



DEFINITIONS RELATING TO THE CONSUMER PROTECTION, NATIONAL CREDIT AND LIQUOR ACTS




the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

towards full-scale industrialisation and
inclusive growth





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Accredited Consumer Group:	A consumer protection group that has been accredited by the Consumer Commission in terms of Section 78 of the Consumer Protection Act No. 68 of 2008 for the purposes contemplated in that section or elsewhere in the Act.
Advertisement:	Any direct or indirect visual or oral communication transmitted by any medium, or any representation or reference written, inscribed, recorded, encoded upon or embedded within any medium, by means of which a person seeks to promote the supply of any goods or services.
Agreement:	An arrangement or understanding that purports to establish a relationship in law between or among two or more parties.
Alternative Dispute Resolution Agent:	An ombud with jurisdiction or an industry ombud accredited in terms of Section 82(6) of the Consumer Protection Act No. 68 of 2008 or a person/entity providing conciliation, mediation or arbitration services to assist in the resolution of consumer disputes.
Applicable provincial consumer legislation:	Legislation concerning consumer protection that has been enacted by province.
Applicant:	A person who has applied to be registered in terms of the Liquor Act No. 59 of 2003 with Regulations.
Apply:	When used in relation to a trade description, price, notice or any similar form of information, means to emboss, impress, engrave, etch, print or waive into, work into or onto, annex or affix to or incorporate within.
Beer:	Includes (a) ale, cider and stout, and (b) any other fermented drink other than traditional African beer that (i) is manufactured as or sold under the name of beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol or (ii) is declared to be beer under Section 42(2)(a) of the Liquor Act No. 59 of 2003 with Regulations.
Bottle:	To place and seal a substance in the container in which it will be offered for retail sale.
Business:	The continual marketing of any goods or services.
Business name:	A name under which a person carries on a business, other than the person's full name.
Cabinet:	The body of the national executive described in Section 91 of the Constitution.
Clearly:	In relation to the quality of any text, notice or visual representation to be produced, published or displayed to a consumer, means in a form that satisfies the requirements of Section 22 of the Consumer Protection Act No. 68 of 2008.

Commission:	The National Consumer Commission established by Section 85 of the Consumer Protection Act No. 68 of 2008.
Complainant:	A person who has filed a complaint with the Commission in terms of Section 71 of the Consumer Protection Act No. 68 of 2008, or the Commission in respect of a complaint that it has initiated either directly or at the discretion of the Minister in terms of Section 86(b) of the Act, or request of a provincial consumer protection authority or other regulatory authority, as the case may be.
Consideration:	Anything of value given and accepted in exchange for goods or services, including money, property, a cheque or other negotiable instrument, a token, ticket, electronic credit, credit, debit or electronic chip or similar object.
Constitution:	The Constitution of the Republic of South Africa, 1996.
Consumer:	In respect of any particular goods or services, a consumer is a person to whom those particular goods or services are marketed in the ordinary course of the supplier's business. A person who has entered into a transaction with a supplier in the ordinary course of the supplier's business, unless the transaction is exempt from the application of the Consumer Protection Act No. 68 of 2008 by Section 5(2) or in terms of Section 5(3).
Consumer Agreement:	An agreement between a supplier and a consumer other than a franchise agreement.
Consumer protection group:	An entity promoting the interests or protection of consumers as contemplated in Section 77 of the Consumer Protection Act No. 68 of 2008.
Collection costs:	An amount that may be charged by a credit provider in respect of enforcement of a consumer's monetary obligations under a credit agreement, but does not include a default administration charge.
Confidential information:	Personal information that belongs to a person and is not generally available to or known by others.
Co-operative:	An autonomous association of persons united voluntarily to meet their common economic and social needs and aspirations through a jointly owned and democratically controlled enterprise organised and operated on co-operative principles.

