



Portfolio Committee on Trade and Industry

Induction: Consumer and Corporate Regulation

21 August 2019



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Trade and Industry
REPUBLIC OF SOUTH AFRICA



DELEGATION FROM THE DIVISION

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OVERVIEW OF THE PRESENTATION

1. Context, Key Policy Considerations
2. Legislation and Policy managed by Consumer and Corporate Regulation Division
3. Consumer and Corporate Regulation Objectives
4. Divisional Structure
5. Key Functions
 - a. Gambling and Liquor Regulation;
 - b. Corporate Regulation (including IP laws); and
 - c. Consumer protection.
6. Regulatory Entities Reporting to CCRD (Mandates and Roles)
7. Statutory Committees Reporting to CCRD (Mandates and Roles)

CONTEXT, KEY POLICY CONSIDERATIONS

- ❑ CCRD develops and implements coherent, predictable and transparent regulatory solutions that facilitate easy access to redress and efficient regulation for economic citizens and to promote competitive, fair and efficient markets.
- ❑ Regulatory solutions are developed in the areas of lotteries; gambling; liquor; companies; intellectual property; credit and consumer protection.
- ❑ Gambling and consumer protection are functional areas of concurrent national and provincial legislative competence in terms of Schedule 4 of the Constitution and require great collaboration between the two levels of government.
- ❑ Though the regulation of macro manufacturing and distribution are exclusively national government competency; greater collaboration exists between **the dti**; provincial departments (responsible for retail licensing and regulation of micro manufacturing of liquor; provincial Liquor Authorities; Department of Agriculture, Forestry and Fisheries (responsible for the Liquor Products Act, 1989) and the South African Police Services (responsible for enforcement).

LEGISLATION AND POLICY MANAGED BY CCRD

1. Consumer Protection Act, 2008 (Act No. 68 of 2008)
2. National Credit Act, 2005 (Act No. 34 of 2005)
3. National Credit Amendment Act of 2014 (Act No. 19 of 2014)
4. Liquor Act (Act No. 59 of 2003)
5. National Liquor Policy, 2016
6. Lotteries Amendment Act, 2013 (Act No. 57 of 1997)
7. National Gambling Act, 2004 (Act No. 7 of 2004)
8. National Gambling Amendment Act, 2008.
9. National Gambling Policy, 2016
10. Companies Act, 2008 (Act No.71 of 2008)

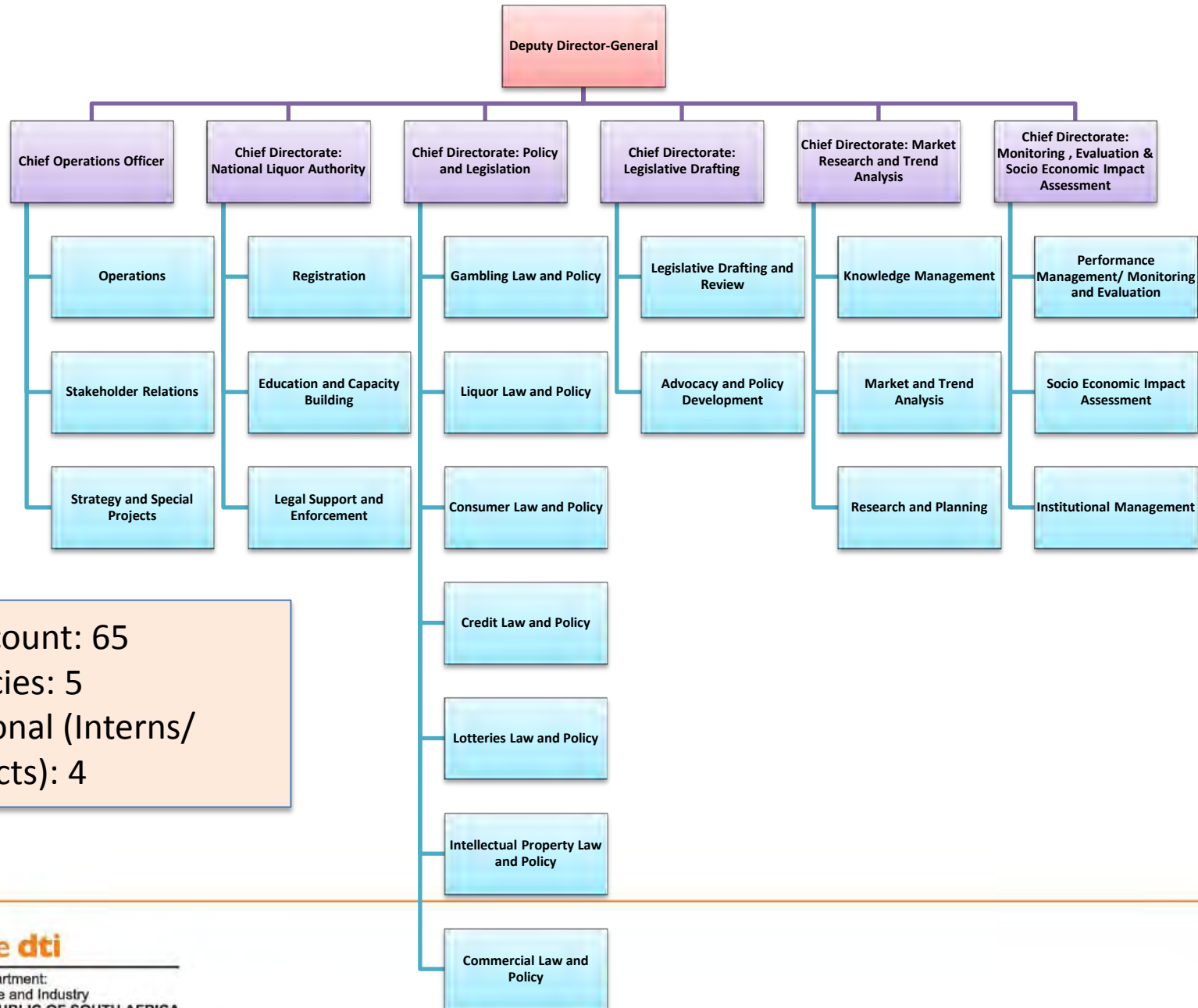
1. South African Company Law for the 21st Century
2. Guidelines for Corporate Law Reform (policy)
3. Intellectual Property Laws Amendment Act 2013
4. Copyright Act, 1978 (Act No. 98 of 1978)
5. Designs Act, 1993 (Act No. 195 of 1993)
6. Merchandise Marks Act 1941 (Act No. 17 of 1941)
7. Patents Act, 1978 (Act No. 57 of 1978)
8. Performers Protection Act, 1967 (Act No. 11 of 1967)
9. Trade Marks Act, 1993 (Act No. 194 of 1993)

