



# **THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY**

## **COMPANIES TRIBUNAL 2018/2019 Annual Report & 1<sup>st</sup> & 2<sup>nd</sup> Quarter Performance Report 2019/20**

**27 November 2019**

# DELEGATION

1. Dr. Mohamed Alli Chicktay  
(Chairperson: Companies Tribunal)  
072 400 5072
2. Ms 'Maletlatsa Monica Ledingwane  
(Chief Operating Officer)  
073 766 8866
3. Ms Irene Mathatho  
(Chief Financial Officer)  
083 781 4291

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# 1. BACKGROUND AND MANDATE

## 1. Establishment:

- a) Companies Tribunal (CT) was established in under section 193 of the Companies Act, 2008;
- b) Started operating in September of 2011.

## 2. Mandate in terms of Section 195:

- a) Adjudication;
- b) dispute resolution through ADR and Perform;
- c) any other function assigned by Act or in Schedule 4.

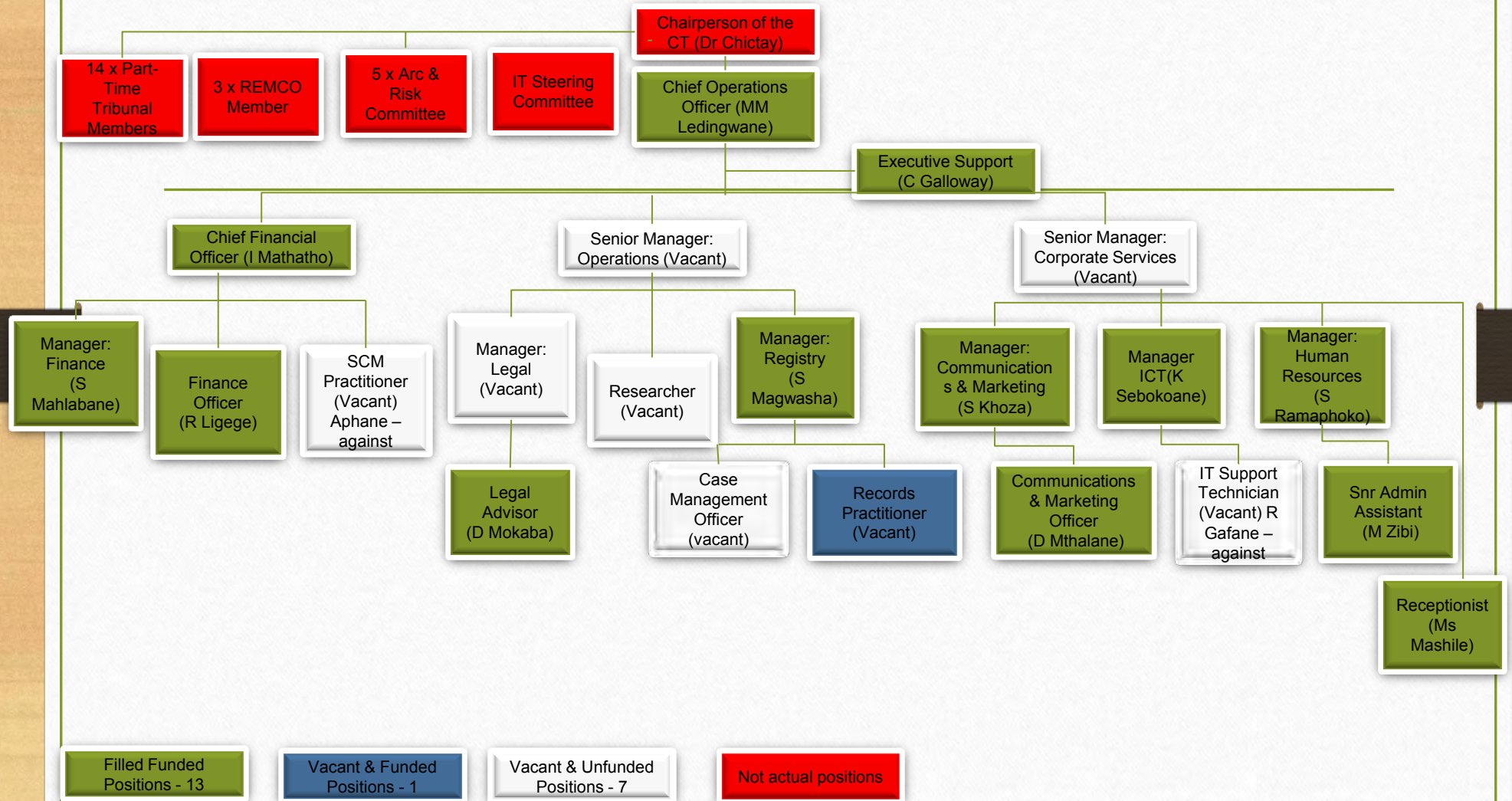
## 3. Independence: Subject to constitution and law.