Continuous service:	The supply for consideration of a utility or service, other than credit or access to credit, or the supply of such a utility or service combined with the supply of any goods that are essential for the utilisation of that utility or service by the consumer, with the intent that, so long as the agreement to supply that utility or service remains in force, the supplier will make the service continuously available to be used, accessed or drawn upon from time to time as determined by the consumer and with any frequency or in any amount as determined, accessed, required, demanded or drawn upon by the consumer, subject only to any total use or cost limits set out in the agreement.
Credit:	A deferral of payment of money owed to a person, or a promise to defer such a payment or to advance or pay money to or at the direction of another person.
Credit bureau:	A person appointed to represent a credit provider as contemplated in Section 163 of the National Credit Act and Regulations, other than an employee of that credit provider.
Credit agreement:	A person required to apply for registration as such in terms of Section 43(1) of the National Credit Act and Regulations.
Credit facility:	An agreement that meets all the criteria set out in Section 8 of the National Credit Act and Regulations.
Credit guarantee:	An agreement that meets all the criteria set out in Section 8(3) of the National Credit Act and Regulations.
Credit insurance:	An agreement that meets all the criteria set out in Section 8(5) of the National Credit Act and Regulations.
Credit life insurance:	An agreement between an insurer, on the one hand, and a credit provider or consumer or both, on the other, in terms of which the insurer agrees to pay a benefit upon the occurrence of a specified contingency, primarily for the purpose of satisfying all or part of the consumer's liability to the credit provider under a credit agreement as at the time that the specified contingency occurs. Includes a credit life insurance agreement, an agreement covering loss of or damage to property or an agreement covering loss or theft of an access card, personal information number or similar device or any loss or theft of credit consequential to a loss or theft contemplated in subparagraph (i) of the National Credit Act and Regulations.
Credit provider:	Includes cover payable in the event of a consumer's death, disability, terminal illness, unemployment or other insurable risk that is likely to impair the consumer's ability to earn an income or meet the obligations under a credit agreement.
Credit provider:	In respect of a credit agreement to which the National Credit Act applies, a credit provider is the party who supplies goods or services under a discount transaction, incidental credit agreement or instalment agreement.

Credit regulator:	A provincial credit regulator or the National Credit Regulator established by Section 12 of the National Credit Act and Regulations.
Credit transaction:	An agreement that meets the criteria set out in Section 8(4) of the National Credit Act and Regulations.
Credit co-operative:	A co-operative whose predominant purpose is to offer financial services to its members.
Default administration charge:	A charge that may be imposed by a credit provider to cover administration costs incurred as a result of a consumer defaulting on an obligation under a credit agreement.
Developmental credit agreement:	A credit agreement that satisfies the criteria set out in Section 10 of the National Credit Act and Regulations.
Discount transaction:	An agreement, irrespective of its form, in terms of which goods or services are to be provided to a consumer over a period of time and more than one price is quoted for the goods or service, the lower price being applicable if the account is paid on or before a determined date, and the higher price or prices being applicable if the price is paid after that date or periodically during the period.
Distribute:	In terms of the Liquor Act No. 59 of 2003 with Regulations, means to offer liquor or methylated spirits for sale, or sell it, to a registered person.
Distributor:	A person registered as such in terms of the Liquor Act No. 59 of 2003 with Regulations.
Direct marketing:	To approach a person, either in person or by mail or electronic communication, for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the person or requesting the person to make a donation of any kind for any reason.
Display:	When used in relation to goods, means placing, exhibiting or exposing those goods before the public in the ordinary course of business in a manner consistent with an open invitation to members of the public to inspect, and select those or similar goods for supply to a consumer. When used in relation to a price, mark, notice or other visual representation, means to place or publish anything in a manner that reasonably creates an association between that price, mark, notice or other visual representation and any particular goods or services.

