

NORTHERN CAPE PROVINCE

PROFENSIYA KAPA-BOKONE



NOORD-KAAP PROVINSIE

IPHONDO LOMNTLA KOLONI

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DEPARTMENT OF HEALTH

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS**GENERAL NOTICE 352 OF 2023****SOL PLAATJE MUNICIPALITY****IN TERMS SECTION 47 (1) OF SPLUMA ACT 16 OF 2013.****REMOVAL OF RESTRICTIVE TITLE CONDITIONS I.R.O. ERF 35969 KIMBERLEY, MEMORIAL ROAD, ROYLDENE.**

Notice is given in terms of Section 47 (1) of Spatial Planning and Land Use Management Act 16/2013 and Section 4 (2)(a)(iv), 4(2)(b)(i) read together with Section 9, 16 (1) (a-d) & 20 of the Municipality Land Use Management By-Laws 2015, read together with the Spatial Planning and Land Use Management Act 16/2013 as well as in terms of Section 42(3) of the Spatial Planning and Land Use Management Act 16 of 2013, that the Sol Plaatje Municipality has, with effect from 21 February 2023, approved the Removal of Restrictive title conditions in Title Deed (T2737/2017) Condition 3 Page 3 i.r.o Erf 35969 Kimberley be removed.

ALGEMENE KENNISGEWING 352 VAN 2023**OPHEFFING VAN BEPERKENDE TITEL VOORWAARDES T.O.V. ERF 35969 KIMBERLEY, MEMORIALWEG, ROYLDENE.**

Hierby word ooreenkomstig die bepalings van artikel 47 (1) van die Munisipale Ruimtelike Beplanning en Grondgebruiks Bestuurs Wet, Wet 16/2013 en Artikel 4 (2)(a)(iv), 4(2)(b)(i) saamgelees met Artikel 9, 16 (1) (a-d) & 20 van die Munisipale Verordeninge 2015, saamgelees met die Munisipale Ruimtelike Beplanning en Grondgebruiks Bestuurs Wet, Wet 16/2013 sowel as in terme van Artikel 42(3) van die Munisipale Ruimtelike Beplanning en Grondgebruiks Bestuurs Wet, Wet 16/2013, bekend gemaak dat die Sol Plaatje Munisipaliteit, in effek sedert 21 Februarie 2023, die Opheffing van Beperkende Titel voorwaardes soos uiteengesit in Titelaktes (T2737/2017) Voorwaarde 3, Bladsy 3 t.o.v Erf 35969 Kimberley, opgehef het.

GENERAL NOTICE 353 OF 2023**DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM****NORTHERN CAPE CONSUMER PROTECTION BILL**

I, Mr Abraham Vosloo MPL, Member of Executive Council of Finance, Economic Development and Tourism, Northern Cape do hereby publish the Northern Cape Consumer Protection Bill, in terms of Rule 164 of The Standing Rules of the Provincial Legislature, for public comment.

Any person who wishes to comment on the said Bill must submit such comment in writing within 30 days of publication hereof.

Comments must be submitted-

By post to :

**The Head of Department
Department of Economic Development and Tourism
Private Bag X6108,
Kimberley
8300
Tel : 053 839 4002**

Or

Hand delivered to :

**The Head of Department
Department of Economic Development and Tourism
13th Floor,
Metlife Towers,
Kimberley**

Or emailed to :

Attention : **The Head of Department**
Email : UNgomane@ncpg.gov.za

Any enquiries in connection with the intended Bill can be directed to Adv DP Olivier at 053 8394000

Comments submitted after closing date will not be considered.



**HON. ABRAHAM VOSLOO
MEC FOR ECONOMIC DEVELOPMENT AND TOURISM
NORTHERN CAPE**

BILL

To repeal the Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012); to make provision for certain definitions; to provide for the Provincial Consumer Protection Authority as a Unit within the Department of Economic Development and Tourism; to provide for the appointment of the Consumer Protector, Deputy Consumer Protector; and to provide for all management arrangements related to the Authority and Consumer Court; to provide for the establishment of a Consumer Court for the Province; to provide for the appointment of members and a Registrar for the Consumer Court; to provide for the functioning and administration of the Consumer Court; and to provide for matters connected therewith.

PREAMBLE

WHEREAS a need exists within the Northern Cape Province to protect the rights of consumers;

AND WHEREAS national legislation provides for concurrent consumer protection functions to be exercised by provincial consumer protection entities,

BE IT THEREFORE ENACTED by the Northern Cape Provincial Legislature, as follows:-

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CHAPTER 1**INTERPRETATION AND PURPOSE OF ACT***Part A**INTERPRETATION***Interpretation**

- 1. (1) In this Act, any word or expression to which a meaning has been assigned in the Consumer Protection Act, 2008 (Act No. 68 of 2008) has the meaning so assigned to it, and, unless the context otherwise indicates –

“**Authority**” means the Provincial Consumer Protection Unit within the Department of Economic Development and Tourism;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**consumer**”, in respect of any particular goods or services, means –

- (a) a person to whom those particular goods or services are marketed in the ordinary course of the supplier’s business;
- (b) 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 by section 5(2) or in terms of section 5(3) of that Act;
- (c) if the context so requires or permits, a user of those particular goods or a recipient or beneficiary of those particular services, irrespective of whether that user, recipient or beneficiary was a party to a transaction concerning the supply of those particular goods or services; and
- (d) a franchisee in terms of a franchise agreement, to the extent applicable in terms of section 5(6)(b) to (e) of the Consumer Protection Act;

“**Consumer Court**” means the Northern Cape Consumer Court established by section 18;

“**Consumer Protection Act**” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);

“**consumer protection unit**” means the Authority or the Consumer Court;

“**Consumer Protector**” means the Northern Cape Consumer Protector appointed in terms of section 5(1), subject to the Public Service Act, 1994 as amended;

“**Credit Act**” means the National Credit Act, 2005 (Act No. 34 of 2005);

“**Department**” means the Department responsible for economic development in the Province;

“**Deputy Consumer Protector**” means the Deputy Consumer Protector appointed in terms of section 5(4), subject to the Public Service Act, 1994 as amended;

“**functionary of a consumer protection unit**” means the Registrar, the Consumer Protector or the Deputy Consumer Protector and a member of the Consumer Court;

“**goods**” include –

- (a) anything marketed for human consumption;
- (b) any tangible object not otherwise contemplated in paragraph (a), including any medium on which anything is or may be written or encoded;
- (c) any literature, music, photograph, motion picture, game, information, data, software, code or other intangible product written or encoded on any medium, or a licence to use any such intangible product;
- (d) a legal interest in land or any other immovable property, other than an interest that falls within the definition of “service” in this section; and
- (e) gas, water and electricity;

“**institution**” means –

- (a) the Provincial Consumer Protection Authority established by section 4; or
- (b) the Northern Cape Consumer Court established by section 18;

“**Province**” means the Northern Cape Province referred to in section 103(1)(g) of the Constitution, or any part thereof;

“**Provincial Gazette**” means the *Provincial Gazette* of the Province;

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**Registrar**” means the Registrar of the Consumer Court appointed in terms of section 27, subject to the Public Service Act, 1994 as amended;

“**responsible Member**” means the Member of the Executive Council responsible for economic development in the Province;

“**service**” includes, but is not limited to –

- (a) any work or undertaking performed by one person for the direct or indirect benefit of another;
- (b) the provision of any education, information, advice or consultation, except advice that is subject to regulation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);
- (c) any banking services, or related or similar financial services, or the undertaking, underwriting or assumption of any risk by one person on behalf of another, except to the extent that any such service –
 - (i) constitutes advice or intermediary services that is subject to regulation in terms of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002); or
 - (ii) is regulated in terms of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or the Short-term Insurance Act, 1998 (Act No. 53 of 1998);
- (d) the transportation of an individual or any goods;
- (e) the provisions of –
 - (i) any accommodation or sustenance;
 - (ii) any entertainment or similar intangible product or access to any such entertainment or intangible product;
 - (iii) access to any electronic communication infrastructure;
 - (iv) access, or of a right of access, to an event or to any premises, activity or facility; or
 - (v) access to or use of any premises or other property in terms of a rental;
- (f) a right of occupancy of, or power or privilege over or in connection with, any land or other immovable property, other than in terms of a rental; and
- (g) rights of a franchisee in terms of a franchise agreement, to the extent applicable in terms of section 5(6)(b) to (e) of the Consumer Protection Act,

irrespective of whether the person promoting, offering or providing the services participates in, supervises or engages directly or indirectly in the

service;

“**supplier**” means supplier as defined in section 1 of the Consumer Protection Act;

“**supply chain**” means supply chain as defined in section 1 of the Consumer Protection Act, 2008 (Act No. 68/2008);

“**this Act**” includes any regulation made under this Act; and

“**Tribunal**” means the National Consumer Tribunal established by section 26 of the Credit Act.

- (2) In this Act, whenever a provision of the Consumer Protection Act or the Credit Act is to apply, read with the changes required by the context, in such application, unless the context otherwise indicates, a reference in those Acts to –
- (a) the “Act” must be construed as a reference to “this Act”;
 - (b) the “Commission” must be construed as a reference to the “Authority”;
 - (c) the “Minister” must be construed as a reference to the “responsible Member”; and
 - (d) the “Tribunal” must be construed as a reference to the “Consumer Court”.

Part B

OBJECTS AND APPLICATION OF ACT

Objects of Act

2. (1) The objects of this Act are to promote and advance the social and economic welfare of consumers in the Province in accordance with provisions and principles set out in the Consumer Protection Act, by providing for institutions to –
- (a) investigate;
 - (b) mediate;
 - (c) conduct inspections on business premises and issue compliance notices for non-compliance; or
 - (d) adjudicate,

any alleged infringement of consumers’ rights as set out in Chapter 2 of the

Consumer Protection Act.

- (2) For the purposes of this Act, sections 3 and 4 of the Consumer Protection Act, each read with the changes required by the context, apply.