## 4. Vision: world class adjudicatory and dispute resolution organisation that contributes to promotion of fair and ethical business practices.

## 5. Composition: Chairperson and 12 Members (Acting Judges, 2 Law Professors, 2 Advocates, Attorneys, Accredited Mediators).

## 6. Staff Compliment: 12 staff members.

# 2. CT ORGANOGRAM AS AT 30 SEPT 2019



### 3. BENEFITS OF THE TRIBUNAL'S SERVICES

1. Cost effective compared to litigation- Offered at no cost & no need for legal representation.
2. Informal and flexible able to respond to emerging challenges and provide innovative solutions.
3. Preserve business relationship that are critical to sustain business operations- not acrimonious.
4. Parties control the outcome of the case and thus limit financial risk and the risk of uncertain outcomes associated with litigation.
5. Manage reputational risks – confidential.
6. Mutually beneficial settlement agreement – not imposed.
7. Settlement can be made an order of court- save time and cost.

# 4. ANNUAL PERFORMANCE PLAN 2018/19 OUTPUTS

1. Programme 1: Adjudication
  - 1.1 Achieving set target of issuing of decisions
  - 1.2 Achieving set targets in the finalization of disputes
  
2. Programme 2: Administration
  - 2.1 Case Management System (CMS)
  - 2.2 Research
  - 2.3 Staff Retention
  - 2.4 Advocacy Services
  - 2.5 Sound Financial Management

# 5. CONTRIBUTION TO THE NATIONAL DEVELOPMENT PLAN

NDP Requirements	Strategic outcome oriented Goals	Companies Tribunal Achievements
Reduce cost of regulatory compliance	Adjudicate and make orders in relation to any application	93% issued within 30 days from date of allocation 100% of decisions issued within 40 days from date of hearing and
	Resolution of disputes in terms of Alternative Dispute Resolution (ADR)	All (100%) ADR cases were finalized within the planned 25 days (Target=100%)
Broaden participation- more inclusive economic growth	Ensure operational effectiveness and efficiency of the Tribunal	76% of procurement from level 1, 2 and 3 contributors 100% of suppliers paid within 30 days (91% paid within 15%)
A capable and developmental state: institutional capability	Ensure operational effectiveness and efficiency of the Tribunal	CT received a clean audit report



## 6. KEY HIGHLIGHTS 2018/19 ANNUAL REPORT

### 1) On Programme 1 Adjudication:

**a) Targets:** Exceeded all three targets for adjudication and arbitration of cases:

- i. 93% of unopposed cases were finalized within the planned 30 days (Target=90%);
- ii. All (100%) opposed cases were finalized within the planned 40 days (Target=90%);
- iii. All (100%) ADR cases were finalized within the planned 25 days (Target=100%).

**b) Legal Representation:** 95% lodged without legal representation.

**c) Social and Ethics Committee (SEC):** There was a 14% increase in the number of applications for exemption from appointing SEC.

# KEY HIGHLIGHTS 2018/19 ANNUAL REPORT

(continued)

## 2) On Programme 2 Administration:

a) **Targets:** All but one targets were achieved (case management system, partially);

b) **Adjudication Guidelines** developed;

c) **Advocacy:** Successful seminar on Alternative Disputes Resolution (ADR) in partnership with Mandela Institute -

i. **Approximately 150 attendees (academics and practitioners in the legal field);**

d) **Organizational Review** completed: Compliment reduction-28 to 21 posts.12 filled;

e) **Specialist Committee on Company Law:** Gave input to enhance CT mandate.

# KEY HIGHLIGHTS 2019/20 ANNUAL REPORT (continued)

## 3) Financial Management:

- a) No irregular expenditure incurred;
  - b) All issues raised by the Auditor General addressed;
  - c) Achieved clean audit report for the fourth consecutive year.
- 4) 100% Suppliers paid 30 days (91% within 15 days).
- 5) 100% compliance with Cost Containment National Treasury Instruction.
- 6) Strategic risks identified and properly managed.
- 7) Various monitoring tools such as Risk register and Internal Control Drivers DashBoard show improvement in performance.