Distributor:	In relation to any particular goods, a distributor is a person who, in the ordinary course of business, is supplied with those goods by a producer, importer or other distributor and in turn supplies those goods either to another distributor or to a retailer.
Educational loan:	A student or school loan or another credit agreement entered into by a consumer for purposes related to the consumer's adult education, training or skills development.
Effective date:	In relation to any particular provision of the Consumer Protection Act No. 68 of 2008, it is the date on which that provision came into operation.
Emergency loan:	A credit agreement entered into by a consumer to finance costs arising from or associated with a death, illness or medical condition, unexpected loss or interruption of income or catastrophic loss of or damage to home or property due to fire, theft or natural disaster affecting the consumer, a person who is dependent upon the consumer or a person for whom the consumer is financially responsible.
Electronic communication:	Communication by means of electronic transmission, including by telephone, fax, short message service (sms), wireless computer access, email or any similar technology or device.
Electronic Communications and Transactions Act:	The Electronic Communications and Transactions Act No. 25 of 2002.
Estimate:	A statement of the projected total price for any service to be provided by a supplier, including any goods or components to be supplied in connection with that service.
Equality:	Includes the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes <i>de jure</i> and <i>de facto</i> equality, and equality in terms of outcomes.
Facility:	Any premises, space or equipment set up to fulfil a particular function, or at, in or on which a particular service is available.
Franchise agreement:	An agreement that governs the business relationship between a franchisor and franchisee, including with respect to the goods or services to be supplied to the franchisee by or at the direction of the franchisor or an associate of the franchisor.
Goods:	Includes anything marketed for human consumption.
Importer:	With respect to any particular goods, an importer is a person who brings those goods or causes them to be brought from outside the Republic into the Republic, with the intention of making them available for supply in the ordinary course of business.

Importable substance:	Any substance that is unsafe for human consumption.
Incidental credit agreement:	An agreement, irrespective of its form, in terms of which an account was tendered for goods or services that have been provided to a consumer, or goods or services that are to be provided to a consumer over a period of time and either or both of the following conditions apply: (i) a fee, charge or interest became payable when payment of an amount charged in terms of that account was not made on or before a determined period or date; or (ii) two prices were quoted for settlement of the account, the lower price being applicable if the account is paid on or before a determined date, and the higher price being applicable due to the account not having been paid by that date.
Initiation fee:	A fee in respect of costs of initiating a credit agreement and charged to the consumer by the credit provider, or paid to the credit provider by the consumer upon entering into the credit agreement.
Inspector:	A person appointed as such in terms of Section 88 of the Consumer Protection Act No. 68 of 2008
Instalment agreement:	In terms of the National Credit Act, an instalment agreement covers a sale of movable property in terms of which (i) all or part of the price is deferred and is to be paid by periodic payments; (ii) possession and use of the property is transferred to the consumer; (iii) ownership of the property either passes to the consumer only when the agreement is fully complied with or passes to the consumer immediately subject to a right of the credit provider to repossess the property if the consumer fails to satisfy all of the consumer's obligations under the agreement; and (iv) interest, fees or other charges are payable to the credit provider in respect of the agreement, or the amount that has been deferred.
Intermediary:	A person who in the ordinary course of business and, for remuneration or gain, engages in the business of offering to sell to a consumer, soliciting offers for or selling to a consumer any goods or property that belongs to a third person or service to be supplied by a third person, but does not include a person whose activities as an intermediary are regulated in terms of any other national legislation.
Investigator:	A person appointed as such in terms of Section 88 of the Consumer Protection Act No. 68 of 2008,
Juristic person:	Includes a body of persons, corporate or unincorporated; a partnership; association; or trust if there are three or more individual trustees, or the trustee is itself a juristic person. It does not include a stokvel as defined in the Trust Property Act No. 57 of 1988.