Application of Act

3. Subject to the exemptions set out in section 5 of the Consumer Protection Act, this Act applies within the Province to all activities referred to in that section to which that Act applies.

CHAPTER 2

PROVINCIAL CONSUMER PROTECTION AUTHORITY

Part A

ESTABLISHMENT OF PROVINCIAL CONSUMER PROTECTION AUTHORITY

Establishment of Provincial Consumer Protection Authority

4. (1) A Provincial Consumer Protection Authority for the Province functions as a unit within the Department.
- (2) The Authority must, by notice in the *Provincial Gazette*, be designated by the responsible Member to have general authority to deal with consumer protection matters, and –
- (a) is a unit within the Department;
 - (b) has jurisdiction throughout the Province;
 - (c) must perform the specific functions –
 - (i) assigned to it by this Act, any other applicable law or by the responsible Member;
 - (ii) assigned to a provincial consumer protection authority by the Consumer Protection Act,
- in the most cost-efficient and effective manner and in accordance with the values and principles mentioned in section 195 of the Constitution.

Appointment of Consumer Protector and Deputy Consumer Protector

5. (1) The responsible Member must, subject to the provisions of the Public Service Act, 1994 as amended appoint a person with suitable experience and

at least an university degree in economics, law, commerce, industry or public affairs as Provincial Consumer Protector in the Office of the Authority, who must perform all the functions of the Authority under this Act or any other law.

- (2) The Head of Department is the accounting authority for the Authority, and as such is responsible for –
 - (a) all income and expenditure of the Authority;
 - (b) all revenue collected by the Authority;
 - (c) all assets, and the discharge of all liabilities of the Authority; and
 - (d) the proper and diligent implementation of the Public Finance Management Act with respect to the Authority.
- (3) The responsible Member must appoint a person with suitable experience and at least an university degree in economics, law, commerce, industry or public affairs as Deputy Consumer Protector who –
 - (a) must assist the Consumer Protector in carrying out the functions of the Authority, and
 - (b) must perform the functions of the Authority whenever –
 - (i) the Consumer Protector is unable for any reason to perform the functions of the Authority; or
 - (ii) the office of the Consumer Protector is vacant.
- (4) The Consumer Protector may in writing –
 - (a) assign management or other duties to the Deputy Consumer Protector or to employees of the Authority with appropriate skills to assist the Consumer Protector in the management or control over the functioning of the Authority; and
 - (b) delegate, with or without conditions, any of the powers or functions of the Authority to the Deputy Consumer Protector or to any suitably qualified employee of the Authority, but any such delegation does not divest the Consumer Protector of responsibility for the exercise of any power or performance of any such function.

Part B***FUNCTIONING OF THE AUTHORITY*****Referral of matters to Consumer Court**

6. (1) Subject to subsections (2) and (4), a matter to be considered by the Consumer Court in terms of this Act or the Consumer Protection Act may only be considered if referred in writing to the Consumer Court by the Authority.
- (2) A person contemplated in section 4(1) of the Consumer Protection Act who seeks to enforce any right in accordance with section 69(c)(ii) of that Act by applying directly to the Consumer Court, may do so only –
- (a) if a complaint has beforehand been filed with and investigated by the Authority; and
- (b) the Authority has issued a notice of non-referral to the person.
- (3) Proceedings before the Consumer Court must, subject to subsection (2), be prosecuted by the Authority, which may be represented by an advocate, attorney or any other person appointed in writing by the Consumer Protector.
- (4) The provisions of subsections (1), (2) and (3) do not apply to a matter referred to the Consumer Court in terms of sections 140 or 141 of the Credit Act.

Appointment of inspectors and investigators

7. (1) The responsible Member, after consultation with the Consumer Protector –
- (a) may appoint or designate any suitable employee of the Authority or any other suitable person employed by the Department, as an inspector or investigator; and
- (b) must issue each inspector or investigator with a certificate in the prescribed form stating that the person has been appointed or designated as an inspector or investigator in terms of this Act.
- (2) Whenever an inspector or investigator appointed or designated under subsection (1)(a), performs a function under this Act in the presence of any person affected thereby, the inspector or investigator must, on demand by such person, produce to him or her the certificate referred to in subsection (1)(b).

Investigation by Authority

8. (1) Upon initiating or receiving a complaint in terms of this Act or the Consumer Protection Act, the Authority may –
- (a) issue a notice of non-referral to the complainant in the prescribed form, if the complaint –
 - (i) appears to be frivolous or vexatious;
 - (ii) does not allege any facts which, if true, would constitute grounds for a remedy under this Act; or
 - (iii) is prevented, in terms of section 116 of the Consumer Protection Act, from being referred to the Consumer Court;
 - (b) direct an inspector or investigator to investigate the complaint as quickly as practicable, in any other case.
- (2) At any time during an investigation, the Consumer Protector may designate one or more persons to assist the inspector or investigator conducting the investigation contemplated in subsection (1).
- (3) To conduct inspections on business premises and to issue compliance notices for non-compliance.

Outcome of investigation

9. After concluding an investigation into a complaint, the Authority may –
- (a) issue a notice of non-referral to the complainant in the prescribed form;
 - (b) refer the matter to the National Prosecuting Authority, if the Authority alleges that a person has committed an offence in terms of this Act; or
 - (c) if the Authority believes that a person has engaged in prohibited conduct –
 - (i) propose a draft consent order in terms of section 10; or
 - (ii) issue a compliance notice in terms of section 100 of the Consumer Protection Act.

Consent orders

10. (1) If a matter has been investigated by the Authority, and the Authority and the respondent agree to the proposed terms of an appropriate order, the Consumer Court or a court, without hearing any evidence, may confirm that agreement as a consent order.

- (2) After hearing a motion for a consent order, the Consumer Court or a court must –
 - (a) make an order as agreed to and proposed by the Authority and the respondent;
 - (b) indicate any changes that must be made in the draft order before the order is made; or
 - (c) refuse to make the order.
- (3) With the consent of a complainant, a consent order confirmed in terms of subsection (1) may include an award of damages to the complainant.

Referral to Consumer Court by complainant

- 11. (1) If a notice of non-referral in response to a complaint, other than on the grounds contemplated in section 116 of the Consumer Protection Act, 2008 (Act No. 68/2008) was issued, the complainant concerned may refer the matter directly to the Consumer Court, in accordance with Section 75(1)(a) of the Consumer Protection Act, 2008 (Act No. 68/2008) with leave of the Consumer Court.
- (2) A referral to the Consumer Court, whether by the Authority or by a complainant in terms of subsection (1), must be in the prescribed form, subject to Provincial Legislation governing that Consumer Court.

Responsible Member may direct policy and other matters and require investigation

- 12. The responsible Member may –
 - (a) by notice in the *Provincial Gazette*, issue policy directives to the Authority with respect to the application, administration and enforcement of this Act, but any such directive must be consistent with this Act and the Consumer Protection Act; and
 - (b) at any time direct the Authority to –
 - (i) investigate an alleged contravention of this Act or the Consumer Protection Act;
 - (ii) investigate any matter or circumstances with respect to the purposes of this Act or the Consumer Protection Act, whether or not those circumstances appear at the time of the direction to amount to a possible contravention of this Act or the Consumer Protection Act; or
 - (iii) give effect to any arrangement contemplated in section 83(1) of the Consumer Protection Act.

*Part C****POWERS IN SUPPORT OF INVESTIGATION*****Summons**

13. (1) At any time during an investigation being conducted in terms of section 8(1)(b), the Consumer Protector may issue a summons to any person who is believed to be able to furnish any information on the subject of the investigation, or to have possession or control of any book, document or other object that has a bearing on that subject –
- (a) to appear before the Authority, or before an inspector or independent investigator, to be questioned at a time and place specified in the summons; or
 - (b) to deliver or produce to the Authority, or to an inspector or independent investigator, any book, document or other object referred to in paragraph (a) at a time and place specified in the summons.
- (2) A summons contemplated in subsection (1) –
- (a) must be signed by the Consumer Protector, or by an employee of the Authority designated by the Consumer Protector; and
 - (b) may be served in the same manner as a subpoena in a criminal case issued by the magistrate's court.
- (3) An inspector or investigator before whom a person is summoned to appear, or to whom a person is required to deliver any book, document or other object, may –
- (a) interrogate and administer an oath to, or accept an affirmation from, the person named in the summons; and
 - (b) retain any such book, document or other object for examination, for a period not exceeding two months, or such longer period as the Consumer Court, on application and good cause shown, may allow.
- (4) A person questioned by the Authority or by an inspector or investigator conducting an investigation must answer each question truthfully and to the best of that person's ability, but –
- (a) a person is not obliged to answer any question if the answer is self-incriminating; and
 - (b) the person asking the questions must inform that person of the right set out in paragraph (a).
- (5) No self-incriminating answer given or statement made by any person to the

Authority or an inspector or investigator exercising powers in terms of this Act, will be admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in section 37(3) or 38(2)(d), and then only to the extent that the answer or statement is relevant to prove the offence charged.

Authority to enter and search under warrant

14. (1) A judge of the High Court or a magistrate may issue a warrant to enter and search any premises that are within the jurisdiction of that judge or magistrate if, from information on oath or affirmation, there are reasonable grounds to believe that –
- (a) a contravention of this Act has taken place, is taking place, or is likely to take place on or in those premises; or
 - (b) anything connected with an investigation in terms of this Act is in the possession of, or under the control of, a person who is on or in those premises.
- (2) A warrant to enter and search may be issued at any time and must specifically –
- (a) identify the premises that may be entered and searched; and
 - (b) authorise an inspector, investigator or a police officer to enter and search the premises and to do anything listed in section 15.
- (3) A warrant to enter and search is valid until –
- (a) the warrant is executed;
 - (b) the warrant is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
 - (c) the purpose for issuing it has lapsed; or
 - (d) the expiry of one month after the date it was issued.
- (4) A warrant to enter and search may be executed only during the day, unless the judge, regional magistrate or magistrate who issued it authorises that it may be executed at night at a time that is reasonable under the circumstances.
- (5) A person authorised by warrant issued in terms of subsection (2) may enter and search premises named in that warrant.
- (6) Immediately before commencing with the execution of a warrant, a person executing that warrant must either –

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- (a) if the owner, or person in control, of the premises to be searched is present –
 - (i) provide identification to that person and explain to that person the authority by which the warrant is being executed; and
 - (ii) hand a copy of the warrant to that person or to the person named in it; or
- (b) if none of those persons is present, affix a copy of the warrant to the premises in a prominent and visible place.

