image
4. Source/collection of data	Media statements or advertorial Shared drive Radio clip or advertorial or letter from radio station confirming that the interview or advert took place.
5. Method of calculation	Manual counting of media statements or advertorials and radio clip or letters from radio stations.
6. Data limitations	Lack of resources (Human and Capital)
7. Type of indicator	Quantitative – Output
8. Calculation type	Cumulative
9. Reporting cycle	Quarterly
10. New indicator	No, continuous from previous year
11. Desired performance	Public awareness, accessibility and stakeholder management
12. Indicator responsibility	Manager Communication and Marketing

Output 8: Research Report (Build a body of knowledge around company law and alternative dispute resolution)	
1. Indicator title	Number of research reports or rules produced and approved
2. Short definition	<p>CT should conduct research with other similar entities to develop rules for adjudication and arbitration</p> <p><i>Rules means a set of regulation or principles governing conduct or procedure relating to arbitration or adjudication</i></p> <p><i>Produced means approved by the Chairperson for internal use and circulated internally on the shared folder</i></p>
3. Purpose/importance	To enhance CT approach on delivering on its mandate as a preferred adjudicator
4. Source/collection of data	Filed research reports on shared drive
5. Method of calculation	Manual counting
6. Data limitations	Human error
7. Type of indicator	Quantity – Output
8. Calculation type	Cumulative
9. Reporting cycle	Quarterly
10. New indicator	Yes
11. Desired performance	To enhance CT’s capacity to deliver on its mandate in terms of section 195 of the Companies Act, 2008
12. Indicator responsibility	Researcher or manager assigned the functions