CONSUMER AND CORPORATE REGULATION OBJECTIVES



1. To increase access to economic opportunities for small businesses and previously disadvantaged citizens;
2. To develop efficient regulation to reduce the regulatory burden on business and increase confidence and certainty in South African business regulation;
3. To create a business regulatory environment that promotes competitive, fair and efficient markets;
4. To provide access to redress for economic citizens to increase confidence in the markets;
5. To promote awareness of rights, duties/responsibilities to increase activism and public participation; and
6. To share and exchange regulatory experience with partners nationally and internationally to promote simple, appropriate and more effective regulatory solutions.

DIVISIONAL STRUCTURE



Head count: 65
 Vacancies: 5
 Additional (Interns/
 contracts): 4

KEY FUNCTIONS: GAMBLING, NATIONAL LOTTERY AND LIQUOR REGULATION

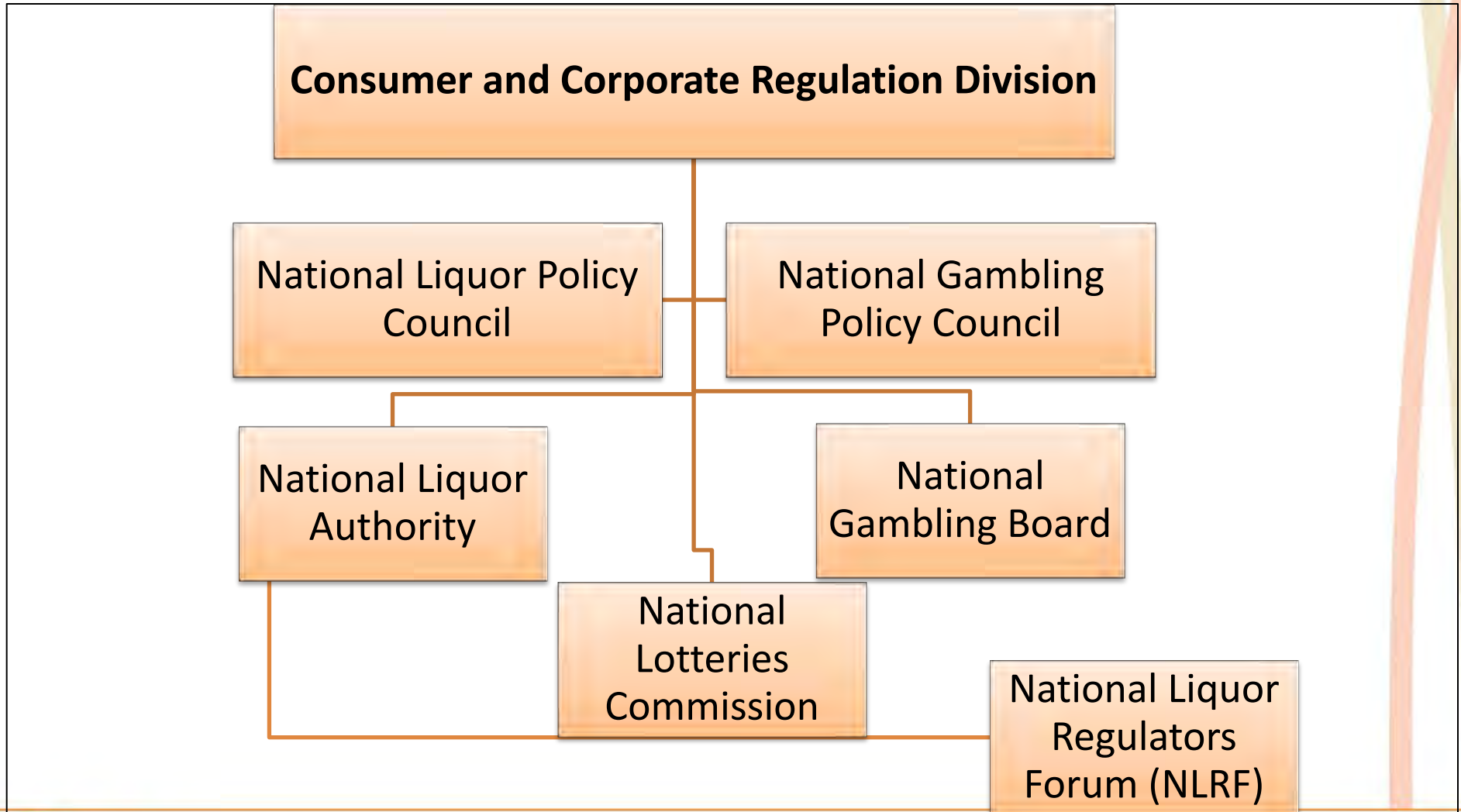


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OVERVIEW



LOTTERIES LAW AND POLICY



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LEGISLATIVE FRAMEWORK

The Lotteries Act, 1997 as amended by the Lotteries Amendment Act, 2013 provides for:

- a. Efficient processing of applications;
- b. Open-call applications and multi year funding;
- c. **Pro Active funding** based on informed research;
- d. For appointment of **full time** Distributing Agencies;
- e. National Lotteries Commission (NLC) to manage the National Lotteries Distribution Trust Fund (**NLDTF**) and to regulate the National Lottery as well as other lotteries, including society lotteries to raise funds and promotional competitions.
- f. **Accountability** of Distributing Agencies to both Minister and NLC Board;
- g. Limit active participation of **conduits**;
- h. Removal of **Reconstruction and Development Programme**; and
- i. Allows the Licensing of Organ Of State to conduct National Lottery.