Powers to enter and search

15. (1) A person who is authorised under section 14 to enter and search premises may –
- (a) enter upon or into those premises;
 - (b) search those premises;
 - (c) search any person on those premises if there are reasonable grounds for believing that the person has personal possession of an article or document that has a bearing on the investigation;
 - (d) examine any article or document that is on or in those premises that has a bearing on the investigation;
 - (e) request information about any article or document from the owner of, or person in control of the premises or from any person who has control of the article or document, or from any other person who may have the information;
 - (f) take extracts from, or make copies of, any book or document that is on or in the premises that has a bearing on the investigation;
 - (g) use any computer system on the premises, or require assistance of any person on the premises to use that computer system, to-
 - (i) search any data contained in or available to that computer system;
 - (ii) reproduce any record from that data;
 - (h) seize any output from that computer for examination and copying; and
 - (i) attach and if necessary remove from the premises for examination and safekeeping anything that has a bearing on the investigation.

- (2) Section 13(5) applies equally to an answer given or statement made to an inspector, investigator or police officer in terms of this section.
- (3) An inspector or investigator authorised to conduct an entry and search in terms of section 14 may be accompanied and assisted by a police officer.

Conduct of entry and search

- 16.**
- (1) A person who enters and searches any premises under section 15 must conduct the entry and search with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.
 - (2) During any search under section 15(1)(c), only a female inspector, investigator or police officer may search a female person, and only a male inspector, investigator or police officer may search a male person.
 - (3) A person who enters and searches premises under section 15, before questioning anyone, must –
 - (a) advise that person of the right to be assisted at the time by an advocate or attorney; and
 - (b) allow that person to exercise that right.
 - (4) A person who removes anything from premises being searched must –
 - (a) issue a receipt for it to the owner of, or person in control of, the premises; and
 - (b) return it as soon as practicable after achieving the purpose for which it was removed.
 - (5) During a search, a person may refuse to permit the inspection or removal of an article or document on the grounds that it contains privileged information.
 - (6) If the owner or person in control of an article or document refuses in terms of subsection (5) to give that article or document to the person conducting the search, the person conducting the search may request the Registrar or sheriff of the High Court that has jurisdiction to attach and remove the article or document for safe custody until that court determines whether or not the information is privileged.
 - (7) A police officer who is authorised to enter and search premises under section 13, or who is assisting an inspector or investigator who is authorised to enter and search premises under section 14, may overcome resistance to the entry and search by using as much force as is reasonably required, including breaking a door or window of the premises.

- (8) Before using force in terms of subsection (6), a police officer must audibly demand admission and must announce the purpose of the entry, unless it is reasonable to believe that doing so may induce someone to destroy or dispose of an article or document that is the object of the search.
- (9) The Authority may compensate anyone who suffers damage because of a forced entry during a search when no one responsible for the premises was present.

Claims that information is confidential

- 17.
- (1) When submitting information to the Authority, the Consumer Court, or an inspector or investigator appointed in terms of this Act, a person may claim that all or part of that information is confidential.
 - (2) Any claim contemplated in subsection (1) must be supported by a written statement explaining why the information is confidential.
 - (3) The Authority, Consumer Court, inspector or investigator, as the case may be, must –
 - (a) consider any claim made in terms of subsection (1); and
 - (b) notify the claimant whether or not the information contemplated in subsection (1) will be treated as if it had been determined to be confidential.
 - (4) When making any ruling, decision or order in terms of this Act or the Consumer Protection Act, the Authority or Consumer Court may take into account any information that has been the subject of a claim in terms of subsection (1).
 - (5) If any reasons for a decision in terms of this Act or the Consumer Protection Act would reveal any information that has been the subject of a claim in terms of subsection (1), the Authority or Consumer Court, as the case may be, must provide a copy of the proposed reasons to the party claiming confidentiality at least five business days before publishing those reasons.
 - (6) Within five business days after receiving a notice in terms of subsection (3) (b), or a copy of proposed reasons in terms of subsection (5), a party may apply to a court for an appropriate order to protect the confidentiality of the relevant information.

CHAPTER 3**NORTHERN CAPE CONSUMER COURT*****Part A******ESTABLISHMENT AND FUNCTIONING OF CONSUMER COURT*****Establishment and constitution of Consumer Court**

18. (1) There is hereby established a body to be known as the Northern Cape Consumer Court, which –
- (a) is a unit within the Department;
 - (b) has jurisdiction throughout the Province;
 - (c) is a court of record; and
 - (d) must exercise its functions in accordance with this Act or any other applicable legislation.
- (2) The Consumer Court consists of a Chairperson and not more than 6 other members appointed by the responsible Member, on a full or part-time basis.
- (3) The responsible Member must, subject to section 20, –
- (a) appoint the Chairperson and other members of the Consumer Court from time to time; and
 - (b) appoint a person to fill any vacancy on the Consumer Court.

Functions of Consumer Court

19. The Consumer Court or a member of the Consumer Court acting alone may, in accordance with this Act –
- (a) adjudicate in relation to any –
 - (i) application that may be made to it in terms of this Act, the Credit Act or the Consumer Protection Act and make any order provided for in this Act in respect of such an application; or

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- (ii) allegations of prohibited conduct by determining whether prohibited conduct has occurred and, if so, by imposing a remedy provided for in this Act, the Credit Act or the Consumer Protection Act;
- (b) grant an order for costs; and
- (c) exercise any other power conferred on it by law.

Qualifications of members of Consumer Court

20. (1) The members of the Consumer Court, viewed collectively –
- (a) must represent a broad cross-section of the population of the Province; and
 - (b) must comprise sufficient persons with legal training and experience to satisfy the requirements of section 23(2).
- (2) Each member of the Consumer Court must –
- (a) be a citizen of South Africa;
 - (b) have suitable experience and at least an university degree in economics, law, commerce, industry or consumer affairs; and
 - (c) be committed to the purposes of this Act, the Credit Act and the Consumer Protection Act.

Term of office of members of Consumer Court

21. (1) Each member of the Consumer Court serves for a term of five years.
- (2) The responsible Member may re-appoint a member of the Consumer Court at the expiry of that member's term of office, but no person may be appointed to the office of the Chairperson of the Consumer Court for more than two consecutive terms.
- (3) The Chairperson, on one month's written notice addressed to the responsible Member, may –
- (a) resign from the Consumer Court; or
 - (b) resign as Chairperson, but remain as a member of the Consumer Court.
- (4) A member of the Consumer Court other than the Chairperson may resign by giving at least one month's written notice to the responsible Member.

Deputy Chairperson of Consumer Court

22. (1) The responsible Member must designate a member of the Consumer Court as Deputy Chairperson of the Consumer Court.
- (2) The Deputy Chairperson performs the functions of Chairperson whenever –
- (a) the office of Chairperson is vacant; or
 - (b) the Chairperson is for any other reason temporarily unable to perform those functions.

Consumer Court proceedings

23. (1) The Chairperson is responsible to manage the caseload of the Consumer Court, and must assign each matter referred to the Consumer Court to –
- (a) a member of the Consumer Court; or
 - (b) a panel composed of any three members of the Consumer Court, in any other case.
- (2) When assigning a matter to a member or a panel in terms of subsection (1), the Chairperson must –
- (a) in the case of a single member, ensure that the member is a person who has suitable legal qualifications and experience; and
 - (b) in the case of a panel –
 - (i) ensure that at least one member of the panel is a person who has suitable legal qualifications and experience; and
 - (ii) designate a member of the panel to preside over the panel's proceedings.
- (3) If, because of resignation, illness, death, unwillingness or withdrawal from a hearing in terms of section 21, a member of the panel is unable to complete the proceedings in a matter assigned to that panel, the Chairperson must –
- (a) direct that the hearing of that matter proceed before the remaining members of the panel, subject to the requirements of subsection (2)(b); or

- (b) terminate the proceedings before that panel and constitute another panel, which may include any member or members of the original panel, and direct that panel to conduct a new hearing.
- (4) The decision of a panel on a matter referred to it must be in writing and include reasons for that decision.
- (5) A decision of a single member of the Consumer Court hearing a matter as contemplated in subsection (1)(a), or of a majority of the members of a panel in any other case, is the decision of the Consumer Court.

Hearings by Consumer Court

24. (1) When the Consumer Court hears a matter referred to it in terms of this Act, the Consumer Protection Act or the Credit Act, the provisions of Parts D and E of Chapter 7 of the Credit Act, each read with the changes required by the context, apply to the hearing.
- (2) An order of the Consumer Court made after hearing a matter contemplated in subsection (1), has the same force and effect as if it had been made by a consumer court making an order in terms of section 140 of the Credit Act or section 73 of the Consumer Protection Act, respectively.
- (3) In any matter brought before the Consumer Court in terms of this Act-
The Consumer Court must-
- (a) promote the spirit and purposes of this act;
 - (b) make appropriate orders to give practical effect to the consumer's right of access to redress, including but not limited to-
 - (i) any order provided for in this Act; and
 - (ii) any innovative order that better advances, protects, promotes and assures the realization by consumers of their rights in terms of this Act, including publication of the orders of the Consumer Court.