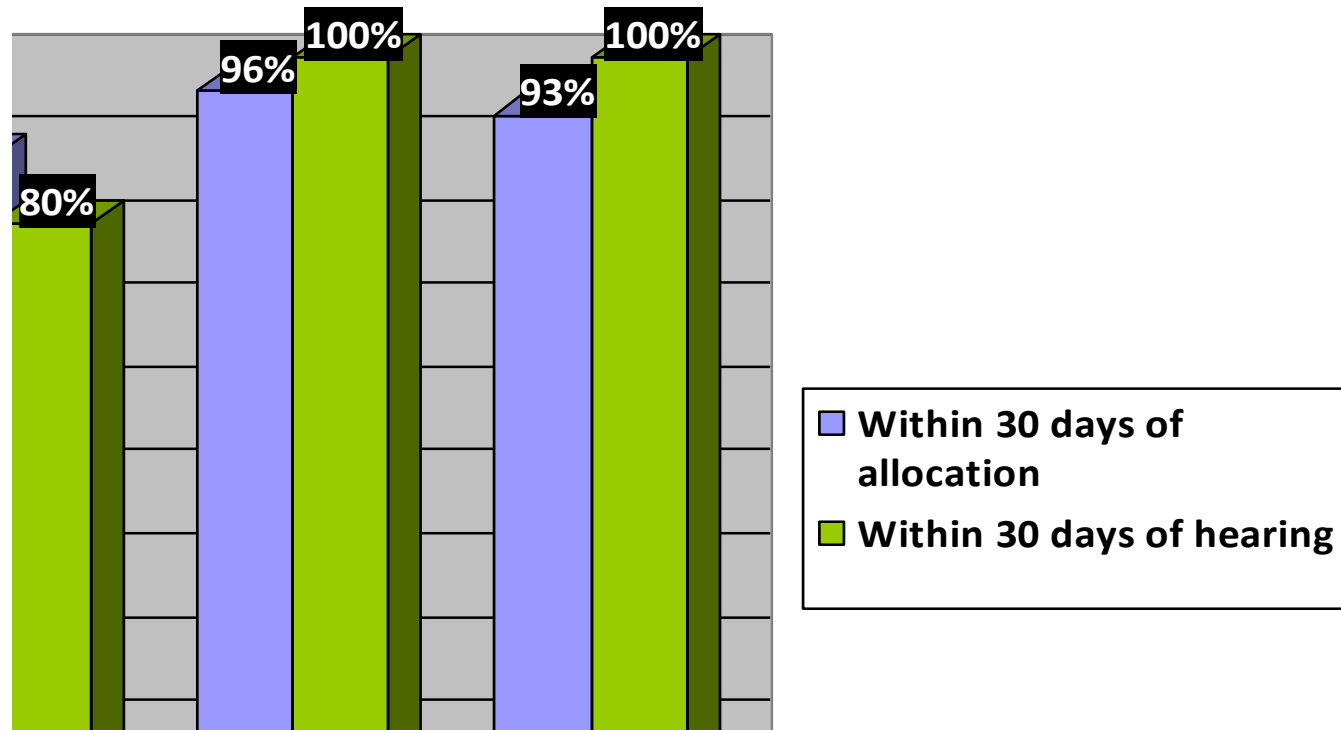
# 7. TOTAL AND NATURE OF CASES HANDLED

## Comparison of cases handled in five-year period: 2014/15-2018/19 FY

Nature of cases	2014/2015	2015/16	2016/17	2017/18	2018/19
1. Access to records	1	1	0	0	0
2. Change to the financial year end	6	0	0	0	0
3. Company restoration	0	0	0	0	0
4. Review of compliance notice	2	5	9	8	2
5. Directors' dispute	10	13	27	30	35
6. Extension of time to prepare annual financial statements	5	3	3	0	0
7. Extension of time to convene AGM	9	14	14	9	4
8. Holding of an AGM	2	3	0	1	1
9. Name disputes	233	273	180	178	168
10. Outstanding information	1	0	0	0	0
11. Review of CIPC decision	2	2	6	2	6
12. SEC (S 72) (5)	36	57	29	24	28
13. S 2(3) exemption	0	0	1	0	0
14. S 6(2) exemption	4	1	2	2	0
15. Substituted service	4	5	1	0	0
16. Variation of Order	1	0	0	0	0
<b>Total</b>	<b>316</b>	<b>377</b>	<b>272</b>	<b>254</b>	<b>244</b>

'Handled cases' refers to new cases received in the financial year under review and carried over cases from previous financial year. 12

# 8. TURNAROUND TIME IN ADJUDICATION OF CASES



# 9. HUMAN RESOURCES

## Employment and vacancies

Programme	Number of employees 2017/18	Approved and funded posts 2018/19	Number of employees 2018/19	Approved and funded vacancies 2018/19	Percentage of vacancies
Administration	13	15	12	3	20%

Level	Number of employees 2017/18	Approved and funded posts 2018/19	Number of employees 2018/9	Approved and funded vacancies 2018/19	Percentage of funded vacancies
Top management	1	1	-	1	100%
Senior management	3	3	2	1	33%
Professional qualified	7	8	8	-	-
Skilled	2	3	2	1	33%
Total	13	15	12	3	20%

## 10. CHALLENGES

- a) **Funding/Budgetary Constraints**
- b) **Declining number of cases**
- c) **Limited Mandate challenges**
- d) **Facilities**
- e) **External dependencies**

# 11. BUDGET SPENT PER PROGRAMME 2018/19

2018-2019				2017-2018		
Programme	Budget	Actual Expenditure	(over)/ under Expenditure	Budget	Actual Expenditure	(Over)/ under expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
<b>Adjudication</b>	2 891	3 006	(115)	4 565	3 966	599
<b>Administration</b>	19 726	17 375	2 351	20 382	17 771	2 611
<b>TOTAL</b>	<b>22 617</b>	<b>20 381</b>	<b>2 236</b>	<b>24 947</b>	<b>21 737</b>	<b>3 210</b>



# 12. REVENUE COLLECTION 2018/19

2018-2019				2017-2018		
Source of Revenue	Budget	Actual Expenditure	(over)/ under Expenditure	Budget	Actual Expenditure	(Over)/ under expenditure
Government grant	R'000	R'000	R'000	R'000	R'000	R'000
Interest received	890	814	76	1 043	1 196	(153)
Other income	4 987	1 537	3 450	8 082	1 456	6 626
<b>TOTAL</b>	<b>22 617</b>	<b>19 091</b>	<b>3 526</b>	<b>24 947</b>	<b>18 474</b>	<b>6 473</b>

# 13. EXPENDITURE: 2018/19

2018-2019				2017-2018		
	Budget	Actual Expenditure	(over)/ under Expenditure	Budget	Actual Expenditure	(Over)/ under expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Employee related costs	13 622	11 692	1 930	13 515	12 333	1 182
Administrative expenses	1 914	1 411	503	3 198	2 357	841
Other Operating expenses	3 399	3 592	(193)	3 865	3 071	794
Tribunal members fees	2 650	2 826	(176)	3 548	3 117	431
External audit fees	621	602	19	585	553	32
Depreciation and Amortisation	411	259	152	236	302	(66)
<b>TOTAL</b>	<b>22 617</b>	<b>20 382</b>	<b>2 235</b>	<b>24 947</b>	<b>21 733</b>	<b>3 214</b>

# 14. HISTORICAL FINANCIAL PERFORMANCE

Year	Grant received	Actual Revenue	Actual Expenditure	Surplus/ (Deficit)	Grant % increase
2011/12	10 000 000	10 000 000	-	10 000 000	
2012/13	10 137 000	10 385 000	3 206 000	7 179 000	1.37
2013/14	10 337 000	11 327 000	8 466 000	2 861 000	1.97
2014/15	13 313 000	14 852 348	13 891 332	961 016	28.79
2015/16	14 221 000	16 774 867	20 109 502	(3 334 635)	6.82
2016/17	15 069 000	17 718 063	20 622 776	(2 904 713)	5.96
2017/18	15 822 000	18 474 316	21 737 439	(3 263 123)	5.00
2018/19	16 740 000	19 091 184	20 381 465	(1 290 281)	5.80

# 15. PROGRESS ON ISSUES RAISED BY THE AUDITOR GENERAL

AGSA Findings	Actions to address audit findings
Inaccurate number of days reported in the case register	Registrar appointed and does the monthly review and the electronic Case Management system will serve as a solution going forward
The amount disclosed in the commitment register and the commitment note do not agree	Completed and addressed during the audit process
The amount recorded on the Trial Balance and in the notes for the receivables do not agree	Completed and addressed during the audit process



# COMPANIES TRIBUNAL

## 1st & 2nd Quarter Performance Report 2019/20

# MANAGEMENT OF CASES

## Quarter 1 and 2

<b>PROGRESS STATUS</b>	<b>ADJUDICATION (QTR 1)</b>	<b>ADJUDICATION (QTR 2)</b>	<b>ADR (QTR 1)</b>	<b>ADR (QTR 2)</b>
<b>Total number of cases</b>	91	117	17	20
<b>New cases received</b>	60	53	14	9
<b>Total cases finalised</b>	29 (decided)	39 (decided)	5	5
<b>Active files</b>	39	38	11	11



# EDUCATION AND AWARENESS INITIATIVES

- a. Published the Tribunal's Quarterly Bulletin Volume I 2019
- b. Participated in a consultative fact-finding workshop on Alternative Dispute Resolution (ADR) framework for small enterprises coordinated by the Department of Small Business Development (DSBD) in the following provinces: KwaZulu-Natal, Limpopo, Free State and Western Cape
- c. Reached out in King Cetshwayo (eShowe) and a meeting was held in Bloemfontein with the Free State Bar Council
- d. Published article on social media (LinkedIn) and the website, highlighting the launch of the Case Management System on 01<sup>st</sup> August 2019

## FINANCIAL MANAGEMENT

CATEGORY	QTR 1	QTR 2
<b>Budget spent</b>	23%	51%
<b>Irregular, fruitless and wasteful expenditure</b>	None	Fruitless and wasteful expenditure of R437
<b>Payment of suppliers</b>	100% within 30 days 85% within 15 days	100% within 30 days 94% within 15 days



# QTR 1 FINANCIAL PERFORMANCE

## FINANCIAL PERFORMANCE - 1ST QUARTER 2019/20

ITEM	ACTUAL YTD	ANNUAL BUDGET	VARIANCE	VARIANCE %
<b>Revenue</b>	<b>18 020 844</b>	<b>22 052 000</b>	<b>4 031 156</b>	<b>18</b>
Transfer from the dti	17 352 000	17 352 000	-	-
Interest Received	247 506	300 000	52 494	17
Other Income	421 338	4 400 000	3 978 662	90
<b>Expenditure</b>	<b>5 104 636</b>	<b>22 052 000</b>	<b>16 947 364</b>	<b>77</b>
Employee related costs	2 758 690	15 951 509	13 192 819	83
Other Operating expenses	1 345 631	1 140 762	(204 869)	(18)
Administrative expenses	323 114	1 460 729	1 137 615	78
Tribunal member's fees	605 593	2 687 000	2 081 407	77
External Audit fees	-	664 000	664 000	100
Depreciation and Amortisation	71 608	148 000	76 392	52
<b>Surplus for the year</b>	<b>12 916 208</b>	<b>-</b>	<b>(12 916 208)</b>	

# QTR 2 FINANCIAL PERFORMANCE

## FINANCIAL PERFORMANCE -2ND QUARTER 2019/20

ITEM	ACTUAL YTD	ANNUAL BUDGET	VARIANCE	VARIANCE %
<b>Revenue</b>	<b>18 668 755</b>	<b>22 052 000</b>	<b>3 383 245</b>	<b>15</b>
Transfer from the dti	17 352 000	17 352 000	-	-
Interest Received	474 080	300 000	(174 080)	(58)
Other Income	842 675	4 400 000	3 557 325	81
<b>Expenditure</b>	<b>11 252 635</b>	<b>22 052 000</b>	<b>10 799 365</b>	<b>49</b>
Employee related costs	5 808 609	15 951 509	10 142 900	64
Other Operating expenses	2 333 981	1 140 762	(1 193 219)	(105)
Administrative expenses	1 256 003	1 460 729	204 726	14
Tribunal member's fees	1 393 491	2 687 000	1 293 509	48
External Audit fees	299 669	664 000	364 331	55
Impairment loss	21 034	-	(21 034)	(100)
Depreciation and Amortisation	139 848	148 000	8 152	6
<b>Surplus for the year</b>	<b>7 416 120</b>	<b>-</b>	<b>(7 416 120)</b>	

# RESOURCES

## HUMAN RESOURCES

Approved establishment	QTR 1	QTR 2
Funded posts	14	14
Filled	10	13
Vacant	4	1

# Thank you!



**Companies Tribunal**

a member of **the dti** group