LOTTERIES REGULATORY OVERVIEW



Operates the
National Lottery



NLC Monitors of
the activities of the
through License



Applications
Pro-active

NGOs; NPOs
and NPCs

Funding

Weekly transfers

NLDTF

23 %

47 %

28 %

2 %

Arts

Charities

Sport

Misc

Legislated percentage allocation per sector

Main functions of the NLC

- Regulates the National Lottery, sports pools as well as other lotteries, including society lotteries to raise funds and promotional competitions.
- Other responsibilities of the Commission include advising the Minister of Trade and Industry on policy matters relating to the National Lottery, sports pools and other lotteries.
- NLC Board is the trustee of the National Lottery Distribution Trust Fund (NLDTF), into which National Lottery proceeds that are intended for allocation to good causes are deposited.
- The NLC provides administrative support to the distributing agencies which adjudicates applications for funding. The distributing agencies (DAs) are appointed by the Minister of Trade and Industry, in conjunction with other relevant Ministers, after a process of public nomination.

FUTURE PROJECTS

- a. Impact Assessment on the implementation of the Lotteries Act.
- a. Appointment of the fourth **licence operator** for the national lottery.
- b. Appointment of the new NLC board Chairperson.

GAMBLING LAW AND POLICY



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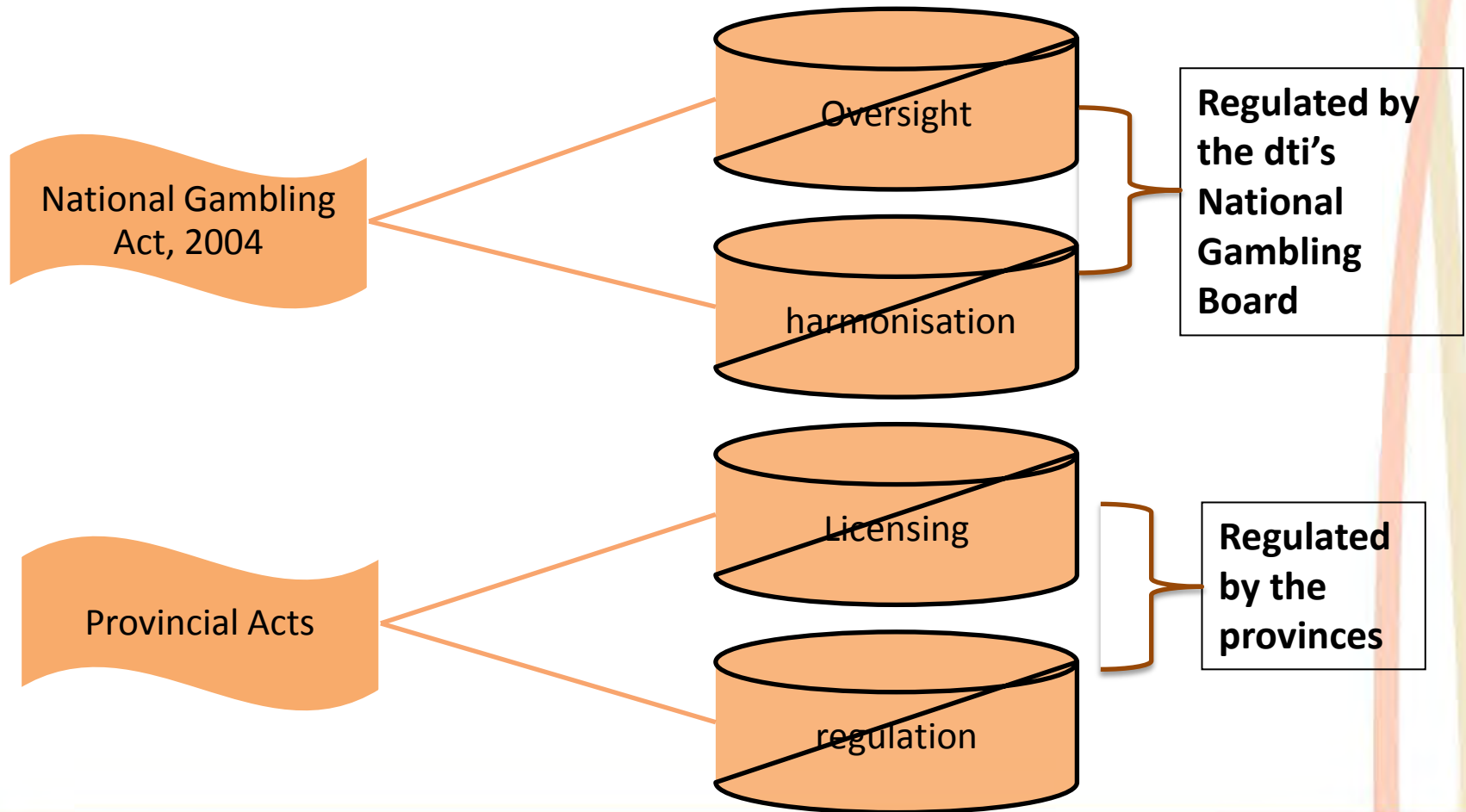


GAMBLING LEGISLATIVE FRAMEWORK

The National Gambling Act, 2004 provides for:

- a. The modes of gambling include casinos, Bingo, Limited Pay-out Machines, horse racing, sports betting, etc.
- a. Establishes the National Gambling Board which is responsible for oversight and evaluation of performance of the PLAs; compliance monitoring of licences by PLAs; monitoring and investigating, when necessary, the issuing of national licenses by provincial licensing authorities for compliance with the Act.
- b. Establishment and maintenance of a national central electronic monitoring system capable of:
 - i. detecting and monitoring significant events associated with any limited pay-out machine, casino, bingo or betting activity that is made available for play in the Republic;
 - ii. analysing and reporting that data in accordance with the prescribed requirements; and
 - iii. collecting and retaining the monitoring fees.
- c. Establishes the National Gambling Policy Council consisting of Minister and the nine Members of Executive Council responsible for gambling regulation in the provinces.
- d. Overview on the Gambling Amendment Act of 2008 on Interactive Gambling.