Lease:	An agreement in terms of which temporary possession of any movable property is delivered to or at the direction of the consumer or the right to use any such property is granted to or at the direction of the consumer.
Licence:	Depending on the context, licence means the authority, regardless of its specific title or form, issued to a person and in terms of which that person is either (i) authorised in terms of a public regulation to conduct business; or (ii) authorised by another person to either access any facility or use any goods, or to supply any goods or services.
Liquor:	A liquor product, as defined in Section 1 of the Liquor Products Act No. 60 of 1989, beer or traditional African beer or any other substance or drink declared to be liquor under Section 42(2)(a).
Credit agent: Loyalty credit or award:	(i) Any benefit accruing to a consumer; (ii) right to any goods, service or other benefit granted to a consumer; or (iii) point, credit, token, device or other tangible or intangible thing which when accumulated in sufficient quantities entitles the holder to seek, request or assert a claim for any goods, service or other benefit, allocated to a consumer, in terms of a loyalty programme, irrespective of the name, nature, form or characterisation assigned by that loyalty programme to any such goods, service or other benefit, right or thing.
Loyalty programme:	Any arrangement or scheme in the ordinary course of business, in terms of which a supplier of goods or services, association of such suppliers, or other person on behalf of or in association with any such suppliers, offers or grants to a consumer any loyalty credit or award in connection with a transaction or an agreement.
Manufacture:	To produce or bottle liquor or methylated spirits for the purpose or intent of selling it.
Manufacturer:	A person registered as such in terms of the Liquor Act No. 59 of 2003 with Regulations.
Mark:	When used as a noun means any visual representation, name, signature, word, letter, numeral, shape, configuration, pattern, ornamentation, colour or container for goods or other sign capable of being represented graphically, or any combination of those things, but does not include a trade mark.
Market:	When used as a verb, means to promote or supply any goods or services.
MEC:	Member of the Executive Council in respect of each province that the person has been appointed in terms of Section 132 of the Constitution to whom the responsibility for various pieces of the legislation is assigned to him/her.

Methylated spirits:	Spirits denatured in accordance with any law on the denaturation or methylation of spirits, any other denatured spirits including medicated spirits or denatured spirits declared to be methylated spirits in terms of the Liquor Act No. 59 of 200 with Regulations.
Micro manufacturer:	A person registered as such in terms of applicable provincial legislation to manufacture liquor at or below the prescribed threshold volume.
Minister:	Member of the Cabinet acting on or in terms of a delegation made under Section 45 of the Liquor Act No. 59 of 2003 with Regulations.
Minor:	A person who has not attained the age of 18 years.
Mortgage:	A pledge of immovable property that serves as security for a mortgage agreement.
Mortgage agreement:	A credit agreement that is secured by a pledge of immovable property.
Ombud with jurisdiction:	In respect of any particular dispute arising out of an agreement or transaction between a consumer and a supplier who is (i) subject to the jurisdiction of an ombud or a statutory ombud, in terms of any national legislation, means that ombud, or statutory ombud; or (ii) a financial institution, as defined in the Financial Services Ombud Schemes Act No. 37 of 2004, means the ombud, as determined in accordance with Section 13 or 14 of that Act.
Organ of state:	An organ of state as defined in Section 239 of the Constitution.
Pawn transaction:	An agreement, irrespective of its form, in terms of which one party advances money or grants credit to another and, at the time of doing so, takes possession of goods as security for the money advanced or credit granted.
Person:	Includes a juristic person.
Pre-existing credit agreement:	An agreement that was made before the effective date, and to which the National Credit Act applies.
Premise:	Includes any building, conveyance, place, land or structure, vehicle, ship, boat, vessel, aircraft or container.
Prescribed:	means determined, stipulated, required, authorised, permitted or otherwise regulated by a regulation made, or notice given, by the Minister in terms of the Consumer Protection Act No. 68 of 2008.
Principal debt:	The amount calculated in accordance with Section 101(1)(a) of the National Credit Act and Regulations.

Private collection:	Liquor held by a person if that person acquired that liquor for private consumption and without the intention of re-selling it, whether by producing it, purchasing it from a retail seller, acquiring it from another private collection or importing it into the Republic.
Prohibited conduct:	An act or omission in contravention of the National Credit Act, other than an act or omission that constitutes an offence under the Act by an unregistered person who is required to be registered to engage in such an act, or a credit provider, credit bureau or debt counsellor.
Price:	When used in relation to the consideration for any transaction means the total amount paid or payable by the consumer to the supplier in terms of that transaction or agreement, including any amount that the supplier is required to impose charge or collect in terms of any public regulation.
Producer:	With respect to any particular goods, a producer is a person who grows, nurtures, harvests, mines, generates, refines, creates, manufactures or otherwise produces goods within the Republic, or causes any of those things to be done, with the intention of making them available for supply in the ordinary course of business.
Prohibited conduct:	An act or omission in contravention of the Consumer Protection Act No. 68 of 2008.
Promote:	To advertise, display or offer to supply any goods or services in the ordinary course of business, to all or part of the public for consideration.
Provincial consumer protection authority:	A body established within the provincial sphere of government, and designated by the responsible Member of the Executive Council of a province to have general authority to deal with consumer protection matters within that province.
Provincial credit regulator:	A body within the provincial sphere of government authorised to regulate consumer credit matters within a province.
Public interest credit agreement:	A credit agreement that meets all the criteria prescribed in terms of Section 11 of the National Credit Act, and which is therefore exempt from the application of provisions of this Act concerning reckless credit.
Public regulation:	Any national, provincial or local government legislation or subordinate legislation, or any licence, tariff, directive or similar authorisation issued by a regulatory authority or pursuant to any statutory authority.
Reckless credit:	The credit granted to a consumer under a credit agreement concluded in circumstances described in Section 80. of the National Credit Act and Regulations.

Registrant:	A person who has been registered in terms of any Act.
Registrar:	The Registrar of Companies appointed in terms of the Companies Act No. 61 of 1973, or the official performing similar functions in terms of any subsequent legislation.
Register:	When used as a noun is the register referred to in Section 23 of the Liquor Act No. 59 of 2003 with Regulations.
Registered person:	A manufacturer, distributor, micro-manufacturer or retail seller, or a person acting in the capacity of an employee or agent of a person referred to in paragraph (a) of the Liquor Act No. 59 of 2003 with Regulations.
Registered premises:	Premises that have been registered in terms of the Liquor Act No. 59 of 2003 with Regulations.
Regulated financial institution:	A bank as defined in the Banks Act No. 94 of 1990, a mutual bank as defined in the Mutual Banks Act No. 124 of 1993 or any other financial institution that is similarly licensed and authorised to conduct business and take deposits from the public, in terms of any national legislation.
Regulation:	A regulation made under any Act.
	Regulatory Authority: An organ of state or entity established in terms of national or provincial legislation responsible for regulating an industry or sector of an industry.
Rental:	An agreement for consideration in the ordinary course of business, in terms of which temporary possession of any premises or other property is delivered, at the direction of or to the consumer, or the right to use any premises or other property is granted, at the direction of or the consumer, but does not include a lease within the meaning of the National Credit Act.
Repealed law:	An Act mentioned in Section 121(2) or a public regulation made in terms of the Consumer Protection Act No. 68 of 2008.
Respondent:	A person against whom a complaint or application has been initiated in terms of the National Credit Act.
Respondent:	A person or firm against whom a complaint or application has been initiated in terms of the Consumer Protection Act.
Retailer:	With respect to any particular goods, a retailer is a person who, in the ordinary course of business, supplies those goods to a consumer.
Retail sale:	The sale of liquor for the purpose of consumption.
Retail seller:	A person who is registered or licensed in terms of applicable provincial legislation to sell liquor or make liquor available for sale for the purpose of consumption.

