

e dtic Industry and Competition PUBLIC OF SOUTH AFRIC the dtic - together, growing the economy





Contents

- 1. Purpose
- 2. Context and key policy considerations
- 3. Objectives
- 4. Sub programmes
- 5. Regulation Branch policies and legislation
- 6. Structure
- 7. Key functions in the Branch
 - -Lotteries, national gambling, national liquor, corporate legislation, intellectual property legislation, consumer protection and national credit legislation
- 8. Key activities of the previous 6th Administration
- 9. Regulatory entities of the Branch
- 10.Statutory Committees of the Branch
- 11.Other work of the Branch
- 12.Annual Performance Plan targets 2024/2513.Conclusion



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PURPOSE

The purpose of the presentation is to provide the induction presentation of the Regulation Branch to Parliament (Portfolio Committee).



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CONTEXT AND KEY POLICY CONSIDERATIONS

- Regulation Branch 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, liquor and consumer protection are functional areas of concurrent national and provincial legislative competence and require great collaboration between the two levels of government.
- Though the regulation of macro manufacturing and distribution of liquor are exclusively national government competency; greater collaboration exists between the dtic; provincial departments (responsible for retail licensing and regulation of micro manufacturing of liquor); provincial Liquor Authorities; Department of Agriculture (responsible for the Liquor Products Act, 1989) and the South African Police Services (responsible for enforcement).

SUB PROGRAMMES

- 3 Sub-programmes
- Enforcement and Compliance conducts trends analysis and socioeconomic impact assessments for policies and legislation and market surveys, implements legislation on matters pertaining to liquor, monitors and evaluates the effectiveness of regulation, and oversees the performance of the department's regulatory entities.
- **Policy and Legislative Development** develops policies, laws and regulatory frameworks; and drafts legislation.
- **Regulatory Services** oversees the development of policies, laws, regulatory frameworks and the implementation of the branch mandate, and provides strategic support to branch business units, respectively, in line with legislation and applicable governance systems.

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.



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REGULATION BRANCH POLICIES AND LEGISLATION

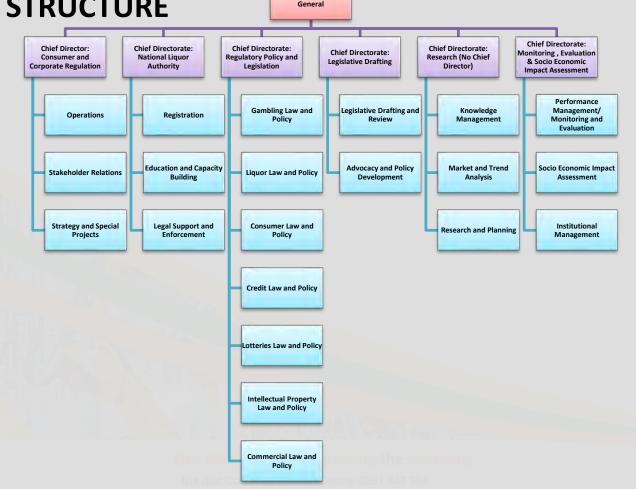
- 1. Consumer Protection Act, 2008 (Act No. 68 of 2008)
- 2. National Credit Act, 2005 (Act No. 34 of 2005)
- 3. National Credit Amendment Act of 2014 (Act No. 19 of 2014)
- National Credit Amendment Act of 2019 (Act No. 7 of 2019) (on debt intervention/ debt relief)
- 5. Liquor Act (Act No. 59 of 2003)
- 6. National Liquor Policy, 2016
- 7. Lotteries Amendment Act, (No 32 of 2013)
- 8. Lotteries Act (No. 57 of 1997)
- 9. National Gambling Act, 2004 (Act No. 7 of 2004)
- National Gambling Amendment Act, 2008 (Act No.10 of 2008) (on interactive gambling).
- 11. National Gambling Policy, 2016
- 12. Companies Act, 2008 (Act No.71 of 2008)
- 13. National Liquor Norms and Standards, 2015