GAMBLING REGULATORY OVERVIEW





Main functions of the NGB

- The Board has powers and duties exercised and performed in accordance with the National Gambling Act, 2004 (Act No. 7 of 2004).
- It monitors, evaluates and investigates when necessary the issuing of national licenses by provincial licensing authorities. It establishes and maintains national registers regarding various gambling activities.
- The Board of the NGB was the Accounting Authority according to the Act. The Board is currently overseen by the Administrator.

FUTURE PROJECTS

- a. Finalisation of the National Gambling Amendment Bill currently in the National Council of Provinces.
- b. Reintroducing the remaining provisions of the National Gambling Amendment Bill to Parliament.
- c. Regulations on the Exclusions Register, advertising and re-certification are being finalised.

LIQUOR LAW AND POLICY

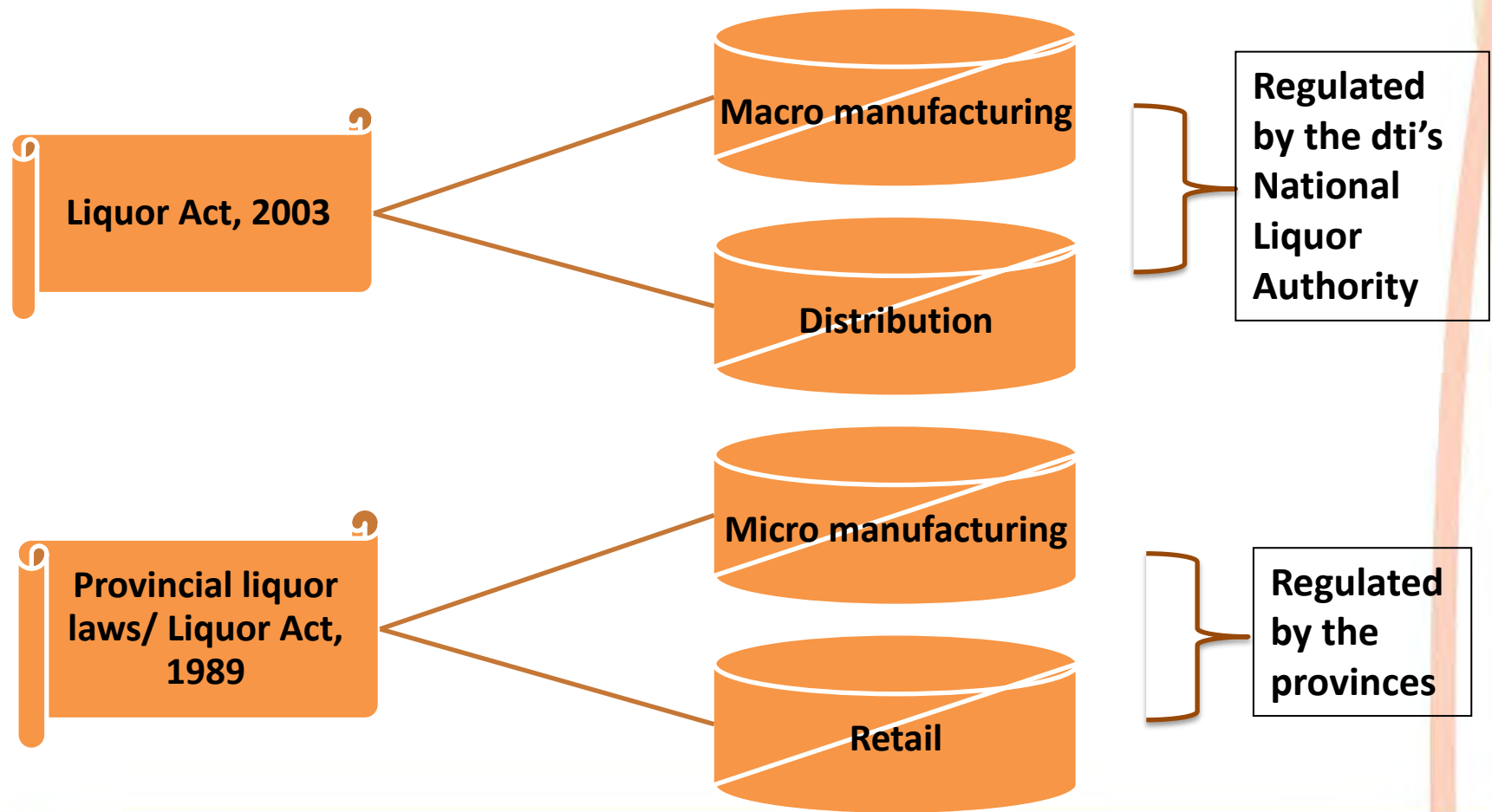


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LIQUOR REGULATORY OVERVIEW



FUTURE WORK

- a. Amendment to the Liquor Regulations 2013.
- a. Implementation of the approved Policy Review by finalizing the legislative amendments process through the amendment of the liquor Act.
- b. Enhancing the capacity of the National Liquor Authority to be more efficient as it moves towards automation.
- c. Participation in the Inter Ministerial Committee (IMC) and implement action plans adopted.
- d. Strengthen role and impact of National Liquor Policy Council.

KEY FUNCTIONS: CORPORATE REGULATION



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COMPANY LAW AND POLICY



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COMPANY LEGISLATIVE FRAMEWORK

The Companies Act, 2008 provides for:

- a. Business rescue provisions were introduced to assist financially distressed companies, save jobs and promote economic growth.
- b. Business rescue came into effect in 1 May 2011.
- c. Social and Ethics Committees (SECs) were established to promote corporate governance and socially responsible business practices.
- d. Independent reviews were introduced to support small enterprises.
- e. Company registration was enhanced for the removal of burdensome regulatory framework. Innovations in company registration and adoption of the eXtensible Business Reporting Language (XBRL) for financial reporting have been introduced.
- f. The Act provides for fundamental transactions of mergers and Takeovers in the interest of minority shareholders.
- g. In 2018 South Africa was rated number 82 out of a score of 100 based on the ease of doing business.
- h. There is a need for effective consequence management in order to address corporate scandals and to ensure good governance and transparency.



Companies and Intellectual Property Commission

a member of **the dti** group

Main functions of the CIPC:

- Registration of Companies, Co-operatives and Intellectual Property Rights (trade marks, patents, designs and copyright) and maintenance thereof.
- Disclosure of Information on its business registers.
- Promotion of education and awareness of Company and Intellectual Property Law.
- Promotion of compliance with relevant legislation.
- Efficient and effective enforcement of relevant legislation.
- Monitoring compliance with and contraventions of financial reporting standards, and making recommendations thereto to the Financial Reporting Standards Council (FRSC).
- Licensing of Business rescue practitioners; and
- Report, research and advise Minister on matters of national policy relating to company and intellectual property law.



Main functions of the CT:

- The Tribunal's mandate is adjudication in relation to any application that may be made to it in terms of the Act, and to make any order provided for in the Act in respect of such an application; assist in the resolution of disputes as contemplated in part C of Chapter 7 of the Act; and
- Perform any other function assigned to it by or in terms of the Act, or any law mentioned in Schedule 4.
- To reduce compliance regulatory costs, provide redress and quick/easy access to stakeholders, particularly small businesses, and
- Provide mediation where required or deemed necessary.



Takeover
Regulation
Panel

a member of **the dti** group

Main functions of the TRP:

- To regulate affected transactions or offers set in part B and C of chapter 5 of the Act that involve regulated companies.
- To investigate complaints relating to Affected Transactions and Offers;
- To apply to court for an order to wind up a company in certain circumstances.
- To consult with the Minister of **the dti** in respect of additions, amendments or deletions; to the Takeover Regulations;
- May consult with any person with a view of advising that person on the application of the Act and the Takeover Regulations;
- May issue, amend or withdraw information on current policy dealing with an affected transactions or offer for guidance;
- May receive and deal with any representations by parties on any matter in respect of affected transactions or offers; and
- May perform any other function assigned to it by legislation.

FUTURE WORK

- a. Amendment to the Companies Act, 2008 to:
 - i. provide for preparation and presentation of directors' remuneration report;
 - ii. provide for the filing of securities registers and register of disclosure of beneficial ownership; to empower the courts to validate irregular creation, allotment or issue of shares; and
 - iii. to reduce requirements when a company provides financial assistance to its subsidiaries.
- b. To align the Act with international corporate trends. The Group of Twenty's (G20) Global Framework for Tracing Beneficial Ownership, requires members and affiliated countries such as South Africa to encourage beneficial owner disclosure in all their legislation governing business and investment institutions. Department of Public Service will be spearheading the project.
- c. Impact Assessment on the Companies Act, later conduct the comprehensive amendments to the Bill.