Conflicts and disclosure of interest

25. (1) A member of the Consumer Court may not represent any person before the Consumer Court.
- (2) If, during a hearing in which a member of the Consumer Court is participating, it appears to that member that the matter concerns a financial or other interest of that member contemplated in section 29, that member must –
- (a) immediately and fully disclose the fact and nature of that interest to the Chairperson and to the presiding member at that hearing; and
 - (b) withdraw from any further involvement in that hearing.

Acting by member of Consumer Court after expiry of term of office

26. If, on the expiry of the term of office of a member of the Consumer Court, that member is still considering a matter before the Consumer Court, that member may continue to act as a member in respect of that matter only.

Part B***ADMINISTRATION OF CONSUMER COURT*****Registrar of Consumer Court**

27. (1) The responsible Member must, in consultation with the Consumer Protector and subject to the provisions of the Public Service Act 1994 as amended, appoint a person with suitable experience and at least a university degree in economics, law, commerce, industry or public affairs as Registrar of the Consumer Court, who is responsible for all matters pertaining to the administrative functions of the Consumer Court.

CHAPTER 4**GENERAL PROVISIONS*****Part A******MATTERS PERTAINING TO MEMBERS OF CONSUMER COURT*****Eligibility to serve as functionary of a Consumer Court**

28. (1) To be eligible to serve as a functionary of a Consumer Court, and to continue to hold that office, a person must –
- (a) be a fit and proper person;
 - (b) not be subject to any disqualification set out in subsection (2);
 - (c) have submitted to the responsible Member the affidavit referred to in subsection (3); and
 - (d) be a citizen of the Republic.
- (2) A person may not be a functionary of Consumer Court if that person –

- (a) is a political office-bearer;
 - (b) is an unrehabilitated insolvent, or becomes insolvent and the insolvency results in the sequestration of his or her estate;
 - (c) was once, or is removed from an office of trust on account of misconduct;
 - (d) is subject to an order of a competent court holding that person to be mentally deranged;
 - (e) within the previous ten years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under Chapter 2 or 3 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) or an offence involving dishonesty; or
 - (f) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), took effect, and sentenced to imprisonment without the option of a fine.
- (3) Before being appointed a functionary of a Consumer Court, the candidate must submit to the responsible Member an affidavit in which such candidate declares that he or she –
- (a) is eligible for such appointment; and
 - (b) is not disqualified in terms of this Act from such appointment.
- (4) The responsible Member is at any time entitled to call for proof to his or her satisfaction of the continued eligibility of any functionary of a Consumer Court or to undertake or cause to be undertaken any investigation or enquiry in that regard.

Conflicting interests

29. (1) A functionary of a Consumer Court must not –
- (a) engage in any activity that may undermine the integrity of the Consumer Court;

- (b) attend, participate in or influence the proceedings of the Consumer Court if, in relation to the matter before the Consumer Court, that functionary has any financial or other interest that precludes the functionary from performing the duties of a functionary of the Consumer Court in a fair,
 - (c) unbiased and proper manner;
 - (d) vote at any of the proceedings of the Consumer Court in connection with a matter contemplated in paragraph (b);
 - (e) make private use of, or profit from, any confidential information obtained as a result of performing duties as a functionary of the Consumer Court; or
 - (e) divulge any information referred to in paragraph (d) to any third party, except as required as part of that person's official functions as a member of the Consumer Court.
- (2) For the purpose of subsection (1)(b), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.
- (3) If, at any time, it appears to a functionary of a Consumer Court that a matter before the Consumer Court concerns an interest of that functionary referred to in subsection (1)(b), the functionary must –
- (a) immediately and fully disclose the nature of that interest to the Consumer Court; and
 - (b) withdraw from the proceedings to allow the remaining functionaries to discuss the matter and determine whether the functionary should be prohibited from participating in any further proceedings concerning that matter.

Removal from office

- 30.** (1) The responsible Member must, by written notice, remove any functionary of a Consumer Court from office if the functionary becomes subject to a disqualification contemplated in section 28(2).
- (2) The responsible Member may, after considering the findings of an investigating tribunal appointed by him or her, by written notice, remove from office any functionary of a Consumer Court if the functionary –
- (a) fails or refuses to comply with the provisions of this Act incumbent on the execution of his or her duties;

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- (b) is, without sound reason, absent from his or her office or from two or more scheduled activities of the Consumer Court concerned in one year, or, in the case of absence due to medical reasons, fails to present a valid medical certificate;
 - (c) is found guilty of improper conduct, or is found to be unable to duly perform his or her duties in terms of this Act.
- (3) A tribunal investigating allegations against a functionary of a Consumer Court in accordance with subsection (2), may make a finding only after considering representations made by the functionary regarding the allegations made against him or her.
- (4) A notice contemplated in subsection (1) or (2) must state the reasons for removal of the functionary.

Remuneration and benefits of functionaries of Consumer Court

31. A functionary of a Consumer Court must be paid such reasonable remuneration and allowances out of the funds of the Department as the responsible Member, in consultation with the Member of the Executive Council responsible for Finance in the Province, may from time to time determine by notice in the *Provincial Gazette*.

Part B

ADMINISTRATIVE PROVISIONS

Staff of consumer protection unit

32. (1) The responsible Member must –
- (a) determine a staff establishment for the consumer protection unit, and
 - (b) appoint such staff as may be necessary on the establishment of the unit subject to the provisions of the Public Service Act, 1994 as amended, to enable it to perform its functions.
- (2) The responsible Member, in consultation with the Member of the Executive Council responsible for financial matters in the Province, must beforehand determine the salary and other terms and conditions of service of a person appointed in terms of subsection (1)(b).
- (3) The responsible Member may in writing delegate the power to appoint a person in terms of subsection (1)(b) to the Consumer Protector or a functionary of the unit.
- (4) All employees of the current Consumer Protection Authority are, with the commencement of this Act, transferred on the same terms and conditions of employment, including remuneration and other benefits, subject to the

provisions of the Public Service Act, 1994 as amended, to the permanent staff establishment of the unit within the Department.

Part C
OFFENCES AND PENALTIES

Breach of confidence

33. (1) It is an offence to disclose any personal or confidential information concerning the affairs of any person obtained –
- (a) in carrying out any function in terms of this Act; or
 - (b) as a result of initiating a complaint or participating in any proceedings in terms of this Act.
- (2) Subsection (1) does not apply to information disclosed –
- (a) for the purpose of the proper administration or enforcement of this Act;
 - (b) for the purpose of the administration of justice; or
 - (c) at the request of an inspector, investigator, regulatory authority or Consumer Court member entitled to receive the information.

Hindering administration of Act

34. (1) It is an offence to hinder, oppose, obstruct or unduly influence any person who is exercising a power or performing a function delegated, conferred or imposed on that person by this Act.
- (2) A person commits an offence if that person, having been summoned –
- (a) fails without sufficient cause to appear at the time and place specified or to remain in attendance until excused; or
 - (b) attends as required, but –
 - (i) refuses to be sworn in or to make an affirmation; or
 - (ii) fails to produce a book, document or other item as ordered, if it is in the possession of, or under the control of that person.
- (3) A person commits an offence if that person, having been sworn in or having made an affirmation –
- (a) fails to answer any question fully and to the best of his or her ability, subject to section 13(5); or

- (b) gives false evidence, knowing or believing it to be false.

Offences relating to Consumer Protector and Consumer Court

35. (1) A person commits an offence if that person contravenes or fails to comply with an order of the Consumer Court.
- (2) A person commits an offence if that person –
- (a) does anything calculated to improperly influence the Consumer Court or a regulatory authority concerning any matter connected with an investigation;
 - (b) anticipates any findings of the Consumer Court or a regulatory authority concerning an investigation in a way that is calculated to influence the proceedings or findings;
 - (c) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;
 - (d) knowingly provides false information to a regulatory authority;
 - (e) brings the Consumer Court, or a member of the Consumer Court, in their respective official capacities, into disrepute;
 - (f) wilfully interrupts the proceedings of a hearing or misbehaves in the place where a hearing is being conducted;
 - (g) acts contrary to a warrant to enter and search; or
 - (h) without authority, but claiming to have authority in terms of section 14 –
 - (i) enters or searches premises; or
 - (ii) attaches or removes an article or document.
- (3) No self-incriminating answer given or statement made by any person to the Consumer Court, Consumer Protector, or an inspector or investigator exercising powers in terms of this Act, will be admissible as evidence against that person in criminal proceedings against that person instituted in any court, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in subsection (2)(d) or section 37(3), and then only to the extent that the answer or statement is relevant to prove the offence charged.

Offences relating to prohibited conduct

36. (1) It is an offence for any person to alter, obscure, falsify, remove or omit a displayed price, labelling or trade description without authority.

- (2) It is an offence to fail to act in accordance with a compliance notice, but no person may be prosecuted for such an offence in respect of the compliance notice if, as a result of the failure of that person to comply with that notice, the Consumer Protector has applied to the Consumer Court for the imposition of an administrative fine.

Penalties

37. (1) Any person convicted of an offence in terms of this Act is liable –
- (a) in the case of a contravention of section 33(1), to a fine or to imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment; or
 - (b) in any other case, to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and imprisonment.
- (2) Despite anything to the contrary contained in any other law, a Magistrate's Court has jurisdiction to impose any penalty provided for in subsection (1)

Administrative fines

38. (1) The Consumer Court may impose an administrative fine in respect of prohibited or required conduct.
- (2) An administrative fine imposed in terms of this Act may not exceed the greater of –
- (a) 10 per cent of the respondent's annual turnover during the preceding financial year; or
 - (b) R1 000 000,
- or such higher percentage or larger sum of money as the responsible Member may, from time to time, determine by notice in the *Provincial Gazette*.
- (3) When determining an appropriate administrative fine, the Consumer Court must consider –
- (a) the nature, duration, gravity and extent of the contravention;
 - (b) any loss or damage suffered as a result of the contravention;
 - (c) the behaviour of the respondent;
 - (c) the market circumstances under which the contravention took place;
 - (e) the level of profit derived from the contravention;
 - (f) the degree to which the respondent has co-operated with the

Consumer Protector and the Consumer Court; and

- (g) whether the respondent has previously been found in contravention of this Act.
- (4) For the purpose of this section, the annual turnover of a supplier at the time when an administrative fine is assessed, is the total income of that supplier during the immediately preceding year, as determined in the prescribed manner.
- (5) A fine payable in terms of this Act must be paid into the Provincial Revenue Fund referred to in section 226 of the Constitution.