- 14. South African Company Law for the 21st Century (policy framework)
- 15. Intellectual Property Laws Amendment Act 2013 (Act No.28 of 2013).
- 16. Copyright Act, 1978 (Act No. 98 of 1978)
- 17. Merchandise Marks Act 1941 (Act No. 17 of 1941)
- 18. Patents Act, 1978 (Act No. 57 of 1978)
- 19. Performers' Protection Act, 1967 (Act No. 11 of 1967)
- 20. Other laws (proposed to be migrated): E.g Housing Development Schemes Act for Retired Persons (Act No 65 of 1988)

STRUCTURE

Deputy Director-

BRANCH STRUCTURE



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KEY FUNCTIONS: NATIONAL GAMBLING, NATIONAL LOTTERY AND LIQUOR LEGISLATION



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OVERVIEW



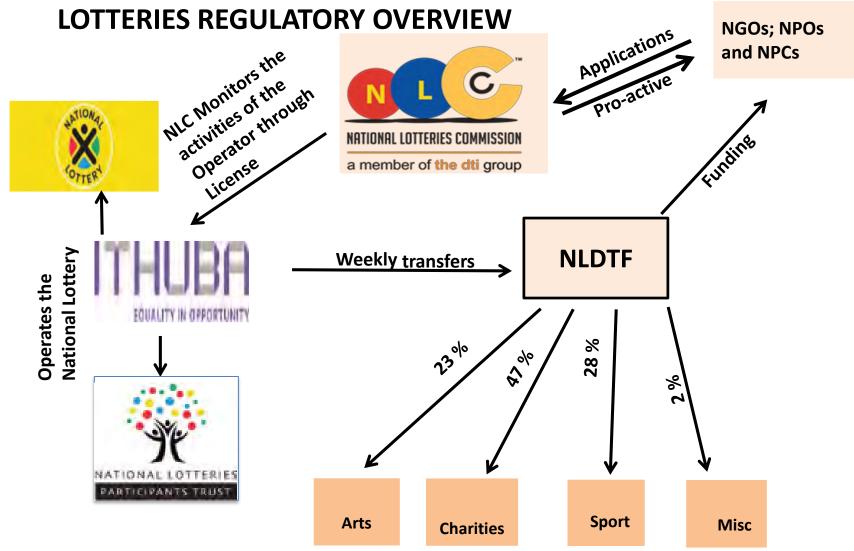


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Legislated percentage allocation per sector

LOTTERIES LAW AND POLICY

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; and
- h. Allows the Licensing of Organ of State to conduct National Lottery.

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LOTTERIES LAW AND POLICY

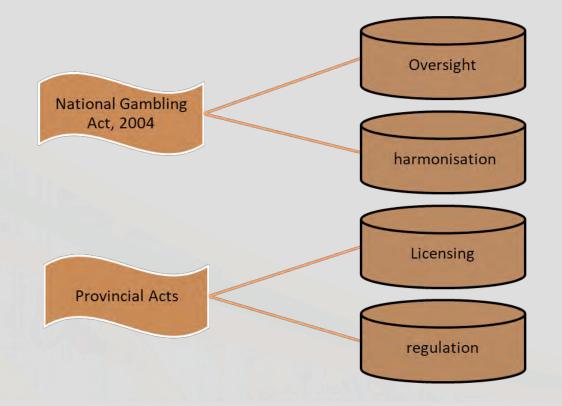
- The Regulatory Impact Assessment on the Lotteries Act was concluded in Q4 of 2021/22.
- Work remain underway with the NLC to consider and take the recommendations forward including to develop a policy and commence with the legislative process.



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NATIONAL GAMBLING REGULATORY OVERVIEW





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NATIONAL 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.
- b. The National Gambling Act, 33 of 1996 establishes the National Gambling Board which is responsible for oversight and evaluation of performance of the Provincial Licensing Authorities (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.
- c. 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 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.
- d. Establishes the National Gambling Policy Council consisting of Minister and the nine Members of Executive Council responsible for gambling regulation in the provinces.

GAMBLING LEGISLATIVE FRAMEWORK

- The National Gambling Amendment Bill was developed and underwent the Parliamentary processes between 2018 and 2019.
- One of the core amendments in the Bill was the recommendation to remove the Board and establish a Regulator.
- The NGB has no Board because it was terminated in 2014 and it was placed under Administration.
- Other amendments were aimed at addressing governance issues.
- The Bill that was introduced to Parliament in 2018 was comprehensive and was reduced to address governance issues.
- The comprehensive issues will require a legislative process.
- The reduced Bill was not concluded by the NCOP in the 5th Administration, was revived in the 6th Administration. The Bill was not supported by majority of Provinces and was referred to Mediation in December 2021.
- The Bill has lapsed.



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NATIONAL LIQUOR LEGISLATIVE FRAMEWORK

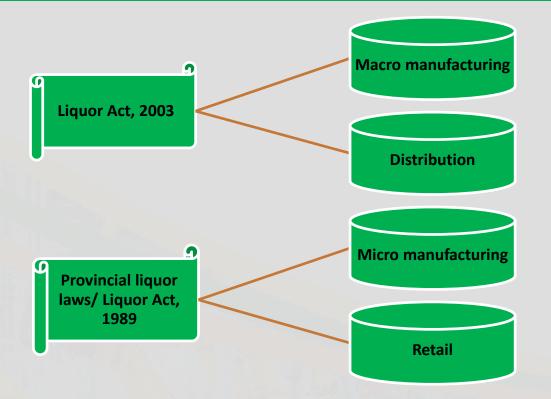
- The Liquor Act 59 of 2003 provides:
 - To reduce socio-economic costs of alcoholic abuse;
 - To establish national norms and standards in order to maintain economic unity within the liquor industry;
 - To provide for essential national standards and minimum standards required for the rendering of services;
 - To provide for measures to promote co-operative government in the area of liquor regulation; and
 - To address the issue of transformation in the liquor industry.



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NATIONAL LIQUOR REGULATORY OVERVIEW





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LIQUOR LEGISLATIVE FRAMEWORK

- National Liquor Authority (NLA):
- Regulates: Macro manufacturing (thresholds applicable) and distribution applicable) of liquor.
- NLA is a Chief Directorate within Regulation Branch that functions as a Regulator.
- It issues licences for new applications, renewals, relocations, etc.
- Conduct inspections and blitz enforcement operations with other law enforcement agencies and provincial liquor regulators.
- It conducts intergovernmental coordination and harmonisation with the provincial liquor authorities through the National Liquor Regulators Forum that meets quarterly.
- It conducts inspectorate functions nationwide.



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NATIONAL LIQUOR LEGISLATIVE FRAMEWORK

- The liquor amendment Bill was finalised and published for public comment after Cabinet approval in 2016. It went through the Nedlac process in 2017.
- The Bill was presented to the Cabinet Committee in 2018 and certain issues were raised.
- The Bill is currently being reviewed following the covid-19 pandemic because **the dtic** realised the challenge of liquor abuse was bigger and require a more concerted government approach.
- A process to review the Bill and to encourage the coordinated strategy of measures with other government Departments on liquor abuse in South Africa is underway.





KEY FUNCTIONS: CORPORATE LEGISLATION



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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. Business rescue came into effect in 1 May 2011.
- b. Social and Ethics Committees (SECs) were established to promote corporate governance and socially responsible business practices.
- c. Independent reviews were introduced to support small enterprises.
- d. 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.
- e. The Act provides for fundamental transactions of mergers and Takeovers in the interest of minority shareholders.

COMPANY LEGISLATIVE FRAMEWORK

- The Companies Act was under review. The Companies Amendment Bill and Companies Second Amendment Bill dealing with the Zondo Commission recommendations were passed by Parliament and referred to the President for assent in the 6th Parliament.
- The Companies Amendment Bill was published in the Gazette in October 2021, following Nedlac discussions and Cabinet's approval.
- Subsequently, it underwent further Cabinet and Parliamentary processes between June 2023 until March 2024.
- The Bill addresses disclosures of remuneration, ease of doing business as well as reducing red tape in some of the core amendments that were found problematic during the implementation of the Act since it came into effect in 2011.

INTELLECTUAL PROPERTY LAW AND POLICY



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INTELLECTUAL PROPERTY (IP) IN REGULATION

- Administration of the IP laws in the Branch.
- Merchandise Marks Act, Patents Act:
 - Applications to utilize marks and the national flag
 - Administration of the Patent Examination Board
- Copyright Act and Performers' Protection Act:
 - The legislative process of the Copyright Amendment Bill and the Performers' Protection Amendment Bill were in process.
 - The Bills were referred back to Parliament to the National Assembly in June 2020 due to constitutional concerns raised by the President.
 - The Bills were deliberated and finalised by the 6th Parliament and were passed by both Houses of Parliament. They were concluded in February 2024 after tabling in the National Assembly.



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CONSUMER LAW AND POLICY



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CONSUMER REGULATORY OVERVIEW

National Consumer Commission

-to enforce compliance

National Consumer Tribunal

- established in terms of the National Credit Act to adjudicate on consumer protection complaints

Other structures

-are recognised by the Consumer Protection Act for enforcement Provincial Consumer Authorities

Civil Society

 accreditation of consumer groups to act on behalf of members of the society – this may include Nongovernmental Organisations (NGOs)

Statutory Ombudsman

Industry Ombuds accredited in terms of the Consumer Protection Act

Ordinary Courts or consumer courts to handle matters relating to unfair contracts

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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. Protect consumers from hazards to their well-being and safety;
- f. Develop effective means of redress for consumers;
- g. Promote and provide for consumer education, including education concerning the social and economic effects of consumer choices;
- h. Facilitate the freedom of consumers to associate and form;
- i. Responsible consumer behavior; and
- j. Establishment of the National Consumer Commission.

CONSUMER PROTECTION LEGISLATIVE FRAMEWORK

- The Regulatory Impact Assessment on the Consumer Protection Act was completed in February 2021.
- The review of the codes for consumers goods and the motor industry are underway.





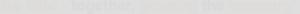
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CREDIT LEGISLATIVE FRAMEWORK

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 creditgranting;
- e. Provide for debt re-organisation 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.



CREDIT LEGISLATIVE FRAMEWORK

- The National Credit Amendment Act 2019 was in the process of review.
- It was passed into law in August 2019.
- It addresses measures of debt relief (debt intervention) for the low income earners.
- The Department has been in consultation with some industry stakeholders and regulators and there are areas to be addressed in order to avoid unintended consequences.
- A regulatory Impact Assessment was conducted in 2019, which was presented to the Portfolio Committee which highlighted possible unintended consequences with the Act.



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KEY LEGISLATIVE PROJECTS AND ACTIVITIES FOR THE PREVIOUS 6TH ADMINISTRATION

Bills that were remitted to Parliament (passed by Parliament)

- Remitted Bills:
- Copyright Amendment Bill
- Performers' Protection Amendment Bill

Bill that was in Mediation in Parliament (lapsed in new Administration)

 National Gambling Amendment Bill

Bills introduced to 6th Parliament (passed by Parliament)

- Companies Amendment Bill (comprehensive)
- Companies Second Amendment Bill to address the Zondo Commission recommendation

Bills that were under review in the Department

- National Credit Amendment Act on debt intervention (Committee Bill)
- Liquor Amendment Bill

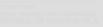


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REGULATORY ENTITIES OF THE BRANCH





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GAMBLING AND LOTTERIES ENTITIES



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.
- To ensure the protection of all lottery and sport pools participants.
- To maximise revenue for good causes in a responsible manner.
- Promote knowledge, awareness by developing and implementing educational and informational measures to educate the public about lotteries.
- Distribute a portion of the revenue from the National Lottery and sports pools to good causes through the National Lottery Distribution Trust Fund (NLDTF).
- 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, Industry and Competition.



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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).
- Oversight of gambling in the Republic of South Africa by:
- Evaluating the issuing of national licences by the PLAs;
- Evaluating the compliance monitoring of licensees by PLAs;
- Conducting oversight evaluation of the performance of provincial licensing authorities so as to ensure that the national norms and standards established by the Act are applied uniformly and consistently throughout the Republic; and
- Research and monitoring of market conduct and market share.
- Assist PLAs to ensure that the unlicensed gambling activities are detected.
- The NGB must also establish and maintain a national registry of every gambling machine or gambling device manufactured within or imported in to the Republic, as well as maintaining all other legislator prescribed registers;
- The NGB must investigate the circumstances of the gambling activity that relates to any unlawful winnings that the NGB had held in trust and either delivers the winnings to the person who won them or apply to the High Court for an order to declare the winnings to be forfeited to the State.
- The Board of the NGB was the Accounting Authority according to the Act. The functions and responsibilities of the Board is currently overseen by the Administrator.

CORPORATE LAW RELATED ENTITIES



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 legislation.
- Efficient and effective enforcement of 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.

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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
- To reduce compliance regulatory costs, provide redress and quick/easy access to stakeholders, particularly small businesses.



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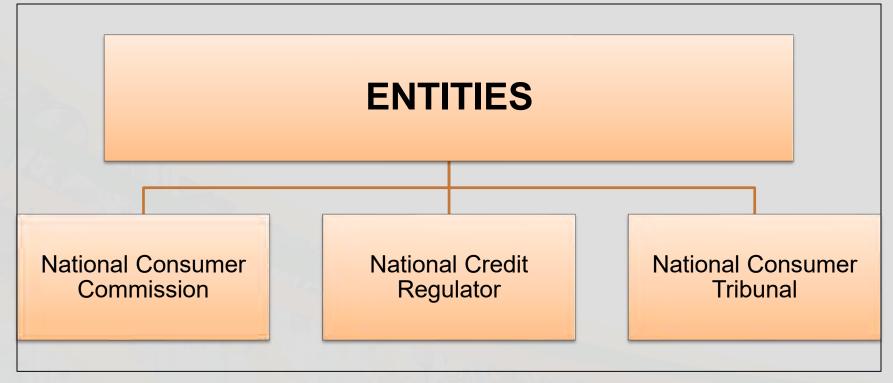
Main functions of the TRP:

- 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 dtic** 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.

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Consumer and credit



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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.



- 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.



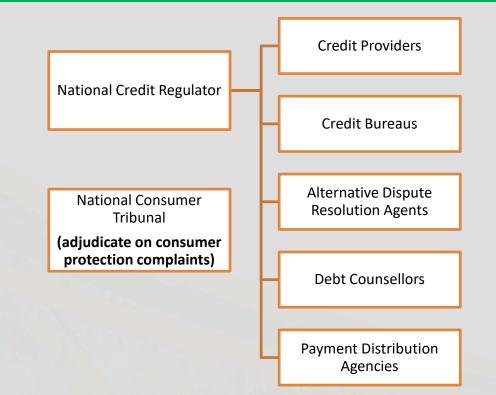
Main functions of the NCR

- 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.



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NATIONAL CREDIT REGULATOR





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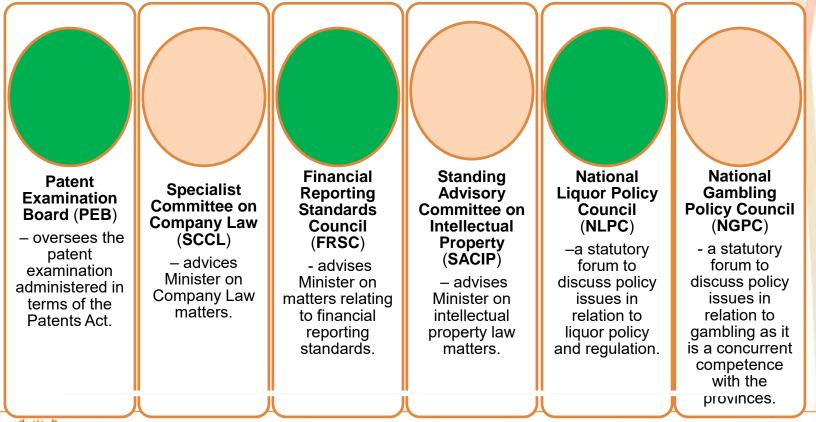
STATUTORY COMMITTEES REPORTING TO THE REGULATION BRANCH: MANDATES AND ROLES



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STATUTORY COMMITEES REPORTING TO REGULATION BRANCH: MANDATES AND ROLES







OTHER WORK OF THE BRANCH



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RESEARCH AND OTHER KEY PROJECTS AND ACTIVITIES

Accession Intellectual Property Treaties

• WIPO Copyright Treaty (WCT)

to

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

Research and regulatory Impact Assessments

- Regulatory Impact Assessment (RIA) into the National Lotteries Act
- Companies Act Regulatory Impact Assessment
- Consumer Protection Act RIA

Education awareness

and

building

 Session on Regulation legislation held in various communities across the country
 Education and

on liquor matters

and targets in the

Performance Plan

Capacity

Annual

-Litigation -Complaints (consumer companies) -Socio Economic Impact Assessment System (SEIAS)

Outputs:

- **Output 7**: R15 billion support programmes to enterprises in areas outside the 5* main metros.
- □ **Output 8**: R8 billion in financial support programmes and procurement contracts approved to SMMES, women and youth-empowered businesses.
- **Output 12**: 1 Million jobs supported or covered by **the dtic** group and/ or master plans
- □ **Output 24**: 2 Implementation of remedial actions by CIPC of the Financial Action Task Force (FATF) requirements to meet immediate outcome 5 (IO5) in South Africa's Action Plan.
- Output 26: 4 pieces of priority legislation amended, regulations developed, tabled or submitted to the Executive Authority, Cabinet or Parliament.
- Output 45: 10 Successful actions completed on price monitoring and excessive pricing or price gouging or price restraint.
- □ Output 32: 1000 case studies of firms, workers, entrepreneurs, professionals or communities' impacted by the dtic measures; including 12 local films/documentaries telling the SA story.
- **Output 33**: community outreach programmes by **the dtic** group in 10 districts.
- **Output 35**: Oversight of **dtic** entities to ensure that at least 96% of planned KPIs are achieved.

ANNUAL PERFORMANCE PLAN TARGETS FOR 2024/25

| OUTPUT INDICATORS (OI) | 2024/2025 APP ANNUAL TARGET |
|--|---|
| Number of reports on Copyright Amendment Bill and Performers' Protection Amendment Bill Number of workshops in areas outside the metros to support SMMEs. Number of Education workshops to support SMMEs. Number of Education workshops to support SMMEs. Number of jobs supported from liquor distributors & lotteries. Number of reports on the implementation of the Beneficial Ownership Register and remedial actions taken by the CIPC. Number of Draft Regulations developed on Companies Amendment Bill/Act. Number of reports on successful actions completed on price monitoring and excessive pricing or price gouging. Number of thedtic success stories profiled through case studies, advertising campaigns and social media platforms. Number of community outreach initiatives completed in 10 Districts. Number of reports on 96% achievement of KPIs and the impact of the work of entities. | 35 000 (liquor) jobs 10 000 (lotteries) jobs 2 reports on Beneficial Ownership Register and remedial actions taken by the CIPC Regulations developed on Companies Amendment Bill/ Act and submitted to Executive Authority (Minister) 10 reports on successful actions completed on price gouging or excessive pricing by the NCC |

CONCLUSION

• It is recommended that the Portfolio Committee notes the work of the Regulation Branch.



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Thank you





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