INTELLECTUAL PROPERTY LAW AND POLICY

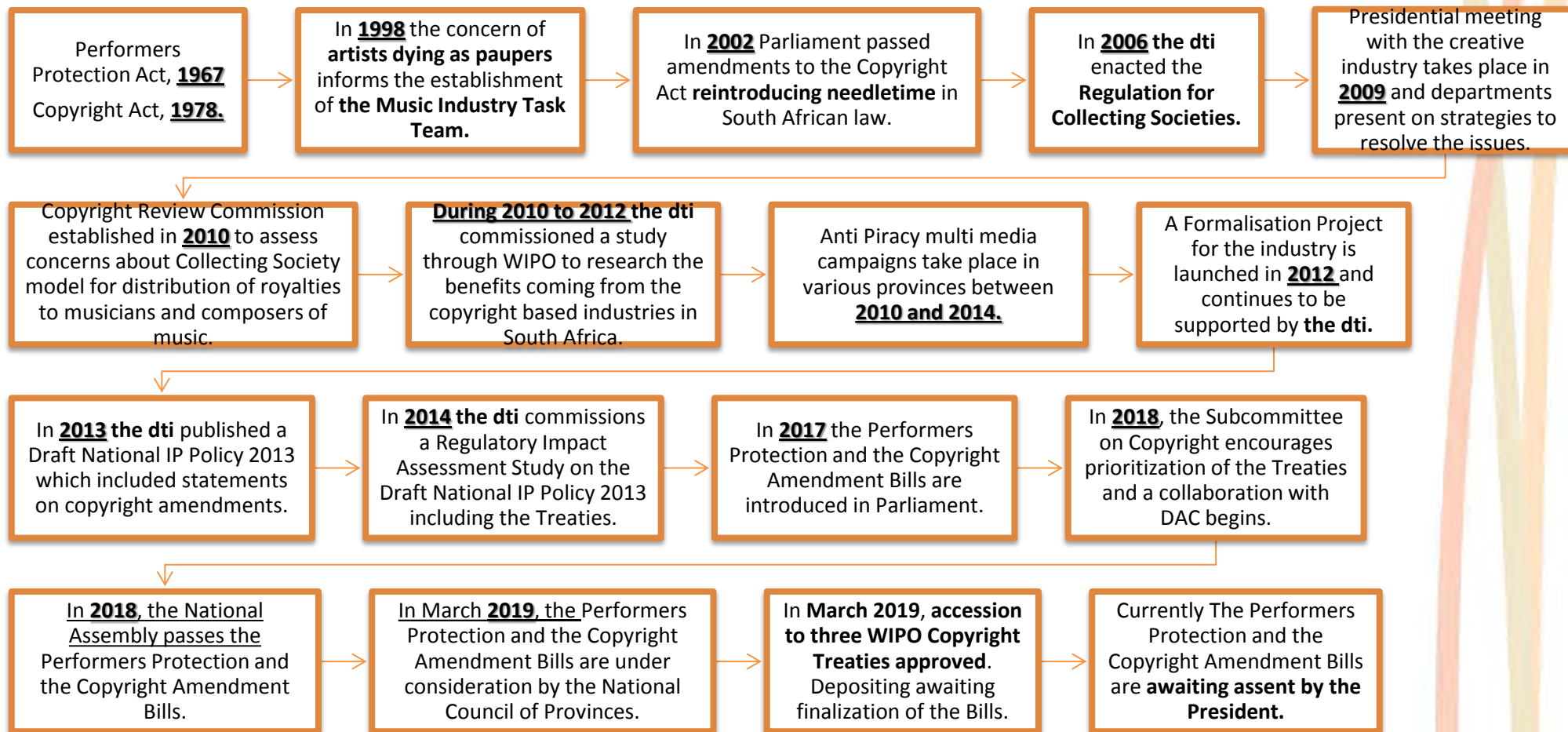


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COPYRIGHT AND PERFORMER'S PROTECTION LEGISLATIVE FRAMEWORK



FUTURE WORK

- a. Regulations on the Companies Amendment Bill.
- b. Regulations on the Performers' Protection Amendment Bill.
- c. Impact Assessment of the retrospective application on royalties in copyright.
- d. Regulations in the Copyright Amendment Bill and the Performers' Protection Amendment Bill, if passed into law.

KEY FUNCTIONS: CONSUMER PROTECTION

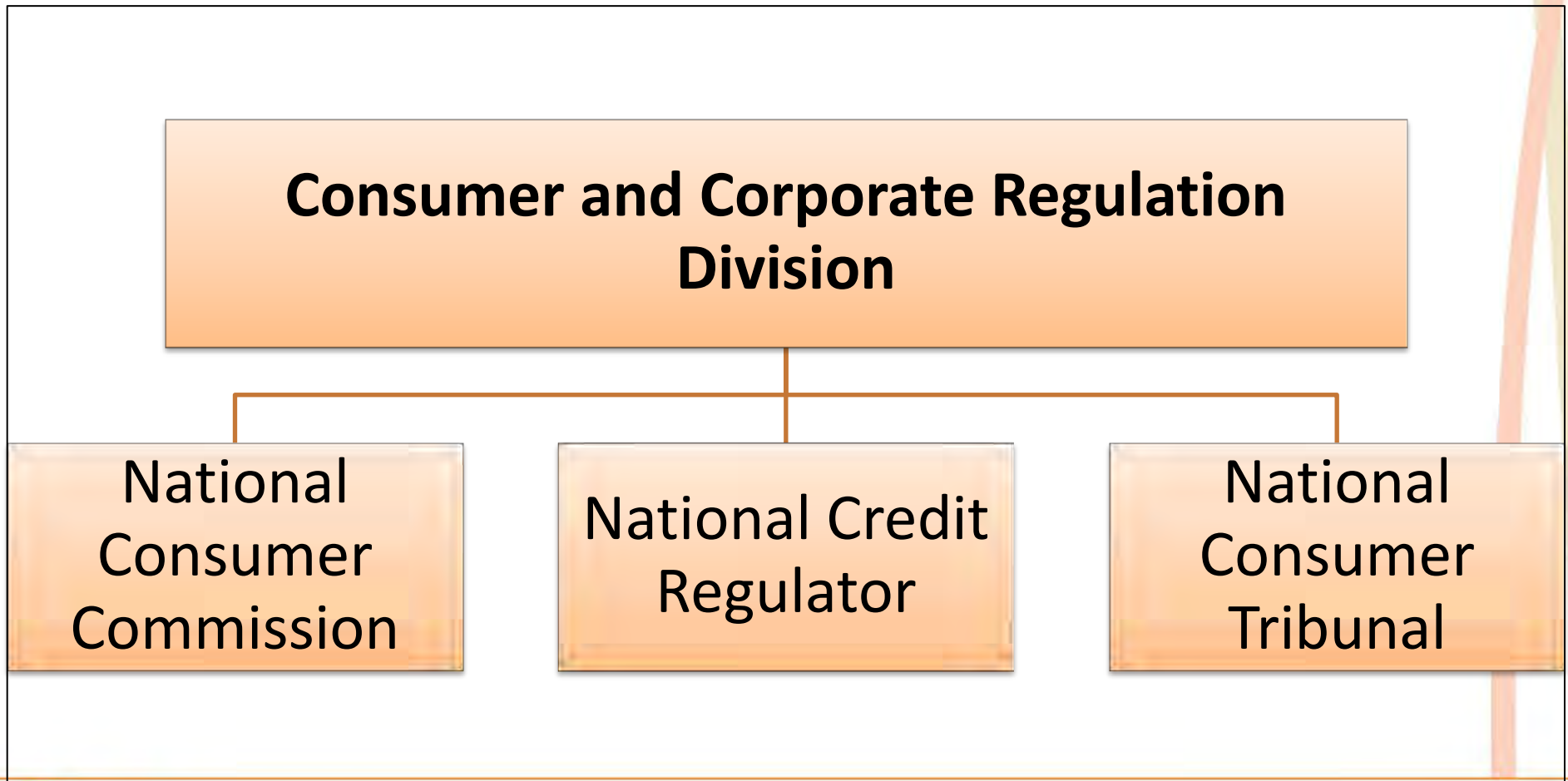


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OVERVIEW



CONSUMER LAW AND POLICY

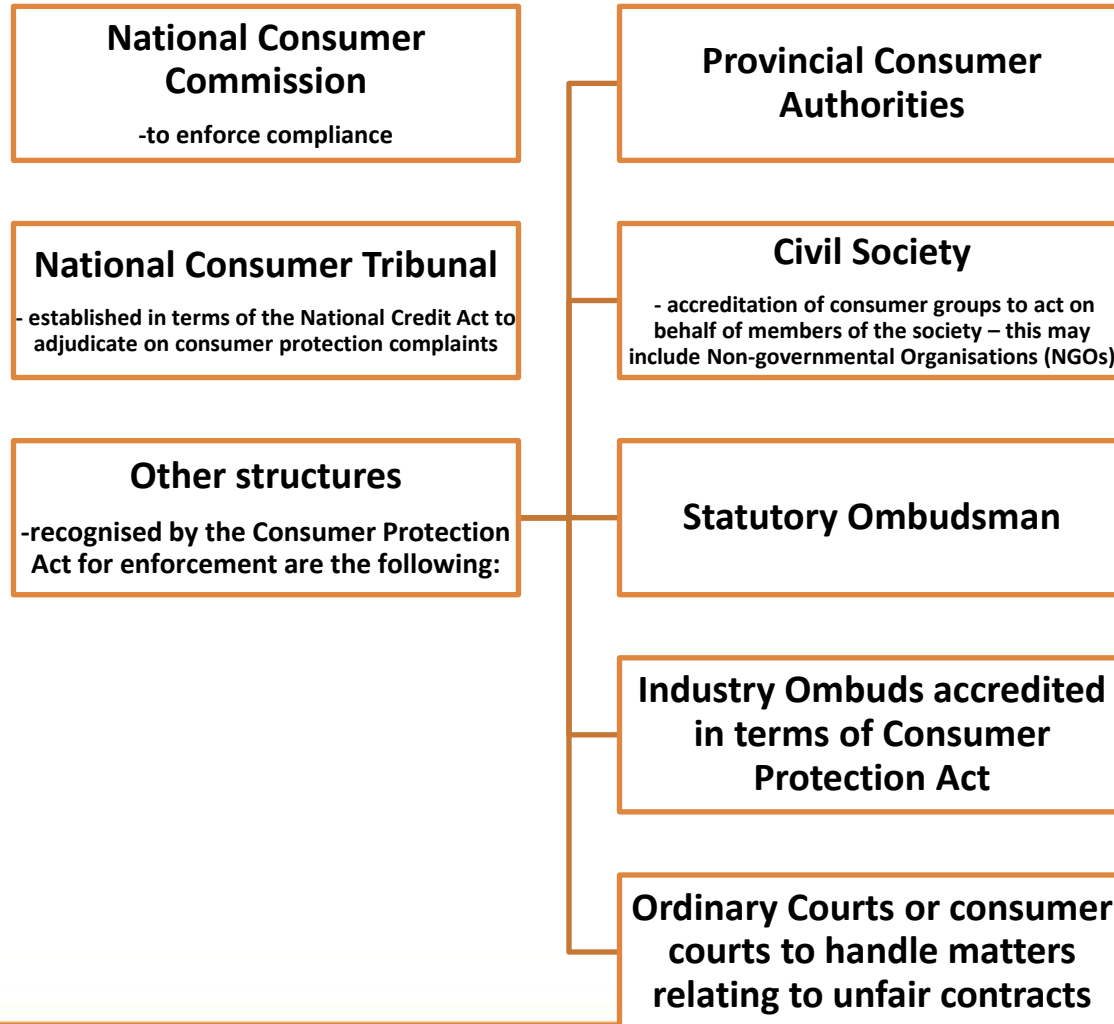


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CONSUMER REGULATORY OVERVIEW



CONSUMER PROTECTION LEGISLATIVE FRAMEWORK

The National Consumer Protection Act, 2008 provides for:

- a. National Norms for consumer protection
- b. Fair and sustainable market place for consumer products
- c. Consumer information and disclosure
- d. Unfair marketing and business practices
- e. Responsible consumer behavior
- f. Establishment of the National Consumer Commission



Main functions of the NCC

- Promote a fair, accessible and sustainable marketplace for consumer products and services, and for that purpose.
- Establish national norms and standards relating to consumer protection.
- Provide for improved standards of consumer information.
- Prohibit certain unfair marketing and business practices.
- Promote responsible consumer behaviour.
- Promote a consistent legislation and enforcement framework relating to consumer transactions.



Main functions of the NCT

- It derives its mandate from the National Credit Act, No. 34 of 2005 (the NCA) and was expanded to include matters arising from Consumer Protection Act, Act No. 68 of 2008 ("the CPA").
- The Tribunal's mandate also includes reviewing decisions made by the National Credit Regulator (NCR), the National Consumer Commission (NCC) and single-member panels of the Tribunal.
- Decisions made by a three-member panel of the Tribunal may in turn be taken on appeal or review to the High Court.

FUTURE WORK

- a. Impact Assessment on the Consumer Protection Act.
- b. Mechanisms to strengthen collaboration with provinces on consumer complaints resolution.

CREDIT LAW AND POLICY



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CREDIT LEGISLATIVE FRAMEWORK

The National Credit Act, 2005:

- a. Promote a fair and non-discriminatory marketplace for access to consumer credit and for that purpose to provide for the general regulation of consumer credit and improved standards of consumer information;
- b. Promote black economic empowerment and ownership within the consumer credit industry;
- c. Prohibit certain unfair credit and credit-marketing practices;
- d. Promote responsible credit-granting and use and for that purpose prohibit reckless credit-granting;
- e. Provide for debt reorganisation in cases of over-indebtedness;
- f. Provide for registration of credit bureaus, credit providers, debt counsellors, PDAs and ADR agents;
- g. Establish national norms and standards relating to consumer credit;
- h. Promote a consistent enforcement framework relating to consumer credit;
- i. Establish the NCR and the NCT; and
- j. Promote and advance the social and economic welfare of South Africans, promote a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry

Main functions of the NCR

- Provides for the general regulation of consumer credit and improved standards of consumer information.
- Promotes a fair and non-discriminatory market place for access of consumer credit.
- Promotes black economic empowerment and ownership within the consumer credit industry.
- Prohibits certain unfair credit and credit-marketing practices.
- Promotes responsible credit granting and use, and for that purpose to prohibit reckless credit granting.
- Provides for debt re-organisation in cases of over-indebtedness.
- Regulates credit information, provides for registration of credit bureau, credit providers and debt counselling services.
- Establishes national norms and standards relating to consumer credit, promotes a consistent enforcement framework relating to consumer credit.

FUTURE WORK

- a. Regulations on the National Credit Amendment Bill (debt intervention-Committee Bill).
- b. Commence with the process of the comprehensive Bill for credit legislation.

STATUTORY COMMITTEES REPORTING TO CCRD: MANDATES AND ROLES

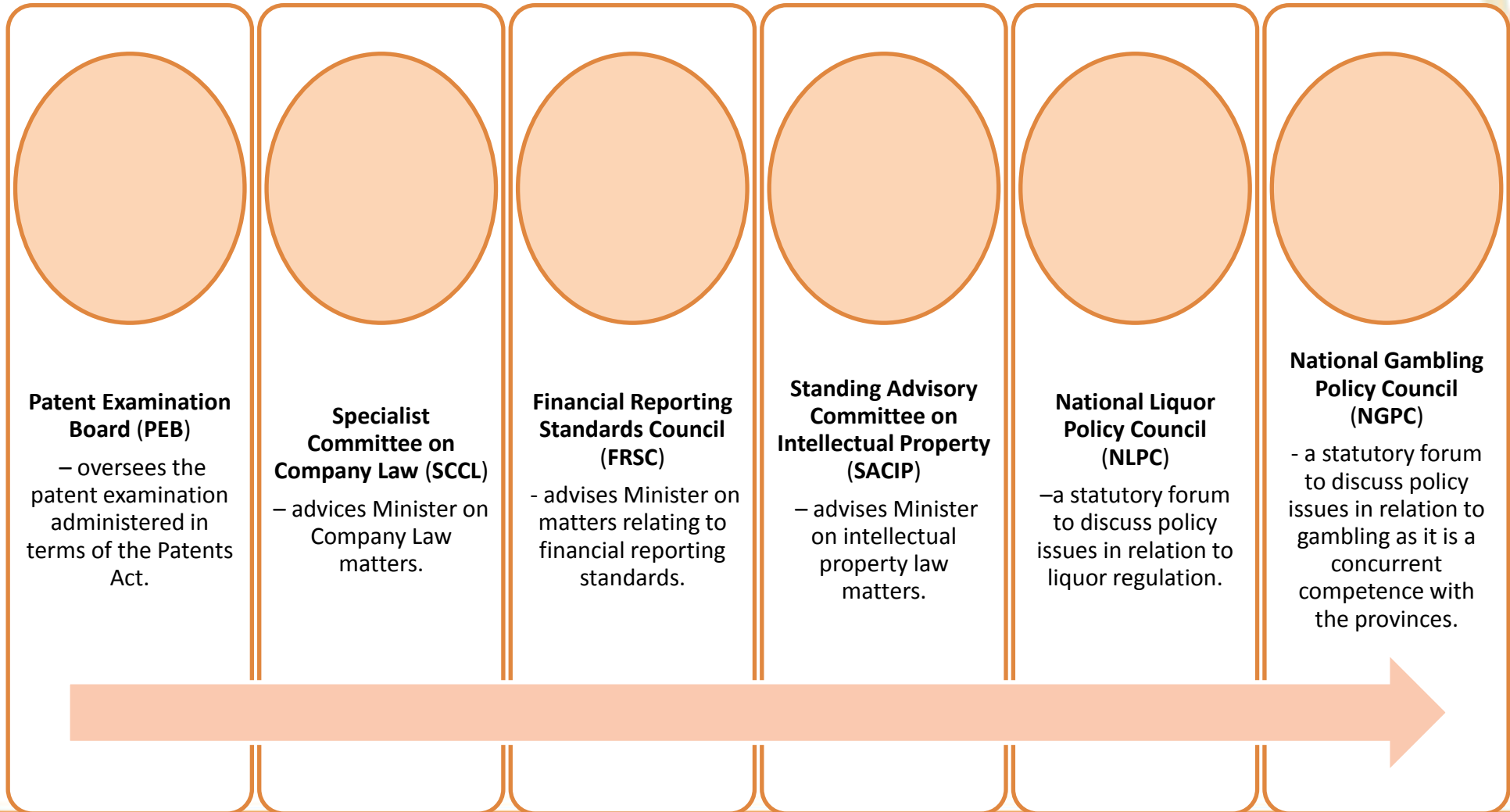


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STATUTORY COMMITTEES REPORTING TO CCRD: MANDATES AND ROLES



KEY LEGISLATIVE PROJECTS AND ACTIVITIES FOR 2018/19 AND 2019/20

Bills before the President

- National Credit Amendment Bill on debt intervention (Committee Bill)
- Copyright Amendment Bill
- Performers' Protection Amendment Bill

Bills before Parliament (NCOP)

- National Gambling Amendment Bill.

Bills to be introduced to Parliament

- Companies Amendment Bill
- Liquor Amendment Bill

Regulations in 2019/20

- National Credit Amendment Bill on debt intervention (Committee Bill)
- Copyright Amendment Bill
- Performers' Protection Amendment Bill
- National Gambling Amendment Bill

Research and other Key Projects and Activities for 2018/19 and 2019/20

Accession to Intellectual Property Treaties

- WIPO Copyright Treaty (WCT)
- Beijing Treaty on Audiovisual Performances
- WIPO Performances and Phonograms Treaty (WPPT)

Research and Impact Assessments

- Impact Assessment of the retrospective application on royalties in copyright
- Socio Economic Impact Assessment studies for the Companies Amendment Bill, consumer protection Act and lotteries Act

Education and awareness

- Session on CCRD legislation held in various communities across the country
- Education and Capacity building on liquor matters

Special projects

- Corporate Governance Training targeting women
- MOA with South African Music Industry Council (SAMIC)
- Companies Law Conference



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Thank you

Ngiyabonga

Baie dankie

Enkosi

Ke a leboga

Na khensa

***Ndi a
livhuwa***

