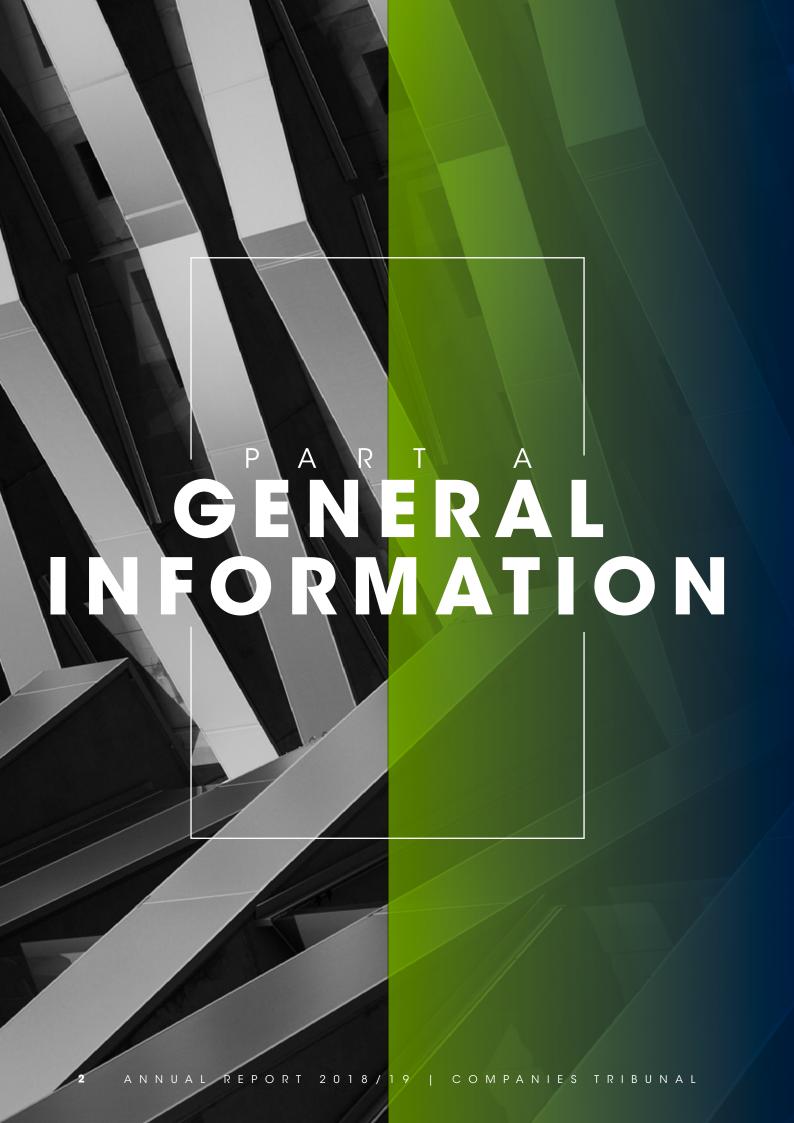




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#### 1. GENERAL INFORMATION

# LIST OF ABBREVIATIONS AND ACRONYMS

#### Registered name:

Companies Tribunal

#### Registered office address:

**the dt**i Campus Block E 3rd floor 77 Meintjies Street

Sunnyside Pretoria, 0002

#### Postal address:

Companies Tribunal PO Box 27549 Sunnyside Pretoria 0002

#### Contact information:

Reception: 012 394 1000 Registry: 012 394 3800/5800

E-mail address: info@companiestribunal.org.za

registry@companiestribunal.org.za

Website address: www.companiestribunal.org.za

#### **External auditors:**

Auditor-General of South Africa

#### **Bankers:**

Standard Bank of South Africa Corporation for Public Deposits

#### **Abbreviation Description**

ADR Alternative dispute resolution

Adv Advocate

AG Auditor-General of South Africa

AGM Annual General Meeting
ASB Accounting Standards Board

B-BBEE Broad-based black economic empowerment

BIG Business Innovation Group

CIPC Companies and Intellectual Property

Commission

CMS Case Management System

the dti Department of Trade and Industry
GEPF Government Employees' Pension Fund
GRAP Generally Recognised Accounting Practice
IoDSA Institute of Directors of Southern Africa

IT Information technology

NT National Treasury
PAYE Pay as you earn

PFMA Public Finance Management Act,

Act No1 of 1999

PPPFA Preferential Procurement Policy Framework

Act. Act No 5 of 2000

REMCO Remuneration and Human Resources

Committee

SAICA South African Institute of Chartered

Accountants

SAJEI South African Judicial Education Institute

SARS South African Revenue Service
SCM Supply chain management
SDL Skills development levy
SEC Social and Ethics Committee

SPV Special purpose vehicle
Tribunal Companies Tribunal

UIF Unemployment Insurance Fund

Unisa University of South Africa VAT Value-added Taxation



#### FOREWORD BY THE MINISTER

t is my pleasure to present the annual report of the Companies Tribunal for the 2018/19 financial year.

The results contained in this report coincide with the beginning of the 6th administration of the democratic South Africa.

The focus of the new administration is to boost economic growth and enable deeper levels of economic inclusion and transformation.

A new Department of Trade, Industry and Competition has been established, through a merger of **the dti** and Economic Development Department, which will drive the implementation of a more focused, high-impact industrial strategy.

Over the next five years, the focus will be on practical actions and improved governance, to pull our economy onto the higher growth levels we require to create decent work and entrepreneurial opportunities for many more South Africans, particularly young people. There are no quick fixes if we want to build this high-growth, high-employment, high-inclusion economy.

Using the resources and mandate of the trade, industry and competition portfolio, we will support efforts to unleash private investment and energise the state to boost economic growth and inclusion. This is an essential part of building confidence and the platform for job-creation.

The Companies Tribunal in carrying out its mandate, will have a critical role to play in this new industrial strategy.

As priorities for the new Administration we have outlined six focus areas in the trade, industry and

competition portfolio, within which the Companies Tribunal falls:

# First, to support improved industrial performance, dynamism and competitiveness of local companies.

These include developing Master Plans in priority sectors to help create conducive conditions for industries to grow, improve their industrial capacities and sophistication, focus more on export orientation and reclaim domestic market space lost to imports.

The Master Plans will be action-oriented, developed and carried out in partnership with business and labour and implemented in stages, so that we can move expeditiously.

## Second, to improve the levels of fixed investment in the economy.

Over the five year period from 2018/19, Government set a target of R1.4 trillion in new investment in the economy. The vast bulk of this must come from the private sector.

The state's role will be to enable higher levels of fixed investment (both domestic and foreign), through addressing infrastructure and skills gaps; and by partnering with the private sector through a range of incentives and financial packages.

# Third, to expand markets for our products and facilitate entry to those markets.

The single biggest initiative is the African Continental Free Trade Area (AfCFTA) which will connect 1.2 billion people into a single bloc where local products will be traded between countries, with minimal tariffs. These agreements lay the basis for

increased intra-African trade and can cement the continent's position as the next growth frontier.

The implementation phase was launched on 7 July 2019, at a Special African Union Summit meeting in Niger, with the intention to come into effect on 1 July 2020.

The Agreement will fundamentally change and reshape the South African economy. Already, exports to other African countries support about 250 000 South African jobs and it is the fastest-growing market for our manufactured exports.

#### Fourth, to promote economic inclusion.

This means opening up and changing our market structure, to bring more young people, women and Black Industrialists into the economy.

To enhance the growth of black industrialists, we will combine the efforts of the Department and its agencies into a seamless and coordinated programme. Over the next 5 years, we will support an additional 400 Black Industrialists' projects with financial support of R40 billion, through identifying sustainable businesses and promoting both industrialists, new enterprise formation and worker involvement in the enterprises, using a combination of private and public sector resources.

# Fifth, to promote more equitable spatial and industrial development.

A pillar of our industrial policy is to develop new investment clusters through special economic zones, revitalisation of industrial sites and support for business and digital hubs.

#### Sixth, to improve the capability of the state.

This means being more responsive to the needs of South Africa's entrepreneurs, moving faster in making decisions and carrying out functions, coordinating better between departments and agencies and creating a business-encouraging environment in which more investment and more job creation can take place.

Part of a smart state is partnering with domestic businesses to invest more in innovation and R&D, as new techniques, new products and new distribution platforms can move South Africa up the value-chain and enhance job creation.

All public entities will have to work with a greater sense of urgency to support government in achieving its ambitions for the new administration. This is what has been called the spirit of *khawuleza*, and it must define our approach both within Government and public entities to addressing the structures in the economy which impede growth, economic inclusion and job creation.

I would like to thank the Chairperson and Accounting Authority, Dr Mohamed Alli Chicktay, and his team for their work in the past year and wish them success in the year ahead to help build an economy that creates more jobs and grows faster and more inclusively.

EBRAHIM PATEL

MINISTER OF TRADE AND INDUSTRY

# 4. SUBMISSION OF THE ANNUAL REPORT TO THE EXECUTIVE AUTHORITY

t gives me great pleasure to present to the Minister the seventh annual report together with the Financial Statements of the Companies Tribunal for the period ended 31 March 2019. The report highlights the Tribunal's achievements for the year under review, which was marked by a significant improvement in the Tribunal's performance. The Financial Statements consistently reflect sound financial management of the Tribunal.

DR MOHAMED ALLI CHICKTAY

CHAIRPERSON COMPANIES TRIBUNAL 31 JULY 2019

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#### 5

#### REPORT OF THE CHAIRPERSON

he Tribunal is one of the suite of agencies established by Government to make South Africa an attractive investment destination. It is mandated in terms of Section 195 of the Companies Act (2008) to adjudicate applications, resolve disputes through Alternative Dispute Resolution (ADR) and perform any other function assigned to it by any law in Schedule 4 of the Act.

In delivering on this mandate, the Tribunal is expected to exercise and perform its function in line with the values enshrined in the Constitution of the Republic of South Africa. It is independent and performs its functions impartially, without fear, favour or prejudice, and in a transparent manner.

The effective and efficient resolution of company disputes by the Tribunal enhances investor confidence in the country's justice system, thus impacting positively on the economy.

As an alternative to the courts, it is crucial for the Tribunal's decisions to be delivered speedily and cost effectively, resulting in cost savings and minimum disruptions to businesses. Because of the informal nature of proceedings before the Tribunal as a quasi-judicial body, it is not necessary for parties to be legally represented. This informality is intended to make justice easily accessible to all South Africans. Furthermore, the Tribunal services are free of charge, thus giving ordinary South Africans access to justice that would otherwise be denied them by the prohibitive costs of litigation.

In line with its vision of being a world-class organisation, during the year under review, the Tribunal focused on enhancing operational efficiency, particularly in the turnaround times for delivering decisions. Paragraph 3.1.1 of this Report

on Programme 1: Adjudication shows that the Tribunal exceeded all the targets set for adjudication of cases and resolution of disputes.

Paragraph 3.2.1 of this Report on Programme 2: Administration, shows that all but one of the performance targets were met. The unmet target relates to the development and implementation of the Case Management System (CMS). This target was only partially met due to complex errors identified. The Tribunal foresees that the CMS will be implemented by the second quarter of the next financial year.

The number of new adjudication cases decreased by 1% compared with the previous financial year. Of these new cases, 3% related to extensions of time for holding AGMs, 70% to name disputes, 11% to directorships disputes, 15% to exemption from establishing a Social and Ethics Committee (SEC), and 1% to review of compliance orders or notices issued by the CIPC. Similar to the previous financial years, most new cases related to name disputes.

New cases and old cases from the previous year totalled two hundred and forty four (244). One hundred and twenty three (123) were processed and finalised, fifty nine (59) were closed, sixty two (62) remained outstanding at financial year-end, mainly due to the need for compliance with the statutory filing period before a matter may be adjudicated.

93% of un-opposed cases were finalised within 30 days of the date of allocation, compared to 96% in the last financial year. All opposed cases were decided within 40 days of the date of hearing, as in the previous financial year.

Six ADR cases were allocated to members during the financial year. All six cases were finalised within 25 days of the date of allocation or final date of hearing.

The establishment of Social and Ethics Committees (SECs), as required in terms of the Act, is intended to promote good corporate governance and safeguard the interests of stakeholders. SECs monitor the companies' activities, ensuring compliance with legislation and other legal requirements relating to social and economic development, employment equity, broad-based black economic empowerment (B-BBEE), corruption and the environment, health and public safety. Failure by companies to establish SECs may have a detrimental impact on the economy, resulting in harm to communities, consumers, the environment and sustainability of enterprises in the long term.

There was a 14% increase in the number of applications for exemption from appointing a SEC compared to 2017/18. Most of these were from the energy, financial and property sectors. The main reasons advanced by companies for application for exemption were due to the nature and extent of their activities and that it was not in the public interest to establish a SEC.

There was a 0.5% decrease in the number of new ADR cases compared to 2017/18. This indicates a need for engagement with stakeholders, especially the legal fraternity, to secure buy-in to use the Tribunal and not the courts as the dispute resolution forum of first instance. On average it takes 240 court days for a civil case to conclude compared to fewer than 25 days for ADR under the Tribunal.

The Tribunal hosted a successful seminar on ADR in partnership with the Mandela Institute to encourage legal practitioners and businesses to take advantage of the free services offered by the Tribunal. Parties involved in company disputes are urged to use this service as the parties have control of the pace of proceedings and the outcome. The Tribunal's ADR mechanism is informal, speedy,

reduces the cost of doing business and saves time on protracted litigation. These attributes make it an ideal dispute resolution option in a fast-moving and changing business world. The Tribunal encourages applications without legal representation.

ADR disputes were mainly on directorships and shareholding disputes, payment of dividends and access to financial statements. Of the total number of applications for adjudication and ADR cases during the year, 95% were lodged without legal representation. This is an increase of 68% of clients without legal representation compared to previous year. In addition, the Tribunal holds ADR facilitation sessions coutry-wide depending on the parties' location.

To promote awareness of its services, the Tribunal conducted outdoor advertising; undertook print, social media and electronic media campaigns, and engaged with stakeholders. For the first time, since establishement of the Tribunal, a billboard was erected in Cape Town to raise awareness of the Tribunal's services.

The Tribunal continues to participate in the Specialist Committee on Company Law headed by Prof Michael Katz, and contributes to the development of company law in general. The Tribunal proposed amendments to the Companies Act and continues to liaise with the Department of Trade and Industry (the dti) on progress. There is hope that the amendments will enhance the Tribunal's mandate.

To enhance efficiency, the Tribunal developed the Adjudication Guidelines. The tribunal also creates awareness of and promotes public accessibility to the adjudication services of the Tribunal. The Guidelines were produced to promote public confidence and trust in the arbitration process of the Tribunal as an alternative to courts.

Based on lessons learnt since inception, the Tribunal conducted an organisational review as part of efficiency improvements to ensure that it is adequately and properly resourced to carry out its mandate. As a result, the total number of posts was reduced from 28 to 21. With limited funding, it remains a challenge to fill all 21 posts. Currently only 12 are filled.

As in the previous year, attention to internal control and sound financial management ensured that no irregular expenditure was incurred. However, fruitless and wasteful expenditure amounting to R565 was incurred during the year. All issues raised by the Auditor-General during the previous financial year's audit were addressed.

The Tribunal received a clean audit report from the Auditor-General of South Africa for the fourth consecutive year. This confirms continuous commitment to good governance, and accountable administration. The annual financial statements fairly represent the Tribunal's financial position and performance for the year under review.

There are no material facts or circumstances that affect or could affect the financial position of the Tribunal as a going concern. However, funding is insufficient for the Tribunal to carry out its mandate, resulting in a deficit of R1 290 281 for the year under review compared to a deficit of R3 263 123 in the previous financial year. The Tribunal will continue to engage **the dti** on increasing the baseline funding. The Tribunal supports the development of small, medium and micro enterprises and B-BBEE enterprises. 76% of its procurement sourced from B-BBEE levels 1, 2 and 3 contributors. It paid 100% of suppliers within 30 days, with 91% paid within 15 days.

Major challenges during the year include, a limited mandate and a decrease in new cases (expected to be remedied by the pending amendments to the Companies Act), inadequate and inappropriate hearing rooms and budgetary constraints, resulting in a budget deficit. The development and implementation of the case management system (CMS) took longer than anticipated, but, by year-

end, development was at an advanced stage. The system should be operational in the next financial year. In spite of these challenges, I am confident that the Tribunal has delivered on its mandate.

Following the departure of the full-time Tribunal member, efforts were put in place to ensure continuous operational and strategic leadership in the Tribunal. The position of the Chief Operations Officer was advertised nationally to attract and recruit a credible leader for the Tribunal. The recruitment process is advanced and it is expected that an appointment will be made in the first quarter of 2019/20.

I take this opportunity, on behalf of the Tribunal, to thank the former Executive Authority, Dr Rob Davies. I thank the Director-General of the Department of Trade and Industry, Lionel October, and his team for their continued leadership and support. My appreciation also goes to the Auditor-General of South Africa, my fellow Tribunal members, Audit and Risk Committee (ARC) members, Remuneration and Human Resources Committee (REMCO) members, Information Technology (IT) Steering Committee members, the internal auditors and the management and staff of the Tribunal for their commitment and outstanding contributions.

I am committed to ensuring that the Tribunal remains a world-class organisation whose core values ensure its ethics, efficiency and excellence, and, most importantly, its continued ability to serve the people of South Africa.

**DR MOHAMED ALLI CHICKTAY** CHAIRPERSON

COMPANIES TRIBUNAL 31 JULY 2019



#### 6. STRATEGIC OVERVIEW

#### 6.1 VISION

To be a world-class adjudicatory and disputeresolution organisation that contributes to the promotion of fair and ethical business practices.

#### 6.2 MISSION

- To adjudicate applications made in terms of Section 195 of the Companies Act (2008) and make orders in respect of such applications, and
- To facilitate the resolution of companies disputes through conciliation, mediation and arbitration.

#### 6.3 VALUES

- Accountability: Delivering on our plans and commitments and taking responsibility for our conduct;
- Impartiality: Conducting ourselves in a fair and just manner, without fear, favour or prejudice;
- Transparency: To be reasonably open about our policies, procedures and conduct;
- Equitability: To be fair and just to all persons, as dictated by reason, policies and norms of the Tribunal:
- **Efficiency:** To produce outputs expeditiously, with optimum use of resources;
- Accessibility: To be readily available to the public and stakeholders;
- Professionalism: To be courteous, punctual and responsible in adhering to policies, values and the code of conduct of the Tribunal when dealing with the public and other stakeholders;
- Respect: To treat all people with dignity and honour in accordance with the values of the Tribunal;
- **Ethical:** To act with integrity and to be guided by the Tribunal's code of conduct and policies.



# LEGISLATIVE MANDATE

Through its adjudicative mandate, the Tribunal plays a significant role in upholding and preserving the principles enshrined in the Constitution's Bill of Rights. It has a direct impact on the following areas:

**Section 9: Equality:** By remaining accessible to diverse groups of individuals and businesses, the Tribunal ensures that parties have the right to equal protection and benefits of the law. Additionally, the Tribunal strives, through its value system, to respect human diversity and ensures non-discrimination.

**Section 10: Human dignity:** Through the adjudication process, the Tribunal ensures that prohibited conduct and related action do not impair human dignity.

**Section 14: Privacy:** While adhering to its founding legislation, and as part of its adjudicative role, the Tribunal ensures that the privacy of persons is protected.

**Section 33: Just administrative action:** The Tribunal hears both sides to a dispute and issues reasons for its decisions.

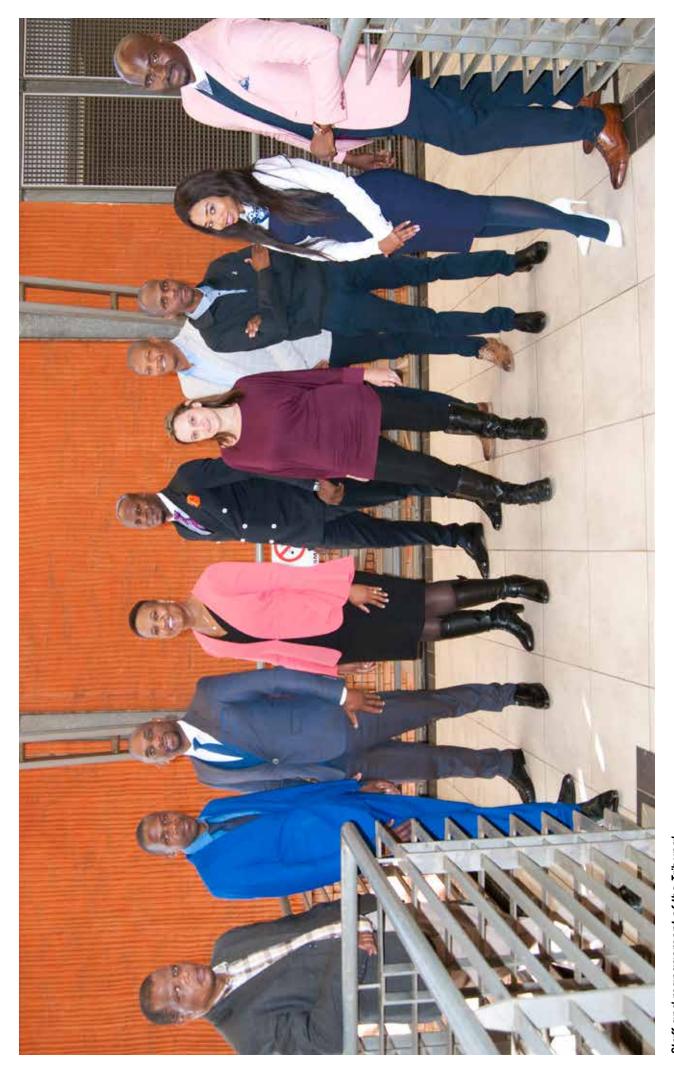
**Section 34: Access to courts:** Everyone has the right to have any dispute that can be resolved by the application of law, decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

**Section 195: Democratic values and Principles:** Public entities must be governed by the democratic values and principles enshrined in the Constitution, which include:

- High standard of professional ethics
- Efficient, economic and effective use of resources
- Impartial, fair, equitable, unbiased delivery of services
- Accountability
- Transparency
- Broad representation of South African people, with the need to address the imbalances of the past



Students and academics at the University of Limpopo guest lecture



Staff and management of the Tribunal

8. COMPANIES TRIBUNAL ORGANISATIONAL STRUCTUR

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# PART B PERFORMANCE INFORMATION

#### 1

# AUDITOR-GENERAL'S REPORT: PREDETERMINED OBJECTIVES

he Auditor-General of South Africa currently performs the necessary audit procedures on the performance information to provide limited assurance in the form of an Audit Conclusion. The Audit Conclusion on performance is measured against predetermined objectives and

is included in the report to management. Material findings are reported under the 'predetermined objectives' heading in the other legal and regulatory requirements section of the Auditor's Report.

#### 2. SITUATIONAL ANALYSIS

# 2.1 SERVICE DELIVERY ENVIRONMENT

To avoid public protest associated with lack of service delivery, service delivery to the citizens of South Africa has become more important.

The administration of justice is at the core of a well-functioning society. The Tribunal must be accessible to members of the public. The Tribunal must ensure justice for historically disadvantaged individuals (HDIs). Most HDIs are new entrants to the economy and need institutions such as the Tribunal to ensure that they are made aware of their rights and are able to enforce them. It is against this backdrop that the Tribunal undertook outreach activities using outdoor marketing, print and electronic media.

# 2.2 ORGANISATIONAL ENVIRONMENT

The Tribunal undertook an organisational review to ensure that it remains effective and efficient in delivering on its mandate. The Tribunal continues to operate under severe budgetary constraints, resulting in a budget deficit.

The Manager: Registry resigned during the year and was replaced. The full-time Tribunal member's contract ended on 31 July 2018. Two interns were appointed in line with the Skills Development Act No 97 of 1998 - one in Information Technology and another in supply chain management (SCM).

Finding suitable space for adjudication hearing rooms continues to be a challenge.

# 2.3 KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

The Tribunal continues to engage **the dti** and the Specialist Committee on Company Law on proposals submitted for an amendment to the Companies Act to expand its mandate. Key among the proposed changes is the amendment of the provisions relating to ADR, to ensure that ADR is effective as a mechanism for resolving disputes.

#### 2.4 STRATEGIC OUTCOME-ORIENTED GOALS

## Adjudicate and make orders in relation to any application

The Tribunal has made good progress in achieving this goal:

- Against a target of issuing 90% of decisions within 30 days of the allocation date, it achieved 93%
- Against a target of issuing 90% of decisions within 40 days of hearing date, it achieved 100%.

#### **Resolution of ADR disputes**

The Tribunal exceeded its target of ADR cases, achieving 100% against a target of 85% for finalising cases after the date of the final hearing or final submission by parties, whichever is applicable.

### Ensure operational effectiveness and efficiency of the Tribunal

The Tribunal aimed at achieving 100% of the three goals set, namely retention, research and the Case Management System (CMS). The first two targets, which accounts for 67%, were achieved. The CMS target, which accounts for 33%, was only partially achieved due to a prolonged period of development and testing.

#### Effective stakeholder engagement

The Tribunal exceeded the stakeholder engagement target, conducting more outreaches and live reads/interviews than planned. A seminar on ADR held with the Mandela Institute at Wits university attracted legal practitioners, business people and academia.



#### 3

# PERFORMANCE INFORMATION BY PROGRAMME

The Tribunal comprises two programmes: Adjudication and Administration.

#### 3.1 PROGRAMME 1: ADJUDICATION

**Adjudication:** To adjudicate and make orders on applications made in terms of section 195 of the Companies Act, 2008, as well as to resolve ADR cases.

Members of the Tribunal are appointed by the Minister of Trade and Industry to adjudicate applications and resolve disputes. Cases are decided mainly on papers but a hearing must also be held depending on the nature of the case.

One of the Tribunal's main objectives is to adjudicate matters timeously and expeditiously. Cases are adjudicated by either a single member or a panel of at least three members based on the complexity of the case. Depending on the nature of the case, hearings may be held.

By the end of the financial year, the Tribunal comprised 13 part-time members, including the

Chairperson appointed by the Minister of Trade and Industry. Ten of the 13 are black and three white. There are seven females and six males. Members include professors, doctors, advocates, attorneys, law professors and acting judges. Members have expertise in the different areas covered by the Act, such as law, economics, commerce, industry and public affairs.

The Chairperson allocates cases to Tribunal members with the assistance of the Registrar, who is responsible for the management of cases. The Registrar also assists in communicating with and informing parties on the progress and outcome of their cases. He also manages all enquiries made to the Tribunal and is the custodian of all Tribunal cases, documents, the records management system and the CMS.

The Tribunal is accessible to the public and matters are brought before it at no cost. For the year under review, the Tribunal's case load consisted of 244 cases, 190 of which were finalised. Most cases not finalised could not be adjudicated as the statutory filing period had not yet closed.



SELBY MAGWASHA MANAGER: REGISTRY



MANDLA ZIBI SENIOR ADMINISTRATION ASSISTANT



DOUGLAS MOKABA LEGAL ADVISOR

# STRATEGIC OBJECTIVES, OUTPUTS, PERFORMANCE INDICATORS, PLANNED TARGETS AND ACTUAL ACHIEVEMENTS 3.1.1

	COMMENTS ON DEVIATIONS	Reminders were sent to members. (Reminders are not part of the Standard Operating Procedure)	Reminders were sent to members. (Reminders are not part of the Standard Operating Procedure)	Reminders were sent to members. (Reminders are not part of the Standard Operating Procedure)
	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2018/19	Target	Target exceeded	Target
	ACTUAL ACHIEVEMENT 2018/19	100% (13/13)	93% (104/112)	100% (6/6)
	PLANNED TARGET 2018/19	%06	%06	%28
	ACTUAL PLANNE ACHIEVEMENT TARGET 2017/18 2018/19	%001	%96	% %
	PERFORMANCE INDICATOR/MEASURE	Percentage of decisions and orders issued¹ within 40 working days after the final date of the hearing²	Percentage of decisions and orders issued within 30 days after the date of allocation <sup>3</sup>	Percentage of cases finalised <sup>5</sup> 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
	ООТРИТ	Adjudicated applications	Adjudicated applications	Resolved
PROGRAMME 1: ADJUDICATION	STRATEGIC OBJECTIVE	Adjudicate applications timeously, fairly and in a transparent manner	Adjudicate applications timeously, fairly and in a transparent manner	Facilitate the resolution of disputes in a costeffective, informal and timeous manner
PROGRAMME 1	STRATEGIC GOAL/ OUTCOME	Adjudicate and make orders in relation to any application	Adjudicate and make orders in relation to any application	Facilitate <sup>4</sup> the resolution of disputes in terms of Alternative Dispute Resolution (ADR)

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

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

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

<sup>&</sup>lt;sup>4</sup> Facilitation means assisting in the resolution of disputes

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 Tribunal member(s)

Table 1: Comparison of handled cases in five-year period: 2014/15-2018/19 financial years

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

<sup>&</sup>lt;sup>6</sup>Handled cases includes new cases received in the financial year under review and carried over cases from the previous financial year

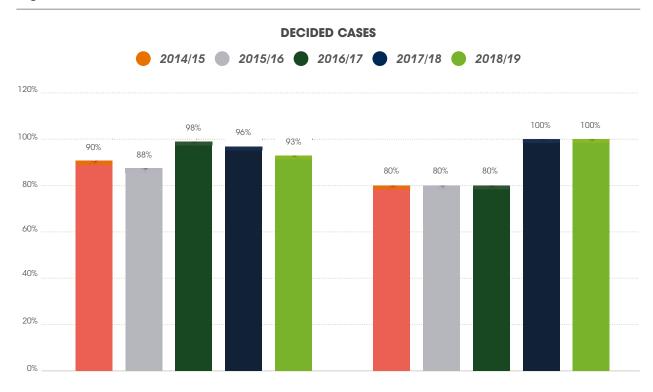
'Handled cases' refer to new cases received in the financial year under review and carried over cases from the previous financial year.

The number of cases, including new cases, decreased compared to previous financial years.

The Tribunal strives to issue decisions within 40 working days of the final date of hearing and 30 working days of the date of allocation of a matter to a member.

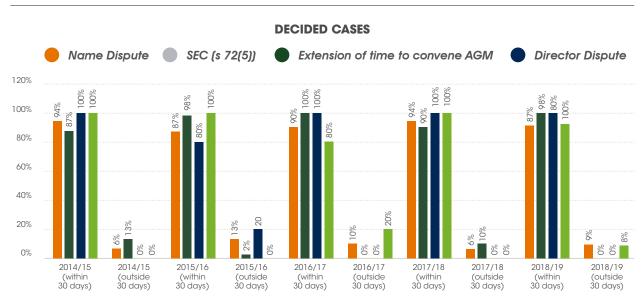
During the year, 100% of cases were decided within 40 days of the hearing date and 93% of decisions were issued within 30 working days of allocation.

Figure 1: Decided Cases



Comparison of cases decided within 30 working days of allocation and hearing from 2014/15 to 2018/19

Figure 2: Decided Cases



Comparison of various types of cases resolved within and outside the 30 working days from 2014/15 to 2018/19

#### 3.1.2 CASE HIGHLIGHTS

This section provides details of cases handled during the year under review.

#### a) Name disputes

**TOTAL SA** (Applicant) vs **TOTAL RTRADING (PTY) LTD** (first Respondent) and **CIPC** (second Respondent)

In this matter, the Applicant sought an order that the Respondent change its name to one that does not incorporate and is not confusingly and/or deceptively similar to the applicant's trademark. The Applicant submitted that the Respondent 's name contravened sections 11(2)(b)(i), 11(2)(b)(ii) and 11(2)(c)(i) of the Companies Act 71 of 2008.

The matter was adjudicated on 5 July 2018. The arguments before the Tribunal were as follows:

- The Applicant and the First Respondent use an ordinary English word TOTAL.
- Further that the public is less likely to regard the ordinary English word TOTAL as a proprietary word.
- 3. The Applicant had to demonstrate the following:
  - i. that the ordinary English word TOTAL has acquired a secondary meaning associated with the Applicant's business.
  - ii. that the actual confusion or deception, the degree of confusion or the likelihood to cause confusion in the sense that the public would think that there is a connection or association between the companies.
  - iii. that the name could or might itself mislead the public.
  - iv. that the Respondent competes in the same commercial environment or same marketplace
  - v. the specialist nature of the goods and services.

Having considered the arguments, the Tribunal was not persuaded by the Applicant that the Respondent's name is confusingly similar to the Applicant's trademark. Therefore, the application in terms of sections 11(2)(b)(i) and 11(2)(b)(iii) failed.

However, considering the application in terms of Section 11(2)(c)(i), the Tribunal agreed with the Applicant that the Respondent's name falsely implied or suggested, or would reasonably mislead a person to believe incorrectly, that the company is part of or associated with the applicant.

Thus, the Tribunal found that the name did not comply with Section 11(2)(c)(i) of the Act and directed the Respondent to choose a name that does not consist of or incorporate the word **TOTAL** or any other mark that may falsely imply or suggest or would reasonably mislead a person to believe that the Respondent is part of or associated with the applicant.

The Tribunal further directed that should the Respondent fail to choose a new name within 20 business days, the CIPC was to substitute the company name with its registration number followed by (Pty) Ltd.

**Order: Granted.** 

# b) SEC NEWGOLD ISSUER (RF) LIMITED (applicant)

The Applicant brought an application in terms of Section 72(5) of the Act and in terms of Regulation 142 of the Companies Regulations for an exemption from the requirement to appoint a SEC.

The Applicant's application in 2013 for an exemption to appoint an SEC had been refused. The grounds for refusal were that the Applicant failed to disclose its turnover to the Tribunal, did not disclose the terms of reference of its management agreement with NewGold Managers Proprietary Limited and failed to show that it was not reasonably necessary in the public interest to have a SEC.

The Applicant brought another application. As per the affidavit, the Applicant is a special purpose vehicle (SPV) established by Absa Group Limited for the sole purpose of issuing exchange traded funds, enabling investors to invest in debt instruments and ancillary activities. The Applicant has debentures listed on the Johannesburg Stock Exchange, the value of which tracks the price of unwrought commodities.

The Applicant's ordinary share capital is held by a discretionary trust, NewGold Owner Managers Proprietary Limited, in terms of a service level agreement (SLA) concluded between the two entities. The Applicant has directors but no employees.

The Applicant submitted that it had in two of the previous five financial years scored above the 500 public interest score in terms of Regulation 26(2). It has declared its turnover for the past five years to the Tribunal. It submitted that although it has a board of directors and no employees, the labour force functions of an SEC do not apply to it. Furthermore, the Applicant stated that as an SPV, NewGold does not impact the environment or the community directly, nor does it rely on its own technology resources to run its business. It further stated that the Absa Group, through the SLA, takes responsibility for technology governance of NewGold.

The Applicant advanced that as an entity consolidated into Absa Group Limited, NewGold relies on the Absa Group's SEC for the performance of certain functions of the SEC, especially policy development, approval and compliance with provisions of the Broad-Based Black Economic Empowerment Act.

The Tribunal decided that the Applicant had demonstrated that it is not reasonably in the public interest to have an SEC exempted it from the requirement for three years from the date of the order.

**Order: Granted.** 



Presentation by lawyers of applicants and Respondents to a three Tribunal members panel

### c) Directorship dispute PUMZA SHERON MTYALI VS BUKIWE NHLAPO

In June 2016, the Applicant and the Respondent established P and B Dynasty (Pty) Ltd, with registration number 2016/213892/07 and place of business 128 Van Dalen Road, Willowbrook Estate, Ruimsig, Roodepoort, 1732.

The Applicant filed an application to the Tribunal to remove the Respondent as director of the company in terms presumably of Section71(8) of Act 71.

The Applicant alleged that Respondent has been derelict in performing her duties as a director and ignoring the Applicant's communication that the company needed to be liquidated. The CTR 142 notice was sent via registered mail to the Respondent on 8 February 2019. On 12 March 2019, the Applicant applied for a default order as the Respondent had failed to respond.

The Tribunal dealt with the following two issues:

- Has the Applicant shown that a default order should be granted?
- If so, has the Applicant advanced cogent reasons for the removal of the Respondent as a director?

The Tribunal found that the Respondent had not participated in these proceedings and, in fact, appeared unaware of them. There was no proof in the form of an email 'read' receipt, a post office tracing report or, preferably, a sheriff's return of service that the Respondent received the notice.

The Tribunal further found the Applicant's case moot in the face of lack of proof of non-service on the Respondent and was not satisfied that it had exhausted all avenues to notify the Respondent, nor that there had been satisfactory compliance with the provisions of Companies Regulation 153(2)(b).

Order: Refused.

# d) Review of CIPC notice SHIVA URANIUM (Pty) LIMITED, CHRISTOPHER KGASHANE MONYELA VS CIPC AND OTHERS

The matter concerned an urgent application for an order that the CIPC should accept for filing CoR 123.2 appointing Juanito Martin Damons as the senior business rescue practitioner of Shiva Uranium (Pty) Ltd (in business rescue) and should remove CoR 123.2 which purported to appoint Mohamed Mahier Tayob and Eugene Januarie as business rescue practitioners.

The Tribunal had to determine whether:

- the CIPC, by refusing to accept and process for filing CoR 123.2 giving notice of appointment of Damons as business rescue practitioner of Shiva, is in line with the functions and powers assigned in terms of Section 187(4) read with Regulation 168(4) of the Companies Act 71 of 2008 and Companies Regulations published in 2011, and
- 2. the refusal by the CIPC to accept and process the filing of CoR 168 challenging the filing of CoR 123.2 giving notice of the appointment of Tayob and Januarie as business practitioners of Shiva is in line with functions and powers assigned to it in terms of Section 187(4) read with Regulation 168(4).

The Tribunal outlined the functions and powers of the CIPC, as contained in Section 187(4). The Tribunal held that Section 138(e) does not provide any basis upon which the CIPC can refuse to accept and process the filing of a document by a party. The reasoning based on Section 138(e) can be used by the CIPC only to challenge the resolution passed by the business rescue practitioners to appoint Damons as an additional business rescue practitioner. The Tribunal further held that the CIPC's reason for refusing to accept and process the filing of CoR 123.2 was irrational and not in line with grounds for refusal in Regulation 168(4)(a). The CIPC is a creature of statute and can do what it is authorised to do only in terms of legislation from which it derives its existence.

The CIPC's refusal to accept and process the applicant's filing of CoR 168 on the basis that the second applicant, Christopher Kgashane Monyela, as the junior business rescue practitioner, does not have authority to file with the CIPC based on Section 139(3) of the Act, was found to be irrelevant by the Tribunal. Such refusal was said to be based on a misunderstanding of the functions and powers assigned to the CIPC in terms of the Act and the Regulations.

The Tribunal found that the refusal of both CoR 123.2 and CoR 168 by the CIPC was unlawful and should be set aside on review as in Regulation 168(5).

The CIPC was ordered to:

- Accept and process within five days of date of order the filing of CoR 123.2 giving notice of the appointment of Damons as business rescue practitioner of Shiva.
- Accept and process within five days of date of order the filing of CoR 186 challenging the filing of CoR 123.2 giving notice of the appointment of Tayob and Januarie as business rescue practitioners of Shiva.
- Pay the costs of Shiva and the second Applicant (which included the costs of two counsels), jointly and severally with other respondents, including the two intervening parties.

**Order: Granted**.

#### e) ADR

The Applicant was ABC and the Respondent DEF<sup>1</sup>. The Applicant was appointed a director of DEF and allocated shares by a share certificate issued on 27 February 2007. He filed CTR 132.1 to the Tribunal for mediation in terms of Section 166 of the Act. The Applicant claimed that he did not receive all his benefits as a director and shareholder in the company.

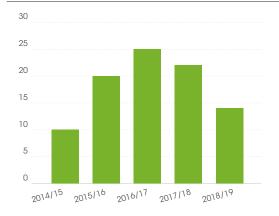
He expected DEF to calculate monthly dividends and credit those to him based on the percentage of shares he held in the company. He expected a breakdown of the payments due to him and an explanation of how the company came to those figures. He advanced that his shareholder and directorship status in the company had a positive impact on the company's black economic empowerment (BEE) rating. Furthermore, he was concerned that he was not appraised about the work coming through to the company as a result of this rating after his appointment.

DEF agreed in the mediation proceedings to provide a full calculation of the dividend payments to the Applicant from 2007 to 2017, including a report of how the calculations were done.

Outcome: Successful.

 $^{\rm 7}$  Due to the confidentiality of ADR, the real names of parties have not been disclosed

Figure 3: ADR Cases



Comparison of ADR cases from 2014/15 to 2018/19

#### **ADR** case statistics

For the financial year under review, fourteen ADR cases were handled. By financial year-end, two had been closed, seven had been finalised and five were pending hearing.

#### 3.1.3 APPEALS AND REVIEWS

Parties to a dispute who are not satisfied with the decision of the Tribunal may within 20 business days of date of receipt of the Tribunal's decision, take up the matter on appeal or review by the High Court. At the end of the 2018/19 financial year, six (6) cases had been taken on review and four were still in litigation. One had been set aside and the other had been dismissed. There were no financial implications.

#### THE TRIBUNAL'S DECISIONS TAKEN ON REVIEW:

CT CASE NUMBER	PARTIES	NATURE OF APPLICATION	HIGH COURT DECISION
CT001Jan2016	Maboe Transport CC and Phakwe Mining Service (Pty) Ltd vs Tommy Maboe and Jan Greyvenstein	Directors' dispute	In process Appeal to the Supreme Court of Appeal
CT019Jun2017	Grovest Venture Capital Company vs the CIPC	Compliance notice	In process
CT016Aug2017	The Leatherman Tools Group (Pty) Ltd vs Leatherman Accessories (Pty) Ltd	Name dispute	Decision set aside by North Gauteng High Court. Remitted back to Tribunal for reconsideration.
CT014Jan2018	Destiny Girls College vs Destiny Charter Schools	Name dispute	Dismissed by South Gauteng High Court
CT010May2018	Universal Earthing and Lightning Components vs HHK Earthing and Lightning Projection Systems	Name dispute	In process at Eastern Cape High Court
CT012Oct2018	Mahomed Mahier Tayob and another vs Shiva Uranium and others	Business rescue practitioner appointment	In process at North Gauteng High Court

#### 3.2 PROGRAMME 2: ADMINISTRATION

Administration: To ensure the operational efficiency and effectiveness of the Tribunal as well as effective stakeholder engagement. To effectively and efficiently support and manage the Tribunal's operations by ensuring that there is proper financial management, human resources management, information technology, knowledge management, stakeholder management and legal services.

# STRATEGIC OBJECTIVES, OUTPUTS, PERFORMANCE INDICATORS, PLANNED TARGETS AND ACTUAL ACHIEVEMENTS 3.2.1

PROGRAMME 2: ADMINISTRATION	OMINISTRATION							
STRATEGIC GOAL/ OUTCOME	STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATOR/ MEASURE	ACTUAL ACHIEVEMENT 2017/18	PLANNED TARGET 2018/19	ACTUAL ACHIEVEMENT 2018/19	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2018/19	COMMENTS ON DEVIATIONS
Ensure operational effectiveness and efficiency of the Tribunal	To ensure the efficient management of cases	Automated/ electronic case management system	Full implementation of the four modules of the electronic case management system	Case management system developed and testing to commence in the next financial year	Full implementation of the electronic Case Management System (CMS)	4 Modules functional with many adjustments required	Target partially met	The following modules were developed, records management, case management, performance information management and finance module.  Lots of errors were identified during testing which delayed full implementation of the system. Most of these were beyond the control of the Tribunal.
Ensure operational effectiveness and efficiency of the Tribunal	Build a body of knowledge around Company law and alternative dispute resolution	Production of research reports or rules	Number of research reports or rules produced and approved	Code of Conduct and Ethics for Mediators was produced earlier than the targeted period	Develop (1) Arbitration Rules or Guidelines for the Tribunal and Develop (1) Adjudication Rules or Guidelines for the Tribunal	Both the Arbitration Rules or Guidelines and Adjudication Rules or Guidelines for the Tribunal were produced earlier than the targeted period	Target met	A/N
Ensure operational effectiveness and efficiency of the Tribunal	Recruit, appoint, develop and retain competent staff	Staff retention	Percentage of staff retained	93%	%58	92%	Target exceeded	Best human resource practices adopted and continuous consultation with staff proved effective
Ensure effective stakeholder engagement	To educate members of the public and raise awareness regarding the Tribunal	Advocacy	Seminar hosted <sup>8</sup> on Alternative Dispute Resolution (ADR)	Host seminar on Company Name Disputes	Host a seminar on Alternative Dispute Resolution (ADR)	One seminar hosted on: Alternative Dispute Resolution (ADR)	Target met	A/N

PROGRAMME 2:	PROGRAMME 2: ADMINISTRATION							
STRATEGIC GOAL/ OUTCOME	STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATOR/ MEASURE	ACTUAL ACHIEVEMENT 2017/18	PLANNED TARGET 2018/19	ACTUAL ACHIEVEMENT 2018/19	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2018/19	COMMENTS ON DEVIATIONS
Effective stakeholder engagement	Develop and maintain strategic partnerships	Advocacy	Number of media engagements (media statements and radio interviews)	Two media statements released as follows: Business Day titled "Get to know the Companies Tribunal", JSE Magazine titled "Rule of Law - Let the Companies Tribunal assist in resolving company disputes"	Release two (2) media statements	Released three media statements as follows:  (1) Quick, affordable, flexible: how to resolve business disputes via the companies Tribunal published on Business Live, Times Live and Sowetan Live was published on LinkedIn  (2) Seminar invite was published on LinkedIn  (3) Key issues discussed at the ADR seminar published on LinkedIn  (1) LinkedIn  (3) LinkedIn  (4) LinkedIn  (5) LinkedIn	Target exceeded	The use of free social media assisted in exceeding the target.
				Participated in two radio interviews	Participate in two radio interviews (radio advert)	Live reads were aired on the following stations: Munghana Lonene FM. Ikwekwezi FM, East Coast Radio and Radio 702	Target exceeded	Regional radio stations were utilised which are more cost-effective.

PROGRAMME 2:	PROGRAMME 2: ADMINISTRATION							
STRATEGIC GOAL/ OUTCOME	STRATEGIC OBJECTIVE	ОИТРИТ	PERFORMANCE INDICATOR/ MEASURE	ACTUAL ACHIEVEMENT 2017/18	PLANNED TARGET 2018/19	ACTUAL ACHIEVEMENT 2018/19	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2018/19	COMMENTS ON DEVIATIONS
Effective stakeholder engagement	To educate members of the public and raise awareness regarding the Tribunal	Advocacy	Number of participations° in outreaches and/or exhibitions	Participated in 8 outreach programmes and/or exhibitions targeting the following stakeholders:  1) Johannesburg Stock Exchange (2) Institute of Chartered Accountants (4) South African Institute of Chartered Accountants (5) South African Judicial Education Institute (6) Law Society of South African Province (8) National Small Business Chamber	Participate in 8 outreach programmes and/or exhibitions targeting the following stakeholders: businesses, business associations, the public, legal fraternity, and the academia in the following areas: (1) Capricorn District (LP). (2) Bojanala Platinum District (NW) (3) Eden District (CD) (4) EhlanzeniDistrict (MP) (5) O.R. Tambo District (KZN) (4) uGu District (KZN) (5) Pixley ka Seme District (NC)	Participated in 10 outreach programmes and/or exhibitions targeting the following stakeholders: businesses, business associations, the public, legal fraternity, and the academia in the following areas: (1) Capricorn District (LP), Guest lecture conducted at the University of Limpopo (2) Bojanala Platinum District (NW) in Rustenburg Municipality (3) Eden District (WC) in Mossel Bay (4) Ehlanzeni District (MP) in Nkomazi Municipality (5) O R Tambo District (EC) in Port St Johns Local Municipality (5) O R Tambo District (EC) in Port St Johns Local	Target exceeded	Partnerships with various stakeholders enabled the Tribunal to reach out to more stakeholders

9 Participation means either sponsoring or presenting at an outreach or exhibition event of a stakeholder or to a stakeholder

PROGRAMME 2:	PROGRAMME 2: ADMINISTRATION							
STRATEGIC GOAL/ OUTCOME	STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATOR/ MEASURE	ACTUAL ACHIEVEMENT 2017/18	PLANNED TARGET 2018/19	ACTUAL ACHIEVEMENT 2018/19	DEVIATION FROM PLANNED TARGET TO ACTUAL ACHIEVEMENT FOR 2018/19	COMMENTS ON DEVIATIONS
						(6) uMgungundlovu District (KZN) in Msunduzi Local Municipality (7) uGu District (KZN) in uMdoni, Umuziwabantu Municipality and uMzumbe municipalities (8) Pixley ka Seme District (NC) (Carnarvon and Douglas Central Karoo District in Beaufort West in Beaufort West (9) ZF Mgcawu District in Kakamas and Augrabies (10) Guest lecture was conducted at the University of Fort Hare in parthership		
						Consumer Tribunal.		

### 3.2.2 RESEARCH

The Research Division conducts research to build a body of knowledge on company law to improve the operational effectiveness of the Tribunal. Adjudication Guidelines were developed to provide transparency and access to the Tribunal's adjudication services. Arbitration guidelines were developed to promote public confidence in the Tribunal's arbitration services.

### 3.2.3 COMMUNICATION AND MARKETING

To educate members of the public and raise awareness about the services offered by the Tribunal, mutually beneficial strategic relationships are developed and maintained.

During the year under review, the Tribunal prioritised the importance of effective and timeous communication with stakeholders by using outdoor advertising, social media, print and electronic media. To ensure continuous stakeholder engagement, articles were published in Business Live, Times Live, Sowetan Live and on LinkedIn. The ADR seminar invitation published on LinkedIn, the CIPC website, the government website and **the dti** website attracted great stakeholder interest, so much so that the event was live streamed to maximise access and participation.

Advertisements and live reads were aired on Munghana Lonene FM, Ikwekwezi FM, East Coast Radio and Radio 702.

The Tribunal's website remains the primary disseminator of information to the public. This was confirmed by a questionnaire conducted during the seminar, from which it emerged that the website is the most important and reliable platform for stakeholders to access the Tribunal.

The number of website subscribers has increased dramatically. Monthly reports on website usage are monitored and tabled at management meetings. The Tribunal can now monitor high-traffic areas, and ascertain the most popular pages and time spent per visit.

During this financial year, the Tribunal improved collaboration with strategic stakeholders such as business formations, professional associations, the legal fraternity and academia. An awareness billboard was placed on the N2 highway in Cape Town.

In partnership with the National Consumer Tribunal, the Companies Tribunal presented guest lectures at University of Venda, University of Limpopo and University of Fort Hare to final year LLB students. It also presented its mandate to various stakeholders at Unisa's Research and Innovation Week.

The quarterly bulletin remains an important tool in stakeholder information. It raises the profile of the Tribunal and promotes a positive corporate image, and has received positive stakeholder feedback. Quarterly bulletins were published during the 2018/19 financial year, covering the Tribunal's mandate and highlighting cases decided in the quarter. With the bulletin subscription offer on the website, the number of subscribers is increasing.



SIMUKELE KHOZA MANAGER COMMUNICATIONS AND MARKETING



DUMISANI MTHALANE COMMUNICATIONS AND MARKETING OFFICER



Companies Tribunal billboard at the corner of De la Rey and Modderdam roads in Cape Town

### **ADR** seminar

The Tribunal hosted a successful seminar on 27 February 2019 at Wits University in partnership with the Mandela Institute, to create awareness on the Tribunal's ADR mechanism. About 150 delegates, primarily law practitioners, attended and benefited from the knowledge of speakers

such as MN Netshitenzhe Chief Director: Consumer and Corporate Regulation Division of **the dti**, Judith Katzew: Wits School of Law, Alan Mukoki, South African Chamber of Commerce and Industry, Ebrahim Patelia, Chief Executive Officer of Mediate Works, and Tribunal members Matshego Ramagaga, Khatija Tootla and Peter Veldhuizen.



ADR seminar at Wits University in Johannesburg



Education and awareness at Port St Johns

### 3.2.4 CORPORATE SERVICES

The Corporate Services division promotes and maintains sound corporate governance and ensures proper planning, monitoring and reporting on the performance of the organisation. It is also responsible for the recruitment, appointment and development of competent staff for the Tribunal and manages the Tribunal's IT services.

The organisational structure was reviewed and approved during the 2018/19 financial year. It now comprises twenty-one (21) positions. Only 12 of these positions were filled and 15 are funded in the year under review. At the end of the year under review, the Tribunal had twelve (12) staff and two (2) interns (IT and SCM). The internship programme of the Tribunal focuses on providing South African youth with experiential learning and, thus, contributes to the country's skills development efforts.

The Tribunal recognises that training builds the skills and knowledge of each staff member and contributes to a more productive and motivated workforce. During the year, all Tribunal staff attended training in change management and completed courses such as performance coaching and mentoring, emotional intelligence, finance for non-financial managers, corporate governance, service level agreement, protection of personal information, occupational health and safety, and time management. Three human resources policies were reviewed or developed and approved, namely Migration and Placement Policy, Disciplinary Policy and Procedure, and Employee Monetary and Non-Monetary Policy.

A bursary scheme provides employees with further education and personal development, which the Tribunal believes is necessary for its long-term sustainability. Two employees were granted bursaries.

The IT department strives continuously to develop, manage, coordinate, oversee and implement

efficient and effective IT services, ensuring that operations and capacity remain optimal, with minimum interruption. It is in the Tribunal's best interests to streamline business processes and monitor and maintain information security and risk management. The Tribunal leverages its information and communications technology (ICT) investment through proper management of ICT projects and procurement.

Office operating tools have been migrated from GroupWise to Office365 Cloud, which provides information access convenience, collaboration and video conferencing capabilities to save meeting travel costs. Wireless network access connects staff and members and enables staff to perform their duties anywhere in the office.

Several IT policies, plans and procedures were reviewed to ensure proper alignment, control and adherence to governance standards. This included the development of the Disaster Recovery and Continuity Plan to ensure business continuity to stakeholders. A Cloud Disaster Recovery site was established to synchronise the virtual environment and the secondary site. IT infrastructure has been upgraded to a fibre data line to improve and optimise performance of the new CMS.



KEIKANETSWE SEBOKOANE MANAGER: INFORMATION AND COMMUNICATIONS TECHNOLOGY



JOHANNES GAFANE
INFORMATION AND
COMMUNICATIONS
TECHNOLOGY INTERN

### 3.2.5 OFFICE OF THE CHIEF FINANCIAL OFFICER (CFO)

The CFO's office is responsible for finance and SCM. The Finance Division manages the Tribunal's funds, including planning, budgeting and reporting. The division ensures that operational and capital expenditure is in line with prescripts of the Public Finance Management Act (PFMA) and related regulations.

SCM is the procurement of goods and services and covers demand, acquisition, logistics, disposal and risk management. The SCM unit administers the tender process in line with the Preferential Procurement Policy Framework Act (Act No 5 of 2000). An annual procurement plan is submitted to both **the dti** and National Treasury.

No irregular expenditure was incurred during the financial year, but fruitless and wasteful expenditure amounted to R565. This achievement is attributable to consistent review of internal controls and adherence to good governance.

Various policies were reviewed during the financial year and workshops held with staff to raise awareness

of those policies. The Office of the CFO adhered to the thirty (30) day turnaround times for payment of suppliers, resulting in 100% of suppliers being paid within thirty (30) days and 91% being paid within fifteen (15) days. Monthly management accounts were prepared throughout the financial year as well as quarterly reports. These were submitted to **the dti**.

The Office of the CFO plays a key role in ensuring that the Tribunal has sound internal controls, a factor that has led to consecutive clean audit awards from the Auditor-General of South Africa.



IRENE MATHATHO CHIEF FINANCIAL OFFICER



NALEDI APHANE SUPPLY CHAIN MANAGEMENT INTERN

### 3.3 STRATEGY TO OVERCOME AREAS OF UNDERPERFORMANCE

AREA OF UNDERPERFORMANCE	TARGET	PROPOSED ACTIONS
Ensure operational effectiveness	Implementation of the electronic	Project timeline to be adjusted
and efficiency of the Companies	CMS	in the new financial year and
Tribunal		service provider to be closely
		monitored to ensure timely
		project delivery

### 3.4 CHANGES TO PLANNED TARGETS AND PERFORMANCE INDICATORS

No changes were made to the planned target.

### 3.5 LINKING PERFORMANCE WITH BUDGETS

	2018/19	018/19			2017/18		
	BUDGET	ACTUAL EXPENDITURE	(OVER)/ UNDER EXPENDITURE	BUDGET	ACTUAL EXPENDITURE	(OVER)/ UNDER EXPENDITURE	
PROGRAMME	R'000	R'000	R'000	R'000	R'000	R'000	
Adjudication	2 891	3 006	(115)	4 565	3 966	599	
Administration	19 726	17 375	2 351	20 382	17 771	2 611	
TOTAL	22 617	20 381	2 236	24 947	21 737	3 210	

The Tribunal's budget for the year under review was R22.6 million and there was a deficit of R1.3 million, which was funded from an approved surplus from prior years. Most funds during the year were spent on employee costs, Tribunal members' fees and advocacy services.

### 3.6 REVENUE COLLECTION

	2018/19			2017/18		
	BUDGET	ACTUAL EXPENDITURE	(OVER)/UNDER EXPENDITURE	BUDGET	ACTUAL EXPENDITURE	(OVER)/ UNDER EXPENDITURE
SOURCE OF REVENUE	R'000	R'000	R'000	R'000	R'000	R'000
Government grant	16 740	16 740	-	15 822	15 822	-
Interest received	890	814	76	1 043	1 196	(153)
Other income	4 987	1 537	3 450	8 082	1 456	6 626
TOTAL	22 617	19 091	3 526	24 947	18 474	6 473

**Interest received** – the Tribunal had a favourable bank balance due to the approved retention of surplus in the previous financial years, resulting in increased interest received from the bank.

**Other income** – other income is derived from surplus funds. The approved surplus has been used to augment the budget.

## RIANCE COMPANIES TRIBUNAL

### OVERVIEW OF THE GOVERNANCE STRUCTURE

he Tribunal has three governance committees, namely ARC, REMCO and the Information Technology Steering Committee. Highlights of the performance of these Committees appears below:



### 2. PORTFOLIO COMMITTEE

The Portfolio Committee on Trade and Industry exercises oversight over the service delivery performance of the Tribunal and reviews the performance of the Tribunal based on its quarterly and annual reports.

### 3. EXECUTIVE AUTHORITY

The Minister of Trade and Industry is the Executive Authority of the Tribunal. The shareholder compact was concluded and a meeting held on the Tribunal's performance. Quarterly performance reports were submitted to the Minister and the Tribunal received positive feedback.

### ACCOUNTING AUTHORITY

In terms of the PFMA (1999), the Chairperson, as the Accounting Authority, is responsible for strategic leadership and oversight of the affairs of the Tribunal, and for due care of Tribunal assets. He is also responsible for the effective, efficient and transparent management and operations of the Tribunal.

### 5. RISK MANAGEMENT

The Tribunal Risk Management Framework was reviewed by ARC and approved by the Chairperson of the Tribunal. This framework provides a comprehensive, systematic and integrated mechanism for risk management across the organisation, which is crucial in ensuring that the Tribunal delivers on its mandate and achieves its strategic objectives. The Risk Management Framework is also linked with the anti-corruption, fraud prevention and disaster recovery measures. Risks are monitored and reviewed quarterly.

### 6. COMBINED ASSURANCE PLAN AND RISK REGISTER

The Audit and Risk Committee considered the Combined Assurance Plan and was satisfied with the level of assurance provided and with management's actions to address each risk. The Combined Assurance Plan and Risk Register are monitored quarterly by the committee.



### 7. INTERNAL AUDIT

The Business Innovation Group's contract with the Tribunal ended during the financial year and Nexia SAB&T was appointed as the internal auditor. The following internal audits, which use a risk-based approach, were performed during the financial year: SCM review, financial discipline review, audit of predetermined objectives Q2 and Q3, information technology GCR, case management review, human resource management and follow-up (IT audits).

An internal audit finding register is kept to track progress and is presented quarterly to ARC and the dti.

### 8. AUDIT AND RISK COMMITTEE

ARC was appointed in terms of Section 77 of the PFMA to provide oversight on matters in Treasury Regulations 3.1. As shown on Table 8.1 below, the committee comprises five (5) independent members. During the year under review, ARC held six meetings and focused mainly on the quarterly performance reports of the Tribunal.

ARC comprises the following members:

MEMBER	STATUS OF MEMBER	ATTENDANCE	MEETING FEES R	TRAVEL EXPENSES R	TOTAL R
Stanley Ngobeni *	Non-executive Chairperson	6	43 170	3 722	46 892
Lufuno Nevondwe**	Non-executive member	4	15 714	13 671	29 385
Norman Baloyi**	Non-executive member	4	15 714	12 830	28 544
Siyakhula Simelane**	Non-executive member	3	11 786	2 903	14 689
Luyanda Mangquku ***	Non-executive member	2	7 857	1 282	9 139
Charlene Louw * * *	Non-executive member	2	7 857	1 722	9 579
Zelda Tshabalala ***	Non-executive member	2	7 857	934	8 791
Leanda-Marsha Vilakazi ***	Non-executive member	2	7 857	772	8 629

<sup>\*</sup> Chairperson reappointed for a second term effective 1 January 2019.

 $<sup>^{\</sup>ast\,\ast}$  Old members whose contract came to an end 31 December 2018

<sup>\*\*\*</sup> New members appointed effective 1 January 2019.

### 9. REMCO (REMUNERATION COMMITTEE)

REMCO provides oversight on human resources and remuneration. As shown on Table 9.1 below, the committee comprises three independent human resources specialists. During the year under review, REMCO held four meetings.

Table 9.1 Remuneration Committee

MEMBER	STATUS OF MEMBER	ATTENDANCE	MEETING FEES R	TRAVEL EXPENSES R	TOTAL R
Qondile Zimu*	Non-executive member	4	23 355	3 634	26 989
Lance Dirksen*	Non-executive Chairperson	4	18 261	5 786	24 047
Mqezi Mnisi**	Non-executive member	3	-	-	-
Rajesh Jock***	Non-executive member	1	3 929	92	4 021

<sup>\*</sup> The terms of Qondile Zimu and Lance Dirksen were extended from 1 January 2019 for three years. Qondile Zimu was the Chairperson for the first term of appointment. She resigned as Chairperson due to geographic relocation but still remains a member.

### 10. INFORMATION TECHNOLOGY STEERING COMMITTEE

The Tribunal established the Information and Technology Steering Committee to ensure that IT governance, as part of corporate governance, is adequately addressed. This committee comprises management and one non-remunerated external member from an agency of the dti.

The committee reviews major IT investments and advises on IT strategic direction. It assists executive

management by overseeing the planning, implementation and execution of the IT governance, strategic alignment and related monitoring activities. The committee was established in compliance with the Department of Public Service and Administration's Corporate Governance and ICT policy framework. It has adopted King III and CoBIT 5 as good practices for its IT governance framework and has met twice during the year.

<sup>\*\*</sup>Mqezi Mnisi, whose term ended in November 2018, was employed by the public-sector entity and was not remunerated.

<sup>\*\*\*</sup>Rajesh Jock was appointed with effect from 1 January 2019.

### 11.

### COMPLIANCE WITH LAWS AND REGULATIONS

The Tribunal has registered for and met its obligations for the following levies and taxes:

- Skills development levy
- Workmen's compensation
- Unemployment Insurance Fund
- Pay-as-you-earn.

The Tribunal is not a value added tax vendor in terms of the Value Added Tax Act No 89 of 1991. It is also exempt from income tax in terms of Section 10(1)(cA)(i) of the Income Tax Act No 58 of 1962.



### 12. FRAUD AND CORRUPTION

The Tribunal has a toll-free anti-corruption hotline managed by an independent service provider, Deloitte, and an anti-corruption policy. No cases of fraud pertaining to the Tribunal have been reported.

### 12.1 PRINCIPLES UNDERPINNING THE TRIBUNAL'S ANTI-FRAUD AND CORRUPTION POLICY

The Tribunal's Anti-fraud and Corruption Policy is based on the following principles:

- Zero tolerance to fraud and corruption
- Accountability of leadership, Tribunal members and staff
- Duty to implement effective anti-fraud controls
- Duty to report by staff members and stakeholders

and reporting mechanisms

- Duty to protect whistleblowers
- Reporting to police and other relevant authorities
- Mandate to investigate fraud
- Instituting disciplinary proceedings
- Training and awareness
- Fraud risk assessment.

The Fraud Prevention and Response Plan implements the Policy. The Tribunal to manage fraud or suspicion of fraud to deter or prevent any fraudulent activities, and detect fraudulent activities.

Where fraud is suspected, the plan enables the Tribunal to:

prevent further loss

- establish and secure evidence for disciplinary and criminal action
- assign responsibility for investigating the incident
- establish circumstances in which external specialists should be involved
- establish lines of communication with the Police
- keep all staff members who need to be informed about the incident and the Tribunal's response
- recover losses

- deal with requests for job references from prospective employers of implicated exemployees
- review the reasons for the incident, the measures taken to prevent a recurrence and any action needed to strengthen future responses to fraud.

### 13. MINIMISING CONFLICT OF INTEREST

To support managers in the prevention of fraud, the Tribunal has adopted, developed and disseminated the following documents:

- Conflict of Interest Declaration Forms to members of committees and Tribunal and management;
- the Disclosure of Hospitality and Gifts Register.

There were no exceptions or conflicts of interest noted.



### 14. CODE OF CONDUCT

A code of conduct states what is expected of staff in their individual conduct and in relationships with others and was signed by all employees. An SCM code of conduct is also in place and is signed annually by the relevant employees.

### 15. HEALTH AND SAFETY

The Tribunal is located on **the dti** campus. Most health and safety issues are, therefore, handled by **the dti**. The Tribunal has the Occupational Health and Safety Policy and the First Aid Plan. All legislative requirements pertaining to the Occupational Health and Safety Act are complied with. The Tribunal also performed an evacuation drill as required by the Occupational Health and Safety Act.

### 16. REPORT OF THE AUDIT AND RISK COMMITTEE

he Audit and Risk Committee is pleased with the Tribunal's performance for the financial year ended 31 March 2019. There is an Audit and Risk Committee Charter in place, which deals with the way members of the Committee should undertake their duties and responsibilities. During the year under review, the Committee held six (6) meetings.

### 16.1 AUDIT AND RISK COMMITTEE RESPONSIBILITY

The committee has complied with its responsibilities arising from Section 55(1) of the PFMA and Treasury Regulations 27.1.7 and 27.1.10(b) and (c). It also reports that it has regulated its affairs in compliance with the Audit and Risk Committee Charter and has discharged all responsibilities contained therein.

### 16.2 THE EFFECTIVENESS OF INTERNAL CONTROLS

Although the Tribunal is accountable for the process of risk management and systems of internal control, the committee is responsible for oversight over these ongoing processes. The committee regularly reports to the Accounting Authority and to the Executive Authority, through **the dti**, on its activities.

### 16.3 QUALITY MANAGEMENT, MONTHLY/QUARTERLY REPORTS AND PFMA COMPLIANCE

Quarterly reports on performance information and the Tribunal's finances were presented and reported on in committee meetings. The committee confirms that the content and quality of the quarterly reports issued by the Accounting Authority during the year comply with the PFMA. Further, the committee reports quarterly to the Minister of Trade and Industry on management's actions in addressing all the external and internal audit findings, and any emerging risks.

### 16.4 EVALUATION OF ANNUAL FINANCIAL STATEMENTS

The committee reviewed and discussed the annual financial statements to be included in the annual report with the Auditor-General and the Accounting Authority. The committee reviewed and discussed the performance information with management and reviewed changes in accounting policies and practices. The entity's compliance with legal and regulatory provisions was also evaluated. The committee was satisfied with the annual financial statements and has recommended them for approval by the Chairperson.

It notes that, to maintain its going-concern status, the Tribunal is highly dependent on the approved retention of accumulated surplus from National Treasury, and on the approval of annual grants from the dti.

### 16.5 COMBINED ASSURANCE

The Combined Assurance Plan was presented to the committee, which is satisfied with the assurance given by each level of defence. The plan was also presented to **the dti**.

### 16.6 RISK MANAGEMENT

The Tribunal has a Risk Management Strategy in place. Annual risk assessments are conducted by management in conjunction with the Internal Auditors. Reviews of risk management processes are conducted by internal audit and reports provided to Management and the Audit and Risk Committee on the risks identified and the progress made in implementing controls aimed at mitigating those risks.

### 16.7 INTERNAL AUDIT

The internal audit function is outsourced to Nexia SAB&T. The Internal audit through its reports provides recommendations to assist in the establishment and maintenance of an effective system of internal control to manage the risks associated with the Companies Tribunal. The Audit and Risk Committee has reviewed and approved the internal audit charter and the coverage plans for the year ended 31 March 2019. Internal audit reports were presented to the committee during the year under review. Eight internal audits were undertaken during the financial year.

Internal audit reports control deficiencies to the Audit and Risk Committee together with recommended remedial actions which are then followed up to ensure that the necessary action has been taken. Management's actions in addressing the internal audit findings were monitored during the year. The Committee holds in-committee meetings with internal auditors to ensure that any concerns or complaints are dealt with appropriately.

### **16.8 THE FINANCE FUNCTION**

The Committee has reviewed the expertise, resources and experience of the Company Tribunal's finance function and believes that the Chief Financial Officer and other relevant finance staff have the required competence and skills. Financial reporting has been of a high standard throughout the financial year.



STANLEY NGOBENI ARC CHAIRPERSON

### 16.9 AUDITOR-GENERAL OF SOUTH **AFRICA**

The committee reviewed the final management report and the audit report issued by the Auditor-General.

### 16.10 COMMENDATIONS

The ARC commends management and staff for an unqualified audit opinion.

### 16.11 CONCLUSION

The committee wishes to acknowledge the commitment of the Chairperson, assistance of internal auditors, management and staff of the Companies Tribunal.



**S NGOBENI** CHAIRPERSON OF THE AUDIT AND RISK COMMITTEE **COMPANIES TRIBUNAL** 31 JULY 2019



**LEANDA-MARSHA** VILAKAZI ARC MEMBER



CHARLENE LOUW ARC MEMBER



**LUYANDA** MANGQUKU ARC MEMBER



**ZELDA TSHABALALA** ARC MEMBER

### COMPANIES TRIBUNAL MEMBERS



**Dr Alli Chicktay** 

BProc; LLB; LLM and PhD from the University of the Witwatersrand; accredited mediator (Conflict Dynamics).



Lindelani Sikhitha

BJuris (University of Venda), LLB and LLM, University of Pretoria; accredited mediator (Conflict Dynamics).



**Matshego Ramagago** 

BProc, LLB, LLM (Commercial Law), Certificate in Forensic Auditing and Fraud Examination, Diploma in Insolvency Law Practice, Certificate in International Trade Law, Certificate and Diploma Trial Advocacy Skills (National Institute of Trial Advocacy).



Lucia Glass

LLM, BProc, BA (Law), Unisa; accredited mediator (CEDR, UK and Conflict Dynamics).



Khatiia Tootla

BA, Unisa; LLB, Certificate
in Labour Law, University of
KwaZulu-Natal; Certificate in
Management (first year MBA),
Buckinghamshire Chilterns;
Certificate in Intellectual
Property Law, WIPO (World
Intellectual Property Rights
Organisations) and Unisa; LLM
(Corporate/Commercial), Unisa;
Postgraduate Certificate in
Advanced Taxation; accredited
mediator (Conflict Dynamics).



**Prof Piet Delport** 

LLB, LLD, University of Pretoria; Higher Diploma in Tax Law, University of the Witwatersrand; accredited mediator (Conflict Dynamics).



**Khashane Manamela** 

BA, University of Venda; LLB, LLM (Commercial Law), University of Pretoria; LLM (Tax Law), University of the Witwatersrand; Master of Business Leadership, Unisa-SBL; accredited mediator (Conflict Dynamics).



LLB, LLM (Corporate Law),
Advanced Certificate in Tax
Practice, University of Pretoria;
Advanced Corporate Law,

University of the Witwatersrand.

**Adv Lizelle Haskins** 



Adv Ishara Bodasing
MCL, University of Delhi (India);
BA and LLB, University of
KwaZulu-Natal; accredited
mediator (Conflict Dynamics).



BProc, Certificate in Taxation, MBA, Unisa; LLM, University of Cape Town; accredited mediator (CEDR, UK and Conflict Dynamics).

**Peter Veldhuizen** 



Bongekile Zulu
BProc, University of DurbanWestville; MBA from University
of KwaZulu-Natal; Certificate in
Environmental Law, University of
Pretoria; accredited mediator
(CEDR, UK and Conflict
Dynamics).



Wimore di Malokane
BProc, UNIN (now University of Limpopo); Advanced
Diploma in Corporate Law,
RAU (now University of
Johannesburg); Certificate in
Mergers and Acquisition Law
and Regulations, University of
Pretoria; Advanced Diploma
in Banking Law, Advanced
Diploma in Insolvency Law,
University of Johannesburg;
accredited mediator (Conflict
Dynamics).



Prof Kasturi Moodaliyar
BProc, LLB, LLM, University
of Natal (now University
of KwaZulu-Natal); MPhil
(Criminological Research),
University of Cambridge;
Programme in Economics
and Public Finance, Unisa;
Programme in Legislative
Drafting, University of Pretoria;
accredited mediator (Conflict
Dynamics).

## H, U, M, A, N, R, E, S, O, U, R, C, E, S, M, A, N, A, G, E, M, E, N, T, M, T,

### INTRODUCTION

t the end of the year under review, the Tribunal had 12 permanent employees and two interns. The Full-time Tribunal member's contract ended on 31 July 2018 and the Tribunal is in the process of filling the post of Chief Operations Officer, following the structural review. There was only one resignation and a replacement was made.

REMCO met four times to provide oversight on human resources matters, including executing its advisory role during the structural review. It comprises independent members and has contributed significantly to the review of the Tribunal's human resources policies and the organisational structure review process.

REMCO reviewed and recommended the approval of the new organisational structure to the Chairperson of the Tribunal. REMCO also takes note of the human capacity challenges faced by the Tribunal, due to inadequate funding to fill all approved positions.



LANCE DIRKSEN
CHAIRPERSON REMCO



RAJESH JOCK REMCO MEMBER



**QONDILE ZIMU**REMCO MEMBER

### 2

### HUMAN RESOURCES OVERSIGHT STATISTICS

### 2.1 PERSONNEL COST BY PROGRAMME

PROGRAMME	TOTAL EXPENDITURE R'000	PERSONNEL EXPENDITURE R'000	PERSONNEL EXPENDITURE AS A PERCENTAGE OF TOTAL EXPENDITURE	NUMBER OF EMPLOYEES	AVERAGE PERSONNEL COST PER EMPLOYEE R'000
Administration	20 381	11 555	57%	12	963

Note: The difference between the personnel expenditure and the amount disclosed in the statement of financial performance is the R136 958 stipend paid to Interns

### 2.2 PERSONNEL COST BY SALARY BAND

LEVEL	PERSONNEL EXPENDITURE R'000	PERCENTAGE OF PERSONNEL COST TO TOTAL PERSONNEL COST	NUMBER OF EMPLOYEES	AVERAGE PERSONNEL COST PER EMPLOYEE R'000
Top management *	761	7%	-	-
Senior management	3 578	31%	2	1 789
Professional qualified	6 268	54%	8	784
Skilled	948	8%	2	474
Total	11 555	100%	12	963

 $<sup>^{</sup>st}$  The contract for a full-time Tribunal member, who was part of top management, ended on 31 July 2018.

### 2.3 PERFORMANCE REWARDS

PROGRAMME	PERFORMANCE REWARDS	PERSONNEL EXPENDITURE R'000	% OF PERFORMANCE REWARDS TO TOTAL PERSONNEL COST
Top management	-	761	-
Senior management	222	3 578	6%
Professional qualified	235	6 268	4%
Skilled	61	948	6%
Total	518	11 555	4%

### 2.4 TRAINING COSTS

PROGRAMME	PERSONNEL EXPENDITURE R'000	TRAINING EXPENDITURE R'000			AVERAGE TRAINING COST PER EMPLOYEE R'000
Administration	11 555	155	1%	12	13

### 2.5 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 2018/19	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%

### 2.6 EMPLOYMENT CHANGES

LEVEL	EMPLOYMENT AT THE BEGINNING OF THE PERIOD	APPOINTMENTS	TERMINATIONS	EMPLOYMENT AT THE END OF THE PERIOD
Top management *	1	-	1	-
Senior management	3	-	1	2
Professional qualified	7	1	-	8
Skilled	2	-	-	2
Semi-skilled	-	-	-	-
Unskilled	-	-	-	-
Total	13	1	2	12

### 2.7 REASONS FOR LEAVING

REASON	NUMBER	PERCENTAGE OF TOTAL
		NUMBER OF STAFF LEAVING
Death	-	-
Resignation	1	8%
Dismissal	-	_
Retirement	-	_
III health	-	_
Expiry of contract	1	8%
Other	-	
Total	2	16%

### 2.8 LABOUR RELATIONS: MISCONDUCT AND DISCIPLINARY ACTION

REASON	NUMBER	PERCENTAGE OF TOTAL NUMBER OF STAFF LEAVING
Verbal warning	-	-
Written warning	-	-
Final written warning	1	8%
Dismissal	-	-
Total	1	8%

### 2.9 EQUITY TARGETS AND EMPLOYMENT EQUITY STATUS

LEVEL	MALE							
	AFRICAN		COLOURE	)	INDIAN		WHITE	
	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET
Top management	-	-	-	-	-	-	-	-
Senior management	1	-	-	1	-	-	-	-
Professional qualified	6	-	-	-	-	-	-	-
Skilled	1	-	-	-	-	-	-	-
Total	8		-	1		-	-	-
LEVEL	FEMALE							
	AFRICAN		COLOURE	)	INDIAN		WHITE	
	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET	CURRENT	TARGET
Top management	-	-	-	-	-	-	-	-
Senior management	1	-	-	-	-	-	-	-
Professional qualified	2	-	-	-	-	-	-	1
Skilled	-	-	-	-	-	-	1	-
Semi-skilled	-	-	-	-	-	-	-	-
Unskilled	-	-	-	-	-	-	-	-
Total	9						7	

Currently the Tribunal does not have any disabled staff.

STAFF WITH DISABILITY

LEVEL

### FINANCIAL INFORMATION

### STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ANNUAL REPORT AND ANNUAL FINANCIAL STATEMENTS

he Chairperson, in his capacity as the Accounting Authority, is responsible for the preparation, integrity and fair presentation of the financial statements of the Tribunal. The financial statements presented on pages 66 to 93 have been prepared in accordance with South African Standards of Generally Recognised Accounting Practice (GRAP), including any interpretations, guidelines and directives issued by the Accounting Standards Board (ASB), in accordance with Section 55 of the PFMA to the extent indicated in the accounting policies. The financial statements include amounts based on judgments and estimates.

The Chairperson, in consultation with staff members, prepared the other information included in the annual report and is responsible for both its accuracy and consistency with the financial statements.

The going-concern basis has been adopted in preparing the financial statements. The Chairperson has no reason to believe that sufficient funding will not be obtained to continue with the official functions of the Tribunal. These financial statements support the viability of the Tribunal.

The financial statements have been audited by an independent auditor, the Auditor-General of South Africa. The auditor was given unrestricted access to all financial records and related data, including minutes of relevant meetings. The Chairperson believes that all representations made to the auditor during the audit were valid and appropriate.

In my opinion, the annual report fairly reflects the operations, performance information, human resources information and financial affairs of the Companies Tribunal for the financial year ended 31 March 2019.

The Audit Report of the Auditor-General of South Africa is presented on page 60.

DR MOHAMED ALLI CHICKTAY

CHAIRPERSON COMPANIES TRIBUNAL 31 JULY 2019 **2** ,

### REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON COMPANIES TRIBUNAL

### REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

### **Opinion**

- I have audited the financial statements of the Companies Tribunal set out on pages 66 to 93, which comprise the statement of financial position as at 31 March 2019, the statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
- 2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Companies Tribunal as at 31 March 2019, and its financial performance and cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA).

### **Basis for opinion**

- 3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
- 4. I am independent of the public entity in accordance with sections 290 and 291 of the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code), parts 1 and 3 of

- the International Ethics Standards Board for Accountants' International Code of Ethics for Professional Accountants (including International Independence Standards) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA codes.
- 5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### **Emphasis of matter**

6. I draw attention to the matter below. My opinion is not modified in respect of this matter.

### **EVENTS AFTER THE REPORTING DATE**

7. As disclosed in note 31 to the financial statements, subsequent to the end of the financial year, the Tribunal received a claim from GEPF with regards to previous employee whose employment contract ended on 31 July 2018. The GEPF states that an additional liability occurs when a member of the GEPF retires or is discharged from public service prior to the normal retirement age. The tribunal is investigating the matter with GEPF. The liability amount claimed is currently R2 309 106.

### Responsibilities of the accounting authority for the financial statements

 The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with the SA Standards of GRAP and the requirements

- of the PFMA, and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
- 9. In preparing the financial statements, the accounting authority is responsible for assessing the Companies Tribunal's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the public entity or to cease operations, or has no realistic alternative but to do so.

### Auditor-general's responsibilities for the audit of the financial statements

- 10. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
- 11. A further description of my responsibilities for the audit financial statements is included in the annexure to this auditor's report.

### REPORT ON THE AUDIT OF THE ANNUAL PERFORMANCE REPORT

### Introduction and scope

12. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information

- against predetermined objectives for the selected programme presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.
- address the 13. My procedures reported performance information, which must be based on the approved performance planning documents of the public entity. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.
- 14. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected programmes presented in the annual performance report of the public entity for the year ended 31 March 2019:

PROGRAMME	PAGES IN THE ANNUAL PERFORMANCE REPORT
Programme	22

- 15. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
- 16. I did not raise any material findings on the usefulness and reliability of the reported

performance information for this programme: adjudication.

### Other matter

17. I draw attention to the matter below.

### **ACHIEVEMENT OF PLANNED TARGETS**

18. Refer to the annual performance report on pages 22 to 34 for information on the achievement of planned targets for the year and explanations provided for the over achievement of a number of targets.

### REPORT ON THE AUDIT OF COMPLIANCE WITH LEGISLATION

### Introduction and scope

- 19. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the public entity with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
- I did not raise material findings on compliance with the specific matters in key legislation set out in the general notice issued in terms of the PAA.

### OTHER INFORMATION

21. The accounting authority is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and the selected programme presented in the annual performance report that has been specifically reported in this auditor's report.

- 22. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
- 23. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected programme presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If based on the work I have performed, I conclude that there is a no material misstatement in this other information, I am required to report that fact. I have nothing to report in this regard.

### **INTERNAL CONTROL DEFICIENCIES**

24. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. I did not identify any significant deficiencies in internal control.

Auditor - General

Pretoria 31 July 2019



### ANNEXURE - AUDITOR-GENERAL'S RESPONSIBILITY FOR THE AUDIT

 As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected programme and on the public entity's compliance with respect to the selected subject matters.

### **Financial statements**

- 2. In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:
  - identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
  - obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the public entity's internal control
  - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by accounting authority
  - conclude on the appropriateness of the accounting authority's use of the going concern basis of accounting in the preparation of the financial statements.
     I also conclude, based on the audit

- evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Companies Tribunal's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a public entity to cease continuing as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation

### Communication with those charged with governance

- I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
- 4. I also confirm to the accounting authority that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, related safeguards.

### ANNUAL FINANCIAL STATEMENTS



### 3.1 ACCOUNTING AUTHORITY'S RESPONSIBILITIES AND APPROVAL

as at 31 March 2019

The Accounting Authority is required by the PFMA to maintain adequate accounting records and is responsible for the content and integrity of the annual financial statements and related financial information included in this report. It is the responsibility of the Accounting Authority to ensure that the annual financial statements fairly present the state of affairs of the entity at the end of the financial year and the results of its operations and cash flows for the period then ended. The external auditors are engaged to express an independent opinion on the annual financial statements and are given unrestricted access to all financial records and related data.

The annual financial statements have been prepared in accordance with Standards of GRAP,

including any interpretations, guidelines and directives issued by the ASB.

The annual financial statements are based on appropriate accounting policies that are consistently applied and supported by reasonable and prudent judgments and estimates.

The Accounting Authority acknowledges that he is ultimately responsible for the system of internal financial control established by the entity and places considerable importance on maintaining a strong control environment. To enable the Accounting Authority to meet these responsibilities, the Accounting Authority sets standards for internal control aimed at reducing cost-effectively the risk of error or deficit. The standards include

the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the Companies Tribunal and all employees are required to maintain the highest ethics standards by ensuring the Tribunal's business is conducted in a manner that is above reproach under all reasonable circumstances. The focus of risk management in the Tribunal is on identifying, assessing, managing and monitoring all known forms of risk across the organisation. While operating risk cannot be fully eliminated, the Tribunal endeavours to minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

Based on the information and explanations given by management, the Accounting Authority believes that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or deficit.

The Accounting Authority has reviewed the Tribunal's cash flow forecast for the year to 31 March 2020 and, in the light of this review and the current financial position, it is satisfied that the Tribunal has or has access to adequate resources to continue operating for the foreseeable future.

The Tribunal is wholly dependent on **the dti** for the continued funding of its operations. The annual financial statements are prepared on the basis that the Tribunal is a going concern and that **the dti** has neither the intention nor the need to liquidate or materially curtail its scale.

Although the Accounting Authority is responsible for the financial affairs of the Tribunal, he is supported by the Tribunal's employees, internal auditors, REMCO and ARC.

The external auditors are responsible for independently reviewing and reporting on the Tribunal's annual financial statements. The annual financial statements were examined by the Tribunal's external auditors and their report is presented on page 60.

The annual financial statements set out on pages 66 to 93, which have been prepared on the going-concern basis, were approved by the Accounting Authority and were signed on its behalf by Dr Alli Chicktay.

DR MOHAMED ALLI CHICKTAY
CHAIRPERSON COMPANIES TRIBUNAL
31 JULY 2019



### 3.2 STATEMENT OF FINANCIAL POSITION as at 31 March 2019

		2019	2018
	NOTE(S)	R	R
ASSETS			
Current assets		10 174 110	11 887 093
Cash and cash equivalents	3	9 886 225	11 508 907
Receivables from exchange transactions	4	272 853	349 896
Inventories	5	15 032	28 290
Non-current assets		2 023 044	1 762 210
Property, plant and equipment	6	772 558	841 235
Intangible assets	7	1 250 486	920 975
Total assets		12 197 154	13 649 303
LIABILITIES			
Current liabilities		1 683 797	1 845 664
Payables from exchange transactions	8	74 966	619 127
Short-term employee benefits	9	951 366	1 032 556
Provisions	10	268 462	-
Tribunal Members' fees accrual	11	389 003	193 981
NET ASSETS			
Net assets		10 513 357	11 803 639
Accumulated surplus		10 513 357	11 803 639
Total net assets and liabilities		12 197 154	13 649 303

### 3.3 STATEMENT OF FINANCIAL PERFORMANCE for the year ended 31 March 2019

	2019	2018
NOTE(S)	R	R
	819 051	1 259 468
12	4 633	63 200
13	814 418	1 196 268
	18 272 133	17 214 848
14	16 740 000	15 822 000
15	1 532 133	1 392 848
	19 091 184	18 474 316
16	(11 691 858)	(12 332 974)
17	(3 590 885)	(3 073 480)
18	(1 411 286)	(2 357 128)
19	(601 657)	(553 102)
20	(258 727)	(302 372)
23	(2 825 934)	(3 116 707)
21	(1 118)	(1 676)
	(20 381 465)	(21 737 439)
	(1 290 281)	(3 263 123)
	12 13 14 15 16 17 18 19 20 23	819 051  12

### 3.4 STATEMENT OF CHANGES IN NET ASSETS for the year ended 31 March 2019

	Accumulated surplus	Total net assets
	R	R
Balance at 01 April 2017	15 066 762	15 066 762
Deficit for the year	(3 263 123)	(3 263 123)
Balance at 01 April 2018	11 803 638	11 803 638
Deficit for the year	(1 290 281)	(1 290 281)
Balance at 31 March 2019	10 513 357	10 513 357

### 3.5 CASH FLOW STATEMENT as at 31 March 2019

		2019	2018
	NOTE(S)	R	R
Cash flows from operating activities			
Receipts		17 555 535	17 110 320
Government Grants		16 740 000	15 822 000
Interest received		813 980	1 190 242
Other receipts		1 555	98 078
Payments		(18 657 539)	(19 483 371)
Employee costs		(11 504 586)	(11 919 206)
Suppliers		(4 522 042)	(4 286 413)
Members' fees		(2 630 911)	(3 277 752)
Net cash flows from operating activities	22	(1 102 004)	(2 373 051)
Cash flows from investing activities			
•	4	(1.47.404)	(200 010)
Purchase of property, plant and equipment	6	(147 624)	(389 919)
Proceeds from sale of property, plant and equipment	21	3 713	- (000 001)
Purchase of other intangible assets	7	(376 767)	(809 901)
Net cash flows from investing activities		(520 678)	(1 199 820)
Notice were to the conservation and construction			
Net increase/(decrease) in cash and cash		(1 (00 (00)	(2 570 073)
equivalents		(1 622 682)	(3 572 871)
Cash and cash equivalents at the beginning of the year	_	11 508 907	15 081 778
Cash and cash equivalents at the end of the year	3	9 886 225	11 508 907

# 3.6 STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS for the year ended 31 March 2019

	Approved budget R	Adjustments R	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
Statement of Financial Performance Revenue Revenue from exchange transactions	498 000	396 068	894 068	819 051	75 017	
Other exchange revenue	1	4 068	4 068	4 633	(565)	33.1
Interest received	498 000	392 000	890 000	814 418	75 582	33.2
Revenue from non-exchange transactions	20 472 741	1 250 071	21 722 812	18 272 133	3 450 679	
Government grants	16 740 000	1	16 740 000	16 740 000	I	
Other revenue - non-exchange	3 732 741	1 250 071	4 982 812	1 532 133	3 450 679	33.3
transactions						
Total revenue	20 970 741	1 646 139	22 616 880	19 091 184	3 525 696	
Expenditure	(20 970 741)	(1 646 139)	(22 616 880)	(20 380 347)	2 236 533	
Employee related costs	(15 268 770)	1 646 985	(13 621 785)	(11 691 858)	1 929 927	33.4
Administrative expenses	(1 347 100)	(567 171)	(1 914 271)	(1 411 286)	502 985	33.5
Depreciation and amortisation	(197 640)	(213 000)	(410 640)	(258 727)	151 913	33.6
Tribunal members fees	(2 546 960)	(103 040)	(2 650 000)	(2 825 934)	(175 934)	33.7
External audit fees	(000 009)	(21 000)	(621 000)	(601 657)	19 343	33.8
Other operating expenses	(1 010 271)	(2 388 913)	(3 399 184)	(3 590 885)	(191 701)	33.9
Operating deficit	•	•	•	(1 289 163)	1 289 163	
Loss on disposal of assets	1	1	1	(1118)	1 118	
(Deficit)/surplus for the year	1	•	1	(1 290 281)	1 290 281	

# 3.7 ACCOUNTING POLICIES as at 31 March 2019

# 1. ACCOUNTING POLICIES FOR THE YEAR ENDED 31 MARCH 2019

#### 1.1 Presentation of Financial Statements

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91(1) of the Public Finance Management Act (Act 1 of 1999).

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention as the basis of measurement, unless specified otherwise. They are presented in South African Rand.

In the absence of an issued and effective Standard of GRAP, accounting policies for material transactions, events or conditions were developed in accordance with paragraphs 8, 10 and 11 of GRAP 3 as read with Directive 5.

Assets, liabilities, revenues and expenses were not offset, except where offsetting is either required or permitted by a Standard of GRAP.

A summary of the significant accounting policies, which have been consistently applied in the preparation of these financial statements, are disclosed below.

These accounting policies are consistent with the previous period.

#### 1.2 Presentation currency

These annual financial statements are presented in South African Rand, which is the functional currency of the entity.

# 1.3 Significant judgements and sources of estimation uncertainty

In preparing the annual financial statements, management is required to make estimates, judgements and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgements are made on the useful lives of property plant and equipment and intangible assets. The Tribunal's management determines the estimated useful lives for property, plant and equipment and intanaible assets. The estimates are based on the manner in which an asset's future economic benefits or service potential are expected to be consumed.

#### 1.4 Property, plant and equipment

Property, plant and equipment are tangible noncurrent assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the entity; and
- the cost of the item can be measured reliably.

Property, plant and equipment is initially measured at cost.

Where an asset is acquired through a non-exchange transaction, its cost is its fair value as at date of acquisition. Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses.

The useful lives of items of property, plant and equipment have been assessed as follows:

ITEM	DEPRECIATION METHOD	AVERAGE USEFUL LIFE
Furniture and fittings	Straight line	5 years
Motor vehicles	Straight line	5 years
Office equipment	Straight line	5 years
Computer equipment	Straight line	3 - 5 years

The depreciable amount of an asset is allocated on a systematic basis over its useful life.

Each part of an item of property, plant and equipment with a cost that is significant in relation to the total cost of the item is depreciated separately.

The depreciation method used reflects the pattern in which the asset's future economic benefits or service potential are expected to be consumed by the entity. The depreciation method applied to an asset is reviewed at least at each reporting date and, if there has been a significant change in the expected pattern of consumption of the future economic benefits or service potential embodied in the asset, the method is changed to reflect the changed pattern. Such a change is accounted for as a change in an accounting estimate.

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

The depreciation charge for each period is recognised in surplus or deficit unless it is included in the carrying amount of another asset.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

#### 1.5 Intangible assets

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows or service potential. Amortisation is not provided for these intangible assets, but they are tested for impairment annually and whenever there is an indication that the asset may be impaired. For all other intangible assets amortisation is provided on a straight-line basis over their useful life.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

Amortisation is provided to write down the intangible assets, on a straight-line basis, to their residual values as follows:

ІТЕМ	AVERAGE USEFUL LIFE
Computer software	5 years
Case management system	Indefinite

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss arising from the derecognition of an intangible asset is included in surplus or deficit when the asset is derecognised (unless the Standard of GRAP on leases requires otherwise on a sale and leaseback).

#### 1.6 Provisions and contingencies

Provisions are recognised when:

- the Companies Tribunal has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation;
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date.

A contingent liability is disclosed when:

- a possible obligation arises from past events; and
- whose existence will be confirmed only by the occurrence and non-occurrence of one or more uncertain future events not wholly within the control of the Companies Tribunal.

Contingent assets and contingent liabilities are not recognised. Contingencies are disclosed in the notes to the annual financial statements.

#### 1.7 Commitments

Items are classified as commitments when an entity has committed itself to future transactions that will normally result in the outflow of cash. Commitments are not recognised as liabilities or assets in the Statement of Financial Position but are included in the disclosure notes.

#### 1.8 Inventories

Inventories are initially measured at cost except where inventories are acquired through a nonexchange transaction, then their costs are their fair value as at the date of acquisition.

Subsequently inventories are measured at the lower of cost and net realisable value.

The cost of inventories is assigned using the first-in, first-out (FIFO) formula. The same cost formula is used for all inventories having a similar nature and use to the entity.

Inventories comprises of stationery that shall be consumed within a short-term period in the normal business of the entity and not held for sale.

#### 1.9 Financial instruments

#### **Initial recognition**

The Companies Tribunal recognises a financial asset or a financial liability in its statement of financial position when the entity becomes a party to the contractual provisions of the instrument. The Companies Tribunal recognises financial assets using trade date accounting.

# Initial measurement of financial assets and financial liabilities

The Tribunal measures a financial asset and financial liability initially at its fair value plus transaction costs

that are directly attributable to the acquisition or issue of the financial asset or financial liability.

# Subsequent measurement of financial assets and financial liabilities

The Tribunal measures all financial assets and financial liabilities after initial recognition using the following categories:

- Financial instruments at amortised cost.
- Financial instruments at cost.

All financial assets measured at amortised cost, or cost, are subject to an impairment review.

#### **Gains and losses**

For financial assets and financial liabilities measured at amortised cost or cost, a gain or loss is recognised in surplus or deficit when the financial asset or financial liability is derecognised or impaired, or through the amortisation process.

# Impairment and uncollectibility of financial assets

At the end of each reporting period, the Companies Tribunal assesses whether there is any objective evidence that a financial asset or group of financial assets is impaired.

If there is objective evidence that an impairment loss on financial assets measured at amortised cost has been incurred, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the financial asset's original effective interest rate. The carrying amount of the asset is reduced directly OR through the use of an allowance account. The amount of the loss is recognised in surplus or deficit.

If, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognised, the previously

recognised impairment loss is reversed directly OR by adjusting an allowance account. The reversal does not result in a carrying amount of the financial asset that exceeds what the amortised cost would have been had the impairment not been recognised at the date the impairment is reversed. The amount of the reversal is recognised in surplus or deficit.

#### Cash and cash equivalents

Cash and cash equivalents in the Statement of Financial Position comprise cash at banks and on hand and cash equivalents with an original maturity of three months or less. For the purpose of cash flow statement, cash and cash equivalent consist of cash and cash equivalent as defined above, net of outstanding bank overdrafts.

Cash and cash equivalents are measured at amortised cost.

#### **Trade receivables**

Trade receivables are measured at initial recognition at fair value and are subsequently measured at amortised cost using the effective interest method. Appropriate allowances for estimated irrecoverable amounts are recognised in surplus or deficit when there is objective evidence that the asset is impaired.

#### **Financial liabilities**

The Tribunal removes a financial liability (or part of a financial liability) from its Statement of Financial Position when it is extinguished, i.e. when the obligation specified in the contract is discharged, cancelled, expired or waived.

#### **Trade payables**

Trade payables are initially measured at fair value and are subsequently measured at amortised cost using the effective interest method. Gains or losses are recognised in surplus or deficit when the liabilities are derecognised as well as through the amortisation process.

#### **Presentation**

Interest relating to a financial instrument or a component that is a financial liability is recognised as revenue or expense in surplus or deficit.

Losses and gains relating to a financial instrument or a component that is a financial liability is recognised as revenue or expense in surplus or deficit.

#### 1.10 Revenue from exchange transactions

An exchange transaction is one in which the Companies Tribunal receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

#### Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

#### Recognition

An inflow of resources from an exchange transaction recognised as an asset is recognised as revenue, except to the extent that a liability is also an exchange recognised in respect of the same inflow.

As the Companies Tribunal satisfies a present obligation recognised as a liability in respect of an inflow of resources from an exchange transaction recognised as an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

#### Interest received

Interest is recognised, in surplus or deficit, using the effective interest rate method.

#### Other revenue

Other revenue is recognised on an accrual basis. Other revenue received by the Tribunal may include monies recovered for fruitless and wasteful expenditure.

# 1.11 Revenue from non-exchange transactions

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, the Companies Tribunal either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

#### Recognition

An inflow of resources from a non-exchange transaction recognised as an asset is recognised as revenue, except to the extent that a liability is also recognised in respect of the same inflow.

As the Companies Tribunal satisfies a present obligation recognised as a liability in respect of an inflow of resources from a non-exchange transaction recognised as an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

#### Measurement

Revenue from a non-exchange transaction is measured at the amount of the increase in net assets recognised by the entity.

When, as a result of a non-exchange transaction, the entity recognises an asset, it also recognises revenue equivalent to the amount of the asset measured at its fair value as at the date of acquisition, unless it is also required to recognise a liability. Where a liability is required to be recognised it will be measured as the best estimate of the amount required to settle the obligation at the reporting date, and the amount of the increase in net assets, if any, recognised as

revenue. When a liability is subsequently reduced, because the taxable event occurs or a condition is satisfied, the amount of the reduction in the liability is recognised as revenue.

#### **Government grants**

Government grants are recognised in the year to which they relate once reasonable assurance has been obtained that all conditions of the grants have been complied with. (i.e. the submission of required reports to **the dti**, the grant has been received and there is no liability to repay the amount in the event of non-performance).

Government grants are measured at their fair value as at the date of acquisition.

#### Gifts and donations, including goods in-kind

Gifts and donations, including goods in kind, are recognised as assets and revenue when it is probable that the future economic benefits or service potential will flow to the entity and the fair value of the assets can be measured reliably.

#### Services in-kind

Except for financial guarantee contracts, the Tribunal recognise services in-kind that are significant to its operations and/or service delivery objectives as assets and recognise the related revenue when it is probable that the future economic benefits or service potential will flow to the Tribunal and the fair value of the assets can be measured reliably.

#### 1.12 Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

#### **Operating leases - lessee**

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts recognised as an expense and the contractual payments are recognised as an operating lease asset or liability.

#### 1.13 Employee benefits

#### **Short-term employee benefits**

Short-term employee benefits are employee benefits (other than termination benefits) that are due to be settled within twelve months after the end of the period in which the employees render the related service. Short-term employee benefits are recognised at undiscounted amounts in the period in which the service was rendered and the benefit was paid or became payable.

# Post-employment benefits: Defined contribution plans

Eleven employees of the Tribunal are members of a defined contribution pension plan. Under a defined contribution pension plan, the Tribunal pays fixed contributions into a separate fund and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods. The contributions to the defined contribution pension plan are charged to surplus or deficit in the period to which they relate.

One employee of the Tribunal is a member of the Government Employees' Pension Fund (GEPF). The fund is funded by payments from employees and the Tribunal. The Tribunal accounts for contributions to the GEPF as a defined contribution plan as there is no consistent and reliable basis for allocating the obligation, plan assets and cost to the individual employers participating in the plan and the plan exposes the participating employers to actuarial risks associated with the current and former

employees of other employers participating in the plan.

Contributions to the GEPF are charged to surplus or deficit in the period to which they relate. The Tribunal is not liable for any deficits due to the difference between the present value of the benefit obligations and the fair value of the assets managed by the GEPF. Any potential liabilities are disclosed in the financial statements of the National Revenue Fund and not in the annual financial statements of the Tribunal.

Contributions to the pension plan in respect of service in a particular year are included in the employees' total cost of employment and are charged to the statement of financial performance in the year to which they relate, as part of the cost of employment.

#### 1.14 Irregular expenditure

Irregular expenditure as defined in section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including -

- a) this Act; or
- b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
- c) any provincial legislation providing for procurement procedures in that provincial government.

National Treasury practice note no. 4 of 2008/2009 which was issued in terms of sections 76(1) to 76(4) of the PFMA requires the following (effective from 1 April 2008):

Irregular expenditure that was incurred and identified during the current financial and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is also

required with the exception of updating the note to the financial statements.

Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end must be recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements.

Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements must be updated with the amount condoned.

#### 1.15 Fruitless and wasteful expenditure

Fruitless expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

All expenditure relating to fruitless and wasteful expenditure is recognised as an expense in the statement of financial performance in the year that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

#### 1.16 Related parties

The Companies Tribunal operates in an economic sector currently dominated by entities directly or indirectly owned by the South African Government. As a consequence of the constitutional independence of the three spheres of government in South Africa, only entities within the national sphere of government are related parties.

Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

Close members of the family of a person are considered to be those family members who may be expected to influence, or be influenced by, that management in their dealings with the entity.

#### 1.17 Budget information

The Companies Tribunal is typically subject to budgetary limits in the form of appropriations or budget authorisations (or equivalent), which is given effect through authorising legislation, appropriation or similar.

The approved budget is prepared on an accrual basis and presented by functional classification linked to performance outcome objectives.

The approved budget covers the fiscal period from 2018/04/01 to 2019/03/31.

The financial statements and the budget are on the same basis of accounting therefore a comparison with the budgeted amounts for the reporting period have been included in the Statement of comparison of budget and actual amounts.

#### 1.18 Events after reporting date

Events after reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Two types of events can be identified:

 those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and  those that are indicative of conditions that arose after the reporting date (non-adjusting events after the reporting date).

The Companies Tribunal will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The Tribunal will disclose the nature of the event and an estimate of its financial effect or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

#### 1.19 Comparative figures

Where necessary, comparative figures have been reclassified to conform to changes in presentation in the current year.

#### 1.20 Going concern assumption

These financial statements have been prepared based on the expectation that the entity will continue to operate as a going concern for at least the next 12 months. This basis presumes that funds will be made available to finance future operations and that the realization of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

### 2. NEW STANDARDS AND INTERPRETATIONS

#### 2.1 Standards and interpretations effective and adopted in the current year

In the current year, the entity has adopted the following standards and interpretations that are effective for the current financial year and that are relevant to its operations:

STANDARD/ INTERPRETATION	EFFECTIVE DATE: YEARS BEGINNING ON/OR AFTER
GRAP 12 (as amended 2016): Inventories	01 April 2018
GRAP 17 (as amended 2016): Property, Plant and Equipment	01 April 2018
GRAP 21 (as amended 2016): Impairment of non-cash-generating assets	01 April 2018
GRAP 26 (as amended 2016): Impairment of cash-generating assets	01 April 2018
GRAP 31 (as amended 2016): Intangible Assets	01 April 2018
Directive 12: The Selection of an Appropriate Reporting Framework by Public Entities	01 April 2018

#### 2.2 Standards and interpretations issued, but not yet effective

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2019 or later periods

STANDARD/ INTERPRETATION	EFFECTIVE DATE: YEARS BEGINNING ON/OR AFTER	EXPECTED IMPACT
IGRAP 1 (revised): Applying the Probability Test on Initial Recognition of Revenue	01 April 2020	Unlikely there will be a material impact
Directive 7 (revised): The Application of Deemed Cost	01 April 2019	Unlikely there will be a material impact
GRAP 38: Disclosure of Interests in Other Entities	01 April 2020	Unlikely there will be a material impact
GRAP 20: Related parties	01 April 2019	Unlikely there will be a material impact
GRAP 105: Transfers of functions between entities under common control	01 April 2019	Unlikely there will be a material impact
GRAP 106 (as amended 2016): Transfers of functions between entities not under common control	01 April 2019	Unlikely there will be a material impact
GRAP 108: Statutory Receivables	01 April 2019	Unlikely there will be a material impact

# 3.8 NOTES TO THE ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2019

	2019	2018
	R	R
3. CASH AND CASH EQUIVALENTS		
Cash on hand	498	2 811
Bank balances	2 249 554	3 578 069
Short-term deposits*	7 636 173	7 928 027
	9 886 225	11 508 907
*The short-term deposit is the Corporation for Public Deposit account held with South African Reserve Bank. The Tribunal has a garage card held with Standard Bank. The Tribunal also holds a Diners Club card which is strictly used for travel and accommodation payments.		
4. RECEIVABLES FROM EXCHANGE TRANSACTIONS		
Trade debtors	-	60 656
Prepayments	262 346	281 847
Deposits	600	600
Other receivables	9 602	6 026
Employee related debt	305	767
	272 853	349 896
5. INVENTORIES		
Stationery and consumables	15 032	28 290
	15 032	28 290

## 6. PROPERTY, PLANT AND EQUIPMENTS

	2019 R			2018 R		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fittings	38 272	(18 104)	20 168	31 748	(10 830)	20 918
Motor vehicles	265 466	(129 415)	136 051	265 466	(94 904)	170 562
Office equipment	111 551	(61 925)	49 626	111 551	(41 800)	69 751
Computer	1 016 700	(449 987)	566 713	939 719	(359 715)	580 004
equipment						
	1 431 989	(659 431)	772 558	1 348 484	(507 249)	841 235

#### Reconciliation of property, plant and equipment - 2019

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fittings	20 918	6 524	-	(7 274)	20 168
Motor vehicles	170 562	-	-	(34 511)	136 051
Office equipment	69 751	-	-	(20 125)	49 626
Computer equipment	580 004	141 100	(4 831)	(149 560)	566 713
	841 235	147 624	(4 831)	(211 470)	772 558

#### Reconciliation of property, plant and equipment - 2018

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fittings	27 167	-	-	(6 249)	20 918
Motor vehicles	205 073	-	-	(34 511)	170 562
Office equipment	36 360	48 107	-	(14 716)	69 751
Computer equipment	440 628	341 812	(1 676)	(200 760)	580 004
	709 228	389 919	(1 676)	(256 236)	841 235

## 7. INTANGIBLE ASSETS

			2019			2018
			R			R
	Cost	Accumulated amortisation	Carrying value	Cost	Accumulated amortisation	Carrying value
Software	1 417 354	(166 868)	1 250 486	1 040 587	(119 612)	920 975

### Reconciliation of intangible assets - 2019

	Opening balance	Additions	Amortisation	Total
Software	920 975	376 767	(47 256)	1 250 486

### Reconciliation of intangible assets - 2018

	Opening balance	Additions	Amortisation	Total
Software	157 211	809 901	(46 137)	920 975

	2019	2018
	2019 R	2018 R
8. PAYABLES FROM EXCHANGE TRANSACTIONS		
Trade payables	42 132	428 231
Other accrued expenses	32 834	190 896
	74 966	619 127
9. SHORT-TERM EMPLOYEE BENEFITS		
13th Cheque	51 502	157 222
Leave Accrual	382 177	494 450
Employee accruals - Performance bonus	517 687	380 884
	951 366	1 032 556

			2019 R
10. PROVISIONS			
Reconciliation of provisions - 2019	Opening Balance	Additions	Total
Employee benefit cost	-	268 462	268 462
A legal opinion was obtained regarding a liability for capped leave of a staff member who was transferred from CIPC. No agreement has been reached between the Tribunal and the employee.			
		2019 R	2018 R
11. TRIBUNAL MEMBERS' FEES ACCRUAL			
Members' accrual		389 003	193 981
12. OTHER EXCHANGE REVENUE			
Fruitless and wasteful expenditure recoverable Other sundry income		565 4 068	63 200
•		4 633	63 200
13. INTEREST RECEIVED			
Interest charged on trade and other receivables		-	993
Short-term deposit -Corporation for Public Deposit		708 147	1 121 039
Current Account - Standard Bank		106 271 <b>814 418</b>	74 236 1 196 268
		014 410	1 190 200
14. GOVERNMENT GRANTS			
Transfer from <b>the dti</b>		16 740 000	15 822 000
15. OTHER NON-EXCHANGE REVENUE			
Revenue in-kind		1 532 133	1 392 848

	0010	2010
	2019	2018
	R	R
16. EMPLOYEE RELATED COSTS		
10. EIVII EOTEE KEEALED OOOTO		
Basic earnings	9 662 372	10 076 494
Performance bonus	517 687	639 510
Medical aid contributions	176 710	183 619
Unemployment Insurance Fund	23 380	24 450
Workers' Compensation Assistance	12 108	14 848
Skills Development Levy	101 711	104 030
Leave accrual expense	246 697	169 870
Other Allowances	42 150	50 600
Defined contribution pension plan expense	595 938	674 551
Long-service awards	4 000	-
13th Cheques	172 147	287 171
Interns stipend	136 958	107 831
	11 691 858	12 332 974
17. OTHER OPERATING EXPENSES		
17. OTHER OF ERAMINO EXPERIORS		
Computer expenses	275 587	188 785
Consulting and professional fees	798 839	513 566
Courier, postage and stamps	6 555	9 618
Employee Wellness Programme	24 437	31 219
Insurance	140 598	137 066
Lease payments - photocopier	96 559	95 719
Lease payments - premises	1 532 133	1 392 848
Motor vehicle expenses	16 976	8 599
Offsite storage	6 113	7 133
Debt impairment	60 656	-
Parking fees	4 312	3 695
Recruitment fees	42 892	17 526
Telephone expenses	25 578	36 184
Training expenses	155 049	196 327
Transcripts and recordings	50 497	40 480
Travel and subsistence	354 104	394 715
	3 590 885	3 073 480

	2019 R	2018 R
18. ADMINISTRATIVE EXPENSES		
Audit and Risk committee fees	166 127	92 425
Advertising and marketing	549 534	727 884
Internal audit fees	161 389	303 529
Bank charges	24 517	22 361
Membership fees	4 455	4 500
Legal fees	-	635 717
Catering	58 762	34 565
Gifts and flowers	400	1 381
Office consumables	18 873	11 455
Publications, printing and books	239 278	218 189
Stationery	53 356	53 046
Remuneration Committee Fees	55 056	52 762
Bursaries - employees	59 580	76 665
Venues and facilities	19 959	122 649
	1 411 286	2 357 128
19. EXTERNAL AUDIT FEES		
External audit fees	601 657	553 102
20. DEPRECIATION AND AMORTISATION		
Computer equipment	149 561	200 759
Furniture and fittings	7 274	6 249
Motor vehicles	34 511	34 511
Office equipment	20 125	14 716
Software	47 256	46 137
	258 727	302 372
21. LOSS ON DISPOSAL OF ASSETS		
Proceeds received from insurance	3 713	-
Net book value of assets	(4 831)	(1 676)
	(1 118)	(1 676)

## 22. CASH USED IN OPERATIONS

	2019	2018
	R	R
Deficit	(1 290 281)	(3 263 123)
Adjustments for:		
Depreciation and amortisation	258 727	302 372
Loss on sale of assets and liabilities	1 118	1 676
Debt impairment	60 656	-
Movements in short term employee benefit	(81 190)	413 768
Movements in provisions	268 462	-
Revenue in-kind	(1 532 133)	(1 392 848)
Operating lease expense in-kind	1 532 133	1 392 848
Changes in working capital:		
Inventories	13 258	(13 103)
Receivables from exchange transactions	77 043	(202 324)
Debtors Impairment	(60 656)	-
Payables from exchange transactions	(544 163)	548 728
Members' accrual	195 022	(161 045)
	(1 102 004)	(2 373 051)

## 23. TRIBUNAL MEMBERS' FEES

				2019
				R
	Member's	Allowances*	Reimbursive	Total
	fees		expenses	
A Chicktay (Chairperson)	308 000	18 000	11 292	337 292
Bodasing K	225 000	18 000	1 953	244 953
Delport PA	172 500	18 000	-	190 500
Glass LA	220 000	18 000	6 746	244 746
Haskins L	115 000	18 000	1 642	134 642
Malokane M	200 000	18 000	-	218 000
Manamela KLM	195 000	18 000	-	213 000
Moodaliyar K	180 000	18 000	336	198 336
Sikhitha L	160 000	18 000	416	178 416
Tootla KY	266 875	18 000	5 097	289 972
Veldhuizen PJ	235 000	18 000	286	253 286
Zulu B	215 000	18 000	1 791	234 791
Ramagaga MJ	70 000	18 000	-	88 000
	2 562 375	234 000	29 559	2 825 934

 $<sup>\</sup>ensuremath{^{*}\text{Tribunal}}$  members received computer allowances and cellphone allowances.

				2018 R
	Member's	Allowances*	Reimbursive	Total
	fees		expenses	
A Chicktay (Chairperson)	399 000	18 000	8 469	425 469
Bodasing K	235 000	18 000	6 367	259 367
Delport PA	170 000	18 000	-	188 000
Glass LA	195 000	18 000	13 792	226 792
Gouden S (term ended 31/03/2017)	15 000	-	-	15 000
Haskins L	140 000	18 000	533	158 533
Malokane M	195 000	18 000	-	213 000
Manamela KLM	235 000	18 000	320	253 320
Moodaliyar K	195 000	18 000	2 006	215 006
Sikhitha L	230 000	18 000	6 201	254 201
Tootla KY	230 000	18 000	4 665	252 665
Veldhuizen PJ	220 000	18 000	-	238 000
Zulu B	230 000	18 000	6 338	254 338
Ramagaga MJ	145 000	18 000	16	163 016
	2 834 000	234 000	48 707	3 116 707

<sup>\*</sup>Tribunal members received computer allowances and cellphone allowances.

### 24. RELATED PARTIES

Controlling entity Department of Trade and Industry

Accounting Authority Dr Alli Chicktay

Members of key management Agnes Tsele-Maseloanyane (contract ended 31 July

2018)

Irene Mathatho

Entities under common control\* Companies and Intellectual Property Commission

Export Credit Insurance Corporation
National Consumer Commission
National Consumer Tribunal
National Credit Regulator
National Empowerment Fund
National Gambling Board

National Lotteries Commission National Lotteries Trust Fund

National Metrology Institute of South Africa National Regulator for Compulsory Specifications

South African Bureau of Standards

South African National Accreditation System

NATURE	REASON	FINANCIAL EFFECT 2019 R	FINANCIAL EFFECT 2018 R	BALANCE 2019 R	BALANCE 2018 R
Grant received	Government grant received from the dti	16 740 000	15 822 000	-	-
Services in-kind	Office space at <b>the dti</b> at no cost	1 532 133	1 392 848	-	-
Lease premises in-kind	Office space at <b>the dti</b> at no cost	(1 532 133)	(1 392 848)	-	-
Telephone expenses	Telephone charges are billed by <b>the dti</b>	(25 578)	(36 184)	(2 307)	(4 542)
		16 714 422	15 785 816	(2 307)	(4 542)

<sup>\*</sup>The entities are under common control of the Department of Trade and Industry of which the CT forms part.

 $<sup>^{**}</sup>$  CT is currently occupying office space at **the dti** campus at no cost. If the transaction was at an arm's length the Tribunal would have paid the rental amounting to R127 678 per month.

## 25. EXECUTIVE MANAGEMENT EMOLUMENTS

						2019 R
	Basic	Other	Allowances*	Reimbursive	Performance	Total
	Salary	benefits*		expenses	bonus	
A Tsele- Maseloanyane (full-time Tribunal member) (contract ended 31 July 2018)	548 053	129 511	4 400	419	-	682 383
l Mathatho (CFO)	1 337 132	233 368	13 200	3 213	141 998	1 728 911
	1 885 185	362 879	17 600	3 632	141 998	2 411 294

						<b>2018</b> R
	Basic	Other	Allowances*	Reimbursive	Performance	Total
	Salary	benefits*		expenses	bonus	
A Tsele- Maseloanyane (full-time Tribunal member)	1 337 122	259 344	13 200	4 610	239 907	1 854 183
l Mathatho (CFO)	1 241 602	81 013	13 200	1 656	102 071	1 439 542
	2 578 724	340 357	26 400	6 266	341 978	3 293 725

<sup>\*</sup>Other benefits include, inter alia, contributions to pension fund, medical aid, car allowances, leave paid out and acting allowances where applicable.

	2019 R	2018 R
26. COMMITMENTS		
Authorised operational expenditure Already contracted for but not provided for		
Operating expenditure Capital expenditure	2 790 799 498 943	1 930 064 762 349
	3 289 742	2 692 413

	2019 R	2018 R
27. FRUITLESS AND WASTEFUL EXPENDITURE		
The R565 in fruitless and wasteful expenditure relates to the penalty charged to the Tribunal for changing air flight tickets		
Add: Fruitless and wasteful expenditure for the current year	565	-
Less: Transferred to debtors	(565)	-
28. OPERATING LEASE - LESSEE		
Companies Tribunal has an operating lease with Sizwe IT Company for a period of three years, the lease expires on 31 December 2019.		
Payable in one year	72 419	96 559
Payable within two to five years	72 419	72 419 <b>168 978</b>

### 29. CHANGE IN ESTIMATE

#### Property, plant and equipment

Changes in the estimated useful lives of some items of computer equipment have resulted in a change in depreciation for the year.

The following categories are affected:

			2019 R
	Value derived	Value derived	Value impact
	using the	using amended	of change in
	original	estimate	estimate
	estimate		
Computer Equipment	143 224	40 611	(102 613)

#### **30. RISK MANAGEMENT**

#### Financial risk management

The Companies Tribunal's activities expose it to a variety of financial risks: market risk (including currency risk, fair value interest rate risk, cash flow interest rate risk and price risk), credit risk and liquidity risk. This note presents information about the Tribunal's exposure to each of the risks and its objectives, policies and procedures for measuring and managing risks.

Further quantitative and qualitative disclosures are included throughout these annual financial statements.

The Accounting Authority has overall responsibility for the establishment and oversight of the Tribunal's risk management framework. The Tribunal's risk management policies are established to identify and analyse the risks faced by the organisation, to set appropriate risk limits and controls, and to monitor risks and adhere to limits. Risk management policies and systems are reviewed regularly to reflect changes in market conditions and the Tribunal's activities.

#### Liquidity risk

The Tribunal's risk to liquidity is a result of the funds available to cover future commitments. It manages liquidity risk through an ongoing review of future commitments and credit facilities. Risk is regarded as low, taking into consideration the current funding structures and availability of cash resources.

The table below analyses the Tribunal's financial liabilities into relevant maturity groupings based on the remaining period at the statement of financial position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances as the impact of discounting is not significant.

		At 31 March 2019 R
	Within 1	Between 2
	Year	and
		5 years
Trade and other	74 966	-
payables		

#### Credit risk

Credit risk consists mainly of cash deposits, cash equivalents, derivative financial instruments and trade debtors. The Tribunal only deposits cash with major banks with high quality credit standing and limits exposure to any one counter-party. The

maximum exposure to credit risk is represented by the carrying value of each financial asset in the Statement of Financial Position.

Financial assets exposed to credit risk at year end were as follows:

	2019 R	2018 R
Receivables from exchange transactions  Cash and cash equivalents	9 907 9 886 225	67 449 11 508 907

#### Interest rate risk

Interest rate risk is the risk that the value of a financial instrument will fluctuate owing to changes in market interest rates. The Tribunal is exposed to interest rate changes in returns on its investments with financial institutions. The Tribunal's exposure to interest rate risk is managed by investing, short-term, in a current account and in a Corporation for Public Deposits account.

The interest rate sensitivity analysis is calculated on liabilities that represent the major interest-bearing positions and interest- generating financial assets. Based on the calculation performed, the impact on surplus of a 1% shift would be a maximum increase of R98 862 (2018: R115 089) or a decrease of R98 862 (2018: R115 089), respectively.

# 31. EVENTS AFTER THE REPORTING DATE

Subsequent to the end of the financial year, the Tribunal received a claim from GEPF with regard to a previous employee whose employment contract ended on 31 July 2018. The GEPF state that an additional liability occurs when a member of the GEPF retires or is discharged from public service prior to the normal retirement age. The Tribunal is investigating the matter with GEPF. The liability amount claimed is currently R2 309 106.

#### 32. BUDGET DIFFERENCES

Changes from the approved budget to the final budget.

The changes between the approved and final budget are a consequence of changes in the overall budget parameters.

For details on these changes please refer to the Statement of Comparison of budget and actual amounts.

#### 33. BUDGET VS ACTUAL EXPENDITURE VARIANCES

- 33.1 Income received is in line with the annual forecast.
- 33.2 The forecast for Interest received from banks was slightly exceeded due to capital expenditure not incurred during the financial year.
- Other income from non-exchange transactions relates to accumulated surplus that was to be used to fund current financial year expenditure.
- 33.4 Savings were as a result of vacant posts not filled.
- 33.5 The under expenditure mainly relates to savings on venue and facilities expenditure for seminar.
- 33.6 Expenditure is lower due to the revision of useful lives of some computer equipment.
- 33.7 Expenditure slightly higher due to CMS training and special members' meeting held.
- 33.8 The under-expenditure is due to no preliminary audits conducted.
- 33.9 Expenditure slightly higher due to recruitment fees incurred and computer software licences.

#### 34. TAXATION

The Companies Tribunal is exempted from income tax in terms of Section 10(1) (cA)(i) of the Income Tax Act.

#### 35. FINANCIAL INSTRUMENTS

		2019	2018
	At amortised cost	R	R
Financial assets			
Receivables from exchange transactions		9 907	67 449
Cash and cash equivalents		9 886 225	11 508 907
		9 896 132	11 576 956
Financial liabilities			
Payables from exchange transactions		74 966	619 127

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