Vicarious liability

- 39. (1) If an employee or agent of a person is liable in terms of this Act for anything done or omitted in the course of that person's employment or activities on behalf of their principal, the employer or principal is jointly and severally liable with that person.
- (2) This section does not apply in respect of criminal liability.

Part D

MISCELLANEOUS MATTERS

Regulations

- 40. (1) The responsible Member may make regulations regarding –
 - (a) any form required to be used for the purpose of this Act;
 - (b) any matter which in terms of this Act is required or permitted to be prescribed;
 - (c) any fee payable in terms of this Act; and
 - (d) in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act.
- (2) Before making regulations in terms of subsection (1), the responsible Member must publish the draft regulations for public comment in the *Provincial Gazette*.
- (3) Any regulation made in terms of subsection (1)(c) or (d), may only be made with the concurrence of the Member of the Executive Council responsible for financial matters in the Province.

Repeal and amendments of laws

41. (1) The Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012), is hereby repealed.
- (2) The responsible Member may, after consultation with the Consumer Protector and the Members of the Consumer Court, amend this Act, by proclamation.

Transitional and founding arrangements

42. (1) For the purpose of this section, “previous Act” means the Northern Cape Consumer Protection Act, 2012 (Act No. 1 of 2012).
- (2) Any investigation done or arrangement concluded under the previous Act, is regarded to have been done or concluded under a comparable provision of this Act.
- (3) Any other thing done under a provision of the previous Act and which may be done under a corresponding provision of this Act is regarded to have been done under the latter provision.

Short title and commencement

43. This Act is called the Northern Cape Consumer Protection Act, 2021 and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

ALGEMENE KENNISGEWING 353 VAN 2023

WETSONTWERP

Om voorsiening te maak vir die herroeping van die Noord-Kaapse Verbruikersbeskermingswet, 2011 (Wet No. 1/2012); om voorsiening te maak vir sekere definisies; die instelling van 'n Provinsiale Verbruikersbeskermingseenheid as 'n Eenheid binne die Departement van Ekonomiese Ontwikkeling en Toerisme en om voorsiening te maak vir die aanstelling van 'n Verbruikersbeskermer en Adjunk-verbruikersbeskermer; en om voorsiening te maak vir alle finansiële bestuur verbandhoudend tot die Verbruikersbeskermingseenheid en Verbruikershof; om voorsiening te maak vir die instelling van 'n Verbruikershof vir die Provinsie; om voorsiening te maak vir die aanstelling van lede en 'n Griffier vir die Verbruikershof; om voorsiening te maak vir die werking en administrasie van die Verbruikershof; om voorsiening te maak vir die funksionering en administrasie van die Verbruikershof; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN daar in die Provinsie Noord-Kaap 'n behoefte bestaan om die regte van verbruikers te beskerm;

EN AANGESIEN nasionale wetgewing voorsiening maak vir die verrigting van gelyklopende verbruikersbeskermingswerkzaamhede deur provinsiale verbruikersbeskermingsentiteite,

DAAROM WORD DAAR deur die Provinsiale Wetgewer van die Provinsie Noord-Kaap soos volg bepaal:-

INDELING VAN WET**HOOFSTUK 1****UITLEG EN DOEL VAN WET***Deel A**UITLEG*

1. Uitleg

*Deel B***DOELSTELLINGS EN TOEPASSING VAN WET**

2. Doelstellings van Wet
3. Toepassing van Wet

HOOFSTUK 2**PROVINSIALE VERBRUIKERSBESKERMINGSOWERHEID*****Deel A******INSTELLING VAN PROVINSIALE
VERBRUIKERSBESKERMINGSOWERHEID***

4. Instelling van Provinsiale Verbruikersbeskermingsowerheid
5. Aanstelling van Verbruikersbeskermer en Adjunk-verbruikersbeskermer

Deel B***WERKING VAN DIE OWERHEID***

6. Verwysing van aangeleenthede na Verbruikershof
7. Aanstelling van inspekteurs en ondersoekers
8. Onderzoek deur Owerheid
9. Uitslag van ondersoek
10. Toestemmingsbevele
11. Verwysing na Verbruikershof deur klaer
12. Verantwoordelike Lid kan beleid en ander aangeleenthede voorskryf en ondersoek eis

Deel C***BEVOEGDHEDE TER ONDERSTEUNING VAN ONDERSOEK***

13. Dagvaarding
14. Magtiging om op gesag van lasbrief te betree en te deursoek
15. Bevoegdhede om te betree en te deursoek
16. Uitvoer van betreding en deursoeking
17. Aansprake dat inligting vertroulik is

HOOFSTUK 3**NOORD-KAAPSE VERBRUIKERSHOF*****Deel A******INSTELLING EN WERKING VAN VERBRUIKERSHOF***

18. Instelling en samestelling van Verbruikershof
19. Werksaamhede van Verbruikershof
20. Geskiktheid van lede van Verbruikershof
21. Ampstermyn van lede van Verbruikershof
22. Adjunk-voorsitter van Verbruikershof

- 23. Verbruikershofverrigtinge
- 24. Verhore deur Verbruikershof
- 25. Botsings en openbaarmaking van belange
- 26. Optrede van lid van Verbruikershof ná verstryking van ampstermyn

Deel B

ADMINISTRASIE VAN VERBRUIKERSHOF

- 27. Griffier van Verbruikershof

HOOFSTUK 4

ALGEMENE BEPALINGS

Deel A

***AANGELEENTHEDE RAKENDE LEDE VAN
VERBRUIKERSBESKERMINGSEENHEID***

- 28. Geskiktheid om as ampsbeker van 'n verbruikersbeskermingseenheid te dien
- 29. Botsende belange
- 30. Verwydering uit die amp
- 31. Vergoeding en voordele van ampsbeker van verbruikersbeskermingseenheid

Deel B

ADMINISTRATIEWE BEPALINGS

- 32. Personeel van verbruikersbeskermingsentiteite

Deel C

MISDRYWE EN STRAWWE

- 33. Vertrouensbreuk
- 34. Belemmering van administrasie van Wet
- 35. Misdrywe met betrekking tot Verbruikersbeskermer en Verbruikershof
- 36. Misdrywe met betrekking tot verbode handeling
- 37. Strawwe
- 38. Administratiewe boetes
- 39. Middellike aanspreeklikheid

*Deel D***ALLERLEI AANGELEENTHEDE**

- 40. Regulasies
- 41. Herroeping van wette
- 42. Oorgangs- en oprichtingsmaatreëls
- 43. Kort titel en inwerkingtreding

HOOFSTUK 1**UITLEG EN DOEL VAN WET***Deel A***UITLEG****Uitleg**

- 1. (1) In hierdie Wet het enige woord of uitdrukking waaraan ‘n betekenis deur die “Consumer Protection Act, 2008 (Act No. 68 of 2008)” toegeken is, die betekenis wat sodanig daaraan toegeken is en, tensy uit die samehang anders blyk, beteken –
 - “**Adjunk-verbruikersbeskermer**” die Adjunk-verbruikersbeskermer kragtens artikel 5(4) aangestel;
 - “**ampsbekleër van ‘n verbruikersbeskermingsentiteit**” beteken die Griffier, die Verbruikersbeskermer of die Adjunk-verbruikersbeskermer;
 - “**Departement**” die Departement verantwoordelik vir ekonomiese ontwikkeling in die Provinsie;
 - “**diens**” ook, maar is nie beperk tot –
 - (a) enige werk of onderneming wat deur een persoon vir die regstreekse of onregstreekse voordeel van ‘n ander uitgevoer word;
 - (b) die verskaffing van enige opvoeding, advies of konsultasie, uitgesonder advies wat aan regulering kragtens die “Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002)” onderworpe is;
 - (c) enige bankdienste, of verwante of soortgelyke finansiële dienste, of die onderneming, onderskrywing of aanvaarding van enige risiko deur een persoon namens ‘n ander, behalwe in die mate wat enige sodanige diens –
 - (i) uit advies of bemiddelende dienste behoudens regulering kragtens die “Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002)” bestaan; of
 - (ii) geregleer word kragtens die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998), of die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998);

- (d) die vervoer van 'n individu of enige goedere;
- (e) die voorsiening van –
 - (i) enige akkommodasie of voedsel;
 - (ii) enige vermaak of soortgelyke ontasbare produk of toegang tot enige sodanige vermaak of ontasbare produk;
 - (iii) toegang tot enige elektroniese kommunikasie-infrastruktuur;
 - (iv) toegang, of 'n reg van toegang, tot 'n geleentheid of tot enige perseel, aktiwiteit of fasiliteit; of
 - (v) toegang tot of die gebruik van enige perseel of ander eiendom vir huurgeld;
- (f) 'n reg op besetting van, of volmag of privilegie oor of ten opsigte van enige grond of ander vaste eiendom, behalwe vir huurgeld; en
- (g) regte van 'n konsessie kragtens 'n konsessie-ooreenkoms, insoverre kragtens artikel 5(6)(b) tot (e) van die Verbruikersbeskermingswet van toepassing,

afgesien daarvan of die persoon wat die dienste bevorder, aanbied of verskaf, aan die dienste deelneem, daaroor toesig hou, of regstreeks of onregstreeks daarby betrokke is;

“goedere” ook –

- (a) enigiets wat vir menslike verbruik bemark word;
- (b) enige tasbare ding wat nie andersins in paragraaf (a) bedoel word nie, insluitende enige medium waarop enigiets geskryf of geënkodeer mag wees;
- (c) enige literatuur, musiek, foto, rolprent, spel, inligting, data, programmatuur, kode of ander ontasbare produk wat op enige medium gedruk of geënkodeer is, of 'n lisensie om enige sodanige ontasbare produk te gebruik;
- (d) 'n regsbelang by grond of enige ander vaste eiendom, uitgesonder 'n belang wat binne die omskrywing van “diens” in hierdie artikel val; en
- (e) gas, water en elektrisiteit;

“Griffier” die Griffier van die Verbruikershof kragtens artikel 27 aangestel, onderworpe aan die Staatsdiens Wet, 1994 soos gewysig;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996;

“hierdie Wet” ook enige regulasie ingevolge hierdie Wet gemaak;

“instelling”

- (a) die Provinsiale Verbruikersbeskermingseenheid by artikel 4 ingestel; of
- (b) die Noord-Kaapse Verbruikershof by artikel 18 ingestel;

“**Kredietwet**” die “National Credit Act, 2005 (Act No. 34 of 2005)”;

“**Owerheid**” die Provinsiale Verbruikersbeskermingseenheid by artikel 4 ingestel;

“**Provinsiale Koerant**” die *Provinsiale Koerant* van die Provinsie;

“**Provinsie**” die Provinsie Noord-Kaap in artikel 103(1)(g) van die Grondwet vermeld, of enige gedeelte daarvan;

“**Tribunaal**” die “National Consumer Tribunal” by artikel 26 van die Kredietwet ingestel;

“**verantwoordelike Lid**” die Lid van die Uitvoerende Raad verantwoordelik vir ekonomiese ontwikkeling in die Provinsie;

“**verbruiker**”, ten opsigte van enige spesifieke goedere of dienste –

- (a) iemand aan wie daardie spesifieke goedere of dienste in die normale loop van die verskaffer se besigheid bemark word;
- (b) iemand wat ‘n kontrak aangegaan het met ‘n verskaffer in die normale loop van die verskaffer se besigheid, tensy die transaksie vrygestel is van die toepassing van die Verbruikersbeskermingswet by artikel 5(2) of kragtens artikel 5(3) van daardie Wet;
- (c) indien die kontrak sodanig vereis of toelaat, ‘n gebruiker van daardie spesifieke goedere of ‘n ontvanger of begunstigde van daardie spesifieke dienste, afgesien daarvan of daardie gebruiker, ontvanger of begunstigde gedeel het in ‘n transaksie rakende die verskaffing van daardie spesifieke goedere of dienste; en
- (d) ‘n konsessie-houer kragtens ‘n konsessie-ooreenkoms, insoverre van toepassing kragtens artikel 5(6)(b) tot (e) van die Verbruikersbeskermingswet.

“**Verbruikersbeskermer**” die Noord-Kaapse Verbruikersbeskermer kragtens artikel 5(1) aangestel, onderworpe aan die Staatsdiens Wet, soos gewysig;

“**verbruikersbeskermingseenheid**” die Owerheid en die Verbruikershof;

“**Verbruikersbeskermingswet**” die “Consumer Protection Act, 2008 (Act No. 68 of 2008)”;

“**Verbruikershof**” die Noord-Kaapse Verbruikershof by artikel 18 ingestel;

“**verskaffer**” ‘n verskaffer soos in artikel 1 van die Verbruikersbeskermingswet omskryf; en

“**Wet op Openbare Finansiële Bestuur**” die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

- (2) Waar ‘n bepaling van die Verbruikersbeskermingswet of die Kredietwet in hierdie Wet van toepassing is, gelees in samehang met die veranderings

vereis deur die konteks, word in sodanige toepassing, tensy uit die samehang anders blyk, 'n verwysing in daardie Wette na –

- (a) die “Wet” as “hierdie Wet” vertolk;
- (b) die “Kommissie” as die “Owerheid” vertolk;
- (c) die “Minister” as die “verantwoordelike Lid” vertolk; en
- (d) “Tribunaal” as die “Verbruikershof” vertolk.

Deel B

DOELSTELLINGS EN TOEPASSING VAN WET

Doelstellings van Wet

2. (1) Die doelstellings van hierdie Wet is om die sosiale en ekonomiese welsyn van verbruikers in die Provinsie, ooreenkomstig bepalings en beginsels in die Verbruikersbeskermingswet aangedui, aan te moedig en te bevorder deur voorsiening te maak vir instellings om enige beweerde skending van verbruikersregte soos in Hoofstuk 2 van die Verbruikersbeskermingswet aangedui, te kan –
- (a) ondersoek;
 - (b) bemiddel;
 - (c) die uitvoering van inspeksies op besigheidspersonele en die uitreiking van nie-nakomings kennisgewings vir nie-nakoming; of
 - (d) beslis.
- (2) Vir die doeleindes van hierdie Wet is artikels 3 en 4 van die Verbruikersbeskermingswet, elk gelees in samehang met die veranderings vereis deur die konteks, van toepassing.

Toepassing van Wet

3. Behoudens die vrystellings in artikel 5 van die Verbruikersbeskermingswet omskryf, is hierdie Wet binne die Provinsie van toepassing op alle aktiwiteite vermeld in daardie artikel waarop daardie Wet van toepassing is.

HOOFSTUK 2**PROVINSIALE VERBRUIKERSBESKERMINGSOWERHEID*****Deel A******INSTELLING VAN PROVINSIALE
VERBRUIKERSBESKERMINGSOWERHEID*****Instelling van Provinsiale Verbruikersbeskermingsowerheid**

4. (1) 'n Provinsiale Verbruikersbeskermingsowerheid word ingestel as 'n eenheid binne die Departement.
- (2) Die Owerheid word, by kennisgewing in die *Provinsiale Koerant*, deur die verantwoordelike Lid beklee met algemene bevoegdheid om verbruikersbeskermingsaangeleenthede te hanteer, en –
- (a) is 'n eenheid binne die Departement;
 - (b) het regsbevoegdheid in die hele Provinsie;
 - (c) verrig die spesifieke werksaamhede –
 - (i) aan hom opgedra deur hierdie Wet of enige ander toepaslike wet of deur die verantwoordelike Lid;
 - (ii) aan 'n provinsiale verbruikersbeskermingsowerheid opgedra deur die Verbruikersbeskermingswet,
- op die mees spaarsamige en doeltreffende wyse en ooreenkomstig die waardes en beginsels in artikel 195 van die Grondwet vermeld.

Aanstelling van Verbruikersbeskermer en Adjunk-verbruikersbeskermer

5. (1) Die verantwoordelike Lid moet, kragtens die bepalings van die Staatsdiens Wet, soos gewysig, iemand met toepaslike ondervinding en minstens 'n universiteitsgraad in ekonomiese, regte, handel, nywerheid of openbare sake aanstel as Provinsiale Verbruikersbeskermer in die Kantoor van die Owerheid, wat al die werksaamhede van die Owerheid ingevolge hierdie Wet of enige ander wet verrig.

- (2) Die Departementshoof is die rekenpligtige gesag vir die Owerheid en is as sodanig verantwoordelik vir –
- (a) alle ontvangste en uitgawe van die Owerheid;
 - (b) alle inkomste wat die Owerheid invorder;
 - (c) alle bates en die nakoming van alle verpligtinge van die Owerheid; en
 - (d) die behoorlike en sorgvuldige toepassing van die Wet op Openbare Finansiële Bestuur met betrekking tot die Owerheid.
- (3) Die verantwoordelike Lid stel iemand kragtens die bepalings van die Staatsdiens Wet, 1994, soos gewysig, met toepaslike ondervinding en minstens 'n universiteitsgraad in ekonomie, regte, handel, nywerheid of openbare sake aan as Adjunk-verbruikersbeskermer, wat –
- (a) die Verbruikersbeskermer bystaan met die verrigting van al die werksaamhede van die Owerheid;
 - (b) die werksaamhede van die Owerheid verrig wanneer ook al –
 - (i) die Verbruikersbeskermer om enige rede nie in staat is om die werksaamhede van die Owerheid te verrig nie; of
 - (ii) die amp van Verbruikersbeskermer vakant is.
- (4) Die Verbruikersbeskermer kan skriftelik –
- (a) bestuurs- of ander pligte aan die Adjunk-verbruikersbeskermer of aan werknemers van die Owerheid met geskikte vaardighede deleger om die Verbruikersbeskermer met die bestuur van of beheer oor die werking van die Owerheid by te staan; en
 - (b) met of sonder voorwaardes enige van die bevoegdhede of werksaamhede van die Owerheid aan die Adjunk-verbruikersbeskermer of enige toepaslik-gekwalfiseerde werknemer van die Owerheid deleger, maar enige sodanige delegasie onthef die Verbruikersbeskermer nie van die verantwoordelikheid vir die uitoefening van enige bevoegdheid of die verrigting van sodanige werksaamheid nie.

Deel B

WERKING VAN DIE OWERHEID

Verwysing van aangeleenthede na Verbruikershof

6. (1) Behoudens subartikels (2) en (4) kan 'n aangeleentheid wat kragtens hierdie Wet of die Verbruikersbeskermingswet deur die Verbruikershof oorweeg staan te word, slegs oorweeg word indien dit skriftelik deur die Owerheid na die Verbruikershof verwys word.
- (2) Iemand in artikel 4(1) van die Verbruikersbeskermingswet bedoel wat 'n reg ooreenkomstig artikel 69(c)(ii) van daardie Wet wil afdwing deur regstreeks by die Verbruikershof aansoek te doen, kan dit slegs doen –
- (a) indien 'n klagte vooraf ingedien is by, en ondersoek is deur die Owerheid; en
- (b) die Owerheid 'n kennisgewing van geen verwysing aan die persoon uitgereik het.
- (3) Behoudens subartikel (2) word verrigtinge in die Verbruikershof aangekla deur die Owerheid, wat verteenwoordig kan word deur 'n advokaat, prokureur of enige ander persoon wat skriftelik deur die Verbruikersbeskermer aangestel is.
- (4) Die bepalings van subartikels (1), (2) en (3) is nie van toepassing op 'n aangeleentheid wat kragtens artikels 140 of 141 van die Kredietwet na die Verbruikershof verwys is nie.