Sell:	Includes exchange, offer, display, deliver, supply or dispose of, for sale or authorise, direct or allow a sale.
School loan:	A credit agreement in terms of which money is paid to a primary or secondary school on account of school fees or related costs for the benefit of the consumer's child or other dependant, or a primary or secondary school defers payment of all or part of the school fees or related costs for the consumer's child or other dependant.
Secured loan:	An agreement, irrespective of its form but not including an instalment agreement, in terms of which a person advances money or grants credit to another, and retains or receives a pledge or cession of the title to any movable property or other thing of value as security for all amounts due under that agreement.
Service fee:	A fee that may be charged periodically by a credit provider in connection with the routine administration cost of maintaining a credit agreement.
Service:	Includes, but is not limited to, any work or undertaking performed by one person for the direct or indirect benefit of another.
Service provider:	A person who promotes supplies or offers to supply any service.
Settlement value:	The amount in respect of a credit agreement that is required to be paid on a particular date to satisfy all the consumer's financial obligations to the credit provider as calculated in accordance with Section 125(2). of the National Credit Act and Regulations
SMS:	Short message service provided through a telecommunication system.
Special order goods:	Goods that a supplier expressly or implicitly was required or expected to procure, create or alter specifically to satisfy the consumer's requirements.
Statutory exception:	A provision of the National Credit Act that specifically provides for exceptional treatment of developmental credit agreements.
Stokvel:	A formal or informal rotating financial scheme with entertainment, social or economic functions, which relies on self-imposed regulation to protect the interest of its members, provides for members to share in profits from and to nominate management of the scheme, establishes a continuous pool of capital by raising funds by means of the subscriptions of the members and consists of two or more persons in a voluntary association, each of whom has pledged mutual support to the others towards the attainment of specific objectives.

Student loan:	A credit agreement in terms of which money is paid by the credit provider to an institution of tertiary education on account of education fees or related costs for the benefit of the consumer or a dependant of the consumer, or an institution of tertiary education defers payment of all or part of the consumer's education fees or related costs.
Temporary increase:	With respect to the credit limit applicable to a credit facility, a temporary increase is an increase in circumstances described in Section 119(2) of the National Credit Act and Regulations
Supplier:	A person who markets any good or services.
Supply:	When used as a verb in relation to services, supply means to sell the services, or to perform or cause them to be performed or provided, or to grant access to any premises, event, activity or facility in the ordinary course of business for consideration. With regard to any liquor or methylated spirits, supply means to place a person in possession or control of that liquor or methylated spirits.
Supply chain:	With respect to any particular goods or services, supply chain is the collective of suppliers who directly or indirectly contribute in turn to ultimate supply of those goods or services to a consumer, whether as a producer, importer, distributor or retailer of goods or as a service provider.
Trade description:	Any description, statement or other direct or indirect indication, other than a trade mark, as to the number, quantity, measure, weight or gauge of any goods or the ingredients of which any goods consist, or material of which any goods are made.
Trade mark:	A trade mark as defined in Section 2(1) of the Trade Marks Act, 1993 (Act No. 194 of 1993) or a well-known trade mark as contemplated in Section 35 of the Trade Marks Act, 1993.
Traditional African beer:	has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964) if any or in the absence of a meaning contemplated in paragraph (a) has the meaning set out in the transitional provisions, which is Schedule 1 of the Liquor Act (Act No. 59 of 2003 with Regulation).
Traditional African beer powder:	has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964) if any or in the absence of a meaning contemplated in paragraph (a) has the meaning set out in the transitional provisions which is Schedule 1. of the Liquor Act (Act No. 59 of 2003 with Regulation).
Transaction:	In respect of a person acting in the ordinary course of business, a transaction is an agreement between or among that person and one or more other persons for the supply or potential supply of any goods or services in exchange for consideration, or the supply by that person of any goods to or at the direction of a consumer for consideration.

Tribunal:	The National Consumer Tribunal established by Section 26 of the National Credit Act.
Unconscionable:	When used with reference to any conduct, unconscionable means having a character contemplated in Section 40 of the Consumer Protection Act 68 of 2008 or otherwise unethical or improper to a degree that would shock the conscience of a reasonable person.
Unit price:	A price for any goods or services expressed in relation to a well-known measure such as quantity, weight, volume, duration or other measurable unit by which the goods or services are allocated.
Used goods:	When used in respect of any goods being marketed, used goods means goods that have been previously supplied to a consumer, but does not include goods that have been returned to the supplier in terms of any right of return contemplated in the Consumer Protection Act.
Visual representation:	Any representation or illustration capable of being reproduced upon a surface, whether by printing or otherwise, but does not include a trade mark.

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