Aanstelling van inspekteurs en ondersoekers

7. (1) Die verantwoordelike Lid, na konsultasie met die Verbruikersbeskermer –
- (a) kan enige geskikte werknemer van die Owerheid of enige ander geskikte persoon in diens van die Departement as 'n inspekteur of ondersoeker aanstel of aanwys; en
- (b) reik aan elke inspekteur of ondersoeker 'n sertifikaat uit op die voorgeskrewe vorm, wat meld dat die persoon kragtens hierdie Wet as 'n inspekteur of ondersoeker aangestel of aangewys is.
- (2) Wanneer ook al 'n inspekteur of ondersoeker wat ingevolge subartikel (1)(a) aangestel of aangewys is 'n werksaamheid ingevolge hierdie Wet verrig in die teenwoordigheid van enigiemand wat daardeur geraak word, toon die inspekteur of ondersoeker die sertifikaat in subartikel (1)(b) vermeld op versoek aan sodanige persoon.

Ondersoek deur Owerheid

8. (1) By die instelling of ontvangs van 'n klagte kragtens hierdie Wet of die Verbruikersbeskermingswet, kan die Owerheid –
- (a) 'n kennisgewing van geen verwysing op die voorgeskrewe vorm aan

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die klaer uitreik, indien die klagte –

- (i) beuselagtig of kwelsugtig blyk te wees;
 - (ii) nie enige feite openbaar wat, indien dit waar is, gronde vir ‘n remedie ingevolge hierdie Wet sou uitmaak nie; of
 - (iii) kragtens artikel 116 van die Verbruikersbeskermingswet verhinder word om na die Verbruikershof verwys te word;
- (b) in enige ander geval ‘n inspekteur of ondersoeker opdrag gee om die klag so gou doenlik te ondersoek.
- (2) Die Verbruikersbeskermmer kan te eniger tyd gedurende ‘n ondersoek een of meer persone aanwys om die inspekteur of ondersoeker by te staan wat die ondersoek in subartikel (1) bedoel, uitvoer.
- (3) Uitvoer van inspeksies op besigheidspersone en die uitreiking van nie-komings kennisgewing vir nie-nakoming.

Uitslag van ondersoek

9. Ná voltooiing van ‘n ondersoek van ‘n klag kan die Owerheid –

- (a) ‘n kennisgewing van geen verwysing op die voorgeskrewe vorm aan die klaer uitreik;
- (b) die aangeleentheid na die Nasionale Vervolgingsowerheid verwys, indien die Owerheid beweer dat iemand kragtens hierdie Wet ‘n misdryf gepleeg het; of
- (c) indien die Owerheid glo dat iemand by ‘n verbode handeling betrokke was –
 - (i) ‘n konsept toestemmingsbevel kragtens artikel 10 voorstel; of
 - (ii) ‘n nakomingskennisgewing kragtens artikel 100 van die Verbruikersbeskermingswet uitreik.

Toestemmingsbevele

10. (1) Indien ‘n aangeleentheid deur die Owerheid ondersoek is en die Owerheid en die respondent oor die voorgestelde bepalinge van ‘n gepaste bevel ooreenkom, kan die Verbruikershof of ‘n hof daardie ooreenkoms sonder aanhoor van enige getuie as ‘n toestemmingsbevel bevestig.
- (2) Ná die aanhoor van ‘n mosie vir ‘n toestemmingsbevel –
- (a) maak die Verbruikershof of ‘n hof ‘n bevel soos ooreengekom en voorgestel deur die Owerheid en die respondent;
 - (b) dui die Verbruikershof of ‘n hof enige veranderings aan wat aan die

konsepbevel gemaak moet word voordat die bevel gegee word; of

- (c) weier die Verbruikershof of 'n hof om die bevel te maak.
- (3) Met die toestemming van 'n klaer kan 'n toestemmingsbevel wat kragtens subartikel (1) bevestig is, 'n toekenning van skadevergoeding aan die klaer insluit.

Verwysing na Verbruikershof deur klaer

- 11. (1) Indien 'n kennisgewing van geen verwysing ingevolge 'n klagte uitreik is, buiten op die gronde in artikel 116 van die Verbruikersbeskermingswet bedoel, kan die betrokke klaer, met toestemming van die Verbruikershof, kragtens artikel 75(1)(a) van die "Consumer Protection Act, 2008 (Wet No. 68/2008) die aangeleentheid regstreeks na die Verbruikershof verwys.
- (2) 'n Verwysing na die Verbruikershof, hetsy deur die Owerheid of deur 'n klaer kragtens subartikel (1), word op die voorgeskrewe vorm gedoen, behoudens die Provinsiale wetgewing wat die werking van daardie Verbruikershof beheer.

Verantwoordelike Lid kan beleid en ander aangeleenthede voorskryf en ondersoek eis

- 12. Die verantwoordelike Lid kan –
 - (a) beleidsvoorskrifte met betrekking tot die toepassing, administrasie en afdwingbaarheid van hierdie Wet by kennisgwing in die *Provinsiale Koerant* aan die Owerheid uitreik, maar enige sodanige voorskrif moet met hierdie Wet en die Verbruikersbeskermingswet versoenbaar wees; en
 - (b) te eniger tyd die Owerheid opdrag gee om –
 - (i) 'n beweerde oortreding van hierdie Wet of die Verbruikersbeskermingswet te ondersoek;
 - (ii) enige aangeleentheid of omstandighede met betrekking tot die doelstellings van hierdie Wet of die Verbruikersbeskermingswet te ondersoek, hetsy daardie omstandighede ten tyde van die opdrag op 'n moontlike oortreding van hierdie Wet of die Verbruikersbeskermingswet neerkom, al dan nie; of
 - (iii) uitvoering te gee aan enige reëling bedoel in artikel 83(1) van die Verbruikersbeskermingswet.

Deel C

BEVOEGDHEDE TER ONDERSTEUNING VAN ONDERSOEK

Dagvaarding

- 13. (1) Die Verbruikersbeskermer kan te eniger tyd gedurende 'n ondersoek wat

kragtens artikel 8(1)(b) ingestel word, 'n dagvaarding uitvaardig aan enigiemand wat vermoedelik enige inligting oor die aangeleentheid van die ondersoek kan verskaf of in besit of beheer is van enige boek, dokument of enige ander voorwerp wat op daardie aangeleentheid betrekking het –

- (a) om voor die Owerheid, of voor 'n inspekteur of onafhanklike ondersoeker, te verskyn vir ondervraging op 'n tyd en plek wat in die dagvaarding aangedui word; of
 - (b) om enige boek, dokument of ander voorwerp in paragraaf (a) vermeld aan die Owerheid of 'n inspekteur of onafhanklike ondersoeker te oorhandig of te toon op 'n tyd en plek wat in die dagvaarding aangedui word.
- (2) 'n Dagvaarding in subartikel (1) bedoel –
 - (a) word onderteken deur die Verbruikersbeskermer of deur 'n werknemer van die Owerheid deur die Verbruikersbeskermer aangewys; en
 - (b) kan beteken word op dieselfde wyse as 'n getuiedagvaarding wat in 'n strafsak deur 'n landroshof uitgevaardig word.
- (3) 'n Inspekteur of ondersoeker voor wie iemand gedagvaar is om te verskyn, of aan wie iemand enige boek, dokument of ander voorwerp moet oorhandig, kan –
 - (a) die persoon in die dagvaarding vermeld, ondervra en 'n eed afneem, of 'n plegtige verklaring afneem; en
 - (b) behou enige sodanige boek, dokument of ander voorwerp vir ondersoek vir 'n tydperk van hoogstens twee maande of sodanige langer tydperk as wat die Verbruikershof by aansoek en op voldoende gronde mag toelaat.
- (4) Iemand wat ondervra word deur die Owerheid of 'n inspekteur of ondersoeker wat 'n ondersoek doen, moet elke vraag na waarheid en na die beste van sy of haar vermoë antwoord, maar –
 - (a) is nie verplig om enige vraag te antwoord as die antwoord self-inkriminerend is nie; en
 - (b) die persoon wat die vrae vra, moet daardie persoon meedeel van die reg in paragraaf (a) uiteengesit.
- (5) Geen self-inkriminerende antwoord verskaf of verklaring gemaak deur enigiemand aan die Owerheid of 'n inspekteur of ondersoeker wat bevoegdhede kragtens hierdie Wet uitoefen, is toelaatbaar as getuienis teen daardie persoon in strafregtelike verrigtinge wat in enige hof teen daardie persoon ingestel word nie, behalwe in strafregtelike verrigtinge ten opsigte van meened of waar daardie persoon teregstaan op 'n misdryf in artikel 37(3) of 38(2)(d) bedoel, en dan slegs insoverre die antwoord of verklaring

ter sake is om die betrokke misdryf te bewys.

Magtiging om op gesag van lasbrief te betree en te deursoek

14. (1) 'n Regter van die Hoë Hof of 'n landdros kan 'n lasbrief uitvaardig vir betreding en deursoeking van enige perseel wat binne die regsbevoegdheid van daardie regter of landdros val, indien daar uit inligting onder eed of plegtige verklaring redelike gronde bestaan om te glo dat –
- (a) 'n oortreding van hierdie Wet in of op daardie perseel plaasgevind het, plaasvind, of waarskynlik sal plaasvind; of
 - (b) enigiets wat verband hou met 'n ondersoek kragtens hierdie Wet in die besit of onder beheer van iemand in of op daardie perseel is.
- (2) 'n Lasbrief vir betreding en deursoeking kan te eniger tyd uitgevaardig word en –
- (a) identifiseer spesifiek die perseel wat betree en deursoek mag word; en
 - (b) magtig spesifiek die inspekteur, ondersoeker of 'n polisiebeampte om die perseel te betree en te deursoek en enigiets te doen wat in artikel 15 aangedui word.
- (3) 'n Lasbrief vir betreding en deursoeking is geldig totdat –
- (a) die lasbrief uitgevoer is;
 - (b) die lasbrief gekanselleer word deur die persoon wat dit uitgereik het of, in die afwesigheid van daardie persoon, deur iemand met soortgelyke gesag;
 - (c) die doel vir die uitreiking daarvan weggeval het; of
 - (d) een maand ná die datum van uitreiking verstryk het.
- (4) 'n Lasbrief vir betreding en deursoeking kan slegs gedurende die dag uitgevoer word, tensy die regter, streekslanddros of landdros wat dit uitgereik het, magtiging gee dat dit in die nag uitgevoer kan word op 'n tyd wat redelik is in die omstandighede.
- (5) Iemand wat op gesag van 'n lasbrief uitgereik kragtens subartikel (2) gemagtig is, kan persele wat in daardie lasbrief genoem word, betree en deursoek.

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- (6) Net voordat iemand wat 'n lasbrief uitvoer met die uitvoering daarvan begin, moet hy of sy –
- (a) indien die eienaar of persoon in beheer van die perseel wat ondersoek gaan word, teenwoordig is –
 - (i) identifikasie aan daardie persoon toon en aan daardie persoon verduidelik op welke gesag die lasbrief uitgevoer word; en
 - (ii) 'n afskrif van die lasbrief oorhandig aan daardie persoon of die persoon daarin vermeld; of
 - (b) indien geen van hierdie persone teenwoordig is nie, 'n afskrif van die lasbrief op 'n opvallende en sigbare plek op die perseel aanbring.

Bevoegdhede om te betree en te deursoek

15. (1) Iemand wat ingevolge artikel 14 gemagtig is om 'n perseel te betree en te deursoek, kan –
- (a) daardie perseel betree of binnegaan;
 - (b) daardie perseel deursoek;
 - (c) enigiemand op daardie perseel deursoek indien redelike gronde bestaan om te glo dat die persoon 'n voorwerp of dokument wat op die ondersoek betrekking het, op sy persoon het;
 - (d) enige voorwerp of dokument wat op of in daardie perseel is of wat op die ondersoek betrekking het, ondersoek;
 - (e) inligting oor enige voorwerp of dokument vra by die eienaar of die persoon in beheer van die perseel, of by enigiemand wat beheer oor die voorwerp of die dokument het, of by enigiemand wat oor die inligting mag beskik;
 - (f) uittreksels neem of afskrifte maak van enige boek of dokument op of in die perseel wat op die ondersoek betrekking het;
 - (g) enige rekenaarstelsel op die perseel gebruik of hulp verkry by enigiemand op die perseel om daardie rekenaarstelsel te gebruik om –
 - (i) enige data op daardie rekenaar, of wat deur daardie rekenaarstelsel toeganklik is, te deursoek;
 - (ii) enige rekord van daardie data te reproduseer;
 - (h) op enige drukstukke van daardie rekenaar beslag lê vir ondersoek en kopiëring; en

- (i) beslag lê op enigiets wat op die ondersoek betrekking het en, indien nodig, van die perseel verwyder vir ondersoek en veilige bewaring.
- (2) Artikel 13(5) geld dienooreenkomstig vir 'n antwoord of verklaring wat kragtens hierdie artikel aan 'n inspekteur, ondersoeker of polisiebeampte gemaak word.
- (3) 'n Inspekteur of ondersoeker wat gemagtig is om 'n betreding en deursoeking kragtens artikel 14 te uit te voer, kan deur 'n polisiebeampte vergesel en bygestaan word.

Uitvoer van betreding en deursoeking

16. (1) Iemand wat enige perseel ingevolge artikel 15 betree en deursoek, voer die betreding en ondersoek uit met nougesette aandag aan ordentlikheid en orde, en met respek vir elke persoon se reg op waardigheid, vryheid, veiligheid en privaatheid.
- (2) Tydens enige ondersoek ingevolge artikel 15(1)(c) mag alleenlik 'n vroulike inspekteur, ondersoeker of polisiebeampte 'n vroulike persoon deursoek, en alleenlik 'n manlike inspekteur, ondersoeker of polisiebeampte 'n manlike persoon ondersoek.
- (3) Voordat 'n persoon ondervra word, moet iemand wat 'n perseel kragtens artikel 15 betree en ondersoek –
- (a) daardie persoon inlig oor die reg om op daardie tydstip deur 'n advokaat of prokureur bygestaan te word; en
 - (b) daardie persoon toelaat om daardie reg uit te oefen.
- (4) Iemand wat enigiets verwyder vanaf 'n perseel wat deursoek word –
- (a) reik 'n kwitansie daarvoor uit aan die eienaar of die persoon in beheer van die perseel;
 - (b) besorg dit sou gou doenlik terug nadat die doel waarvoor dit verwyder is, bereik is.
- (5) Tydens 'n deursoeking kan 'n persoon weier om die ondersoek of verwydering van 'n artikel of dokument toe te laat, op grond daarvan dat dit bevoorregte inligting bevat.
- (6) Indien die eienaar of persoon in beheer van 'n artikel of dokument kragtens subartikel (5) weier om daardie artikel of dokument te gee aan die persoon wat die ondersoek uitvoer, kan die persoon wat die ondersoek uitvoer die Griffier of die balju van die Hoë Hof wat regsbevoegdheid het, versoek om op die artikel of dokument beslag te lê en dit te verwyder vir veilige bewaring totdat die hof bepaal of die inligting bevoorreg is, al dan nie.
- (7) 'n Polisiebeampte wat ingevolge artikel 13 gemagtig is om 'n perseel te

betree en te ondersoek of wat 'n inspekteur of 'n ondersoeker bystaan wat ingevolge artikel 14 gemagtig is om 'n perseel te betree en te ondersoek, kan weerstand teen die betreding en ondersoek oorkom deur soveel dwang te gebruik as wat redelikerwys nodig is, met inbegrip van die breek van 'n deur of venster van die perseel.

- (8) Voordat 'n polisiebeampte kragtens subartikel (6) dwang uitoefen, eis hy of sy hoorbaar toegang en kondig die doel van die toegang aan, tensy dit redelikerwys geglo kan word dat dit iemand aanleiding sal gee om 'n voorwerp of dokument wat die oogmerk van die deursoeking is, te vernietig of daarvan ontslae te raak.
- (9) Die Owerheid kan enigiemand vergoed wat skade ly vanweë 'n geforseerde toegang tydens 'n ondersoek waar niemand wat vir die perseel verantwoordelik is, teenwoordig was nie.

Aansprake dat inligting vertroulik is

- 17. (1) Wanneer iemand inligting aan die Owerheid, die Verbruikershof of 'n inspekteur of ondersoeker wat kragtens hierdie Wet aangestel is, voorlê, kan daardie persoon daarop aanspraak maak dat al die inligting of 'n gedeelte daarvan vertroulik is.
- (2) Enige aanspraak in subartikel (1) bedoel, word gesteun deur 'n skriftelike verklaring wat verduidelik hoekom die inligting vertroulik is.
- (3) Die Owerheid, Verbruikershof, inspekteur of ondersoeker, na gelang van die geval –
 - (a) oorweeg enige aanspraak kragtens subartikel (1) gemaak; en
 - (b) stel die aanspraakmaker in kennis of die inligting in subartikel (1) bedoel, hanteer sal word asof dit as vertroulik bevind is, al dan nie.
- (4) By enige bevinding, besluit of bevel kragtens hierdie Wet of die Verbruikersbeskermingswet, kan die Owerheid of die Verbruikershof enige inligting ten opsigte waarvan 'n aanspraak kragtens subartikel (1) gemaak is, in aanmerking neem.
- (5) Indien enige redes vir 'n besluit kragtens hierdie Wet of die Verbruikersbeskermingswet enige inligting ten opsigte waarvan 'n aanspraak kragtens subartikel (1) gemaak is, sou bekend maak, stel die Owerheid of Verbruikershof, na gelang van die geval, 'n afskrif van die voorgestelde redes minstens vyf besigheidsdae voor die publikasie van daardie redes beskikbaar aan die party wat op vertroulikheid aanspraak maak.
- (6) 'n Party kan binne vyf besigheidsdae ná ontvangs van 'n kennisgewing kragtens subartikel (3)(b) of van 'n afskrif van die voorgestelde redes kragtens subartikel (5) by 'n hof aansoek doen om 'n toepaslike bevel om die vertroulikheid van die betrokke inligting te beskerm.

HOOFSTUK 3

NOORD-KAAPSE VERBRUIKERSHOF

Deel A

INSTELLING EN WERKING VAN VERBRUIKERSHOF

Instelling en samestelling van Verbruikershof

18. (1) Daar word hierby 'n liggaam ingestel wat bekend sal staan as die Noord-Kaapse Verbruikershof, wat –
- (a) 'n regspersoon is;
 - (b) regsbevoegdheid in die hele Provinsie het;
 - (c) 'n hof van rekord is; en
 - (d) sy werksaamhede ooreenkomstig hierdie Wet of enige ander toepaslike wetgewing verrig.
- (2) Die Verbruikershof bestaan uit 'n Voorsitter en hoogstens 6 ander lede wat deur die verantwoordelike Lid op 'n voltydse of deeltydse basis aangestel word.
- (3) Die verantwoordelike Lid stel, behoudens artikel 20 –
- (a) die Voorsitter en ander lede van die Verbruikershof van tyd tot tyd aan;
 - (b) iemand aan om enige vakature in die Verbruikershof te vul.

Werksaamhede van Verbruikershof

19. Die Verbruikershof of 'n lid van die Verbruikershof wat alleen handel, kan in ooreenstemming met hierdie Wet –
- (a) beregting doen met betrekking tot enige –
 - (i) aansoek wat kragtens hierdie Wet, die Kredietwet of die Verbruikersbeskermingswet by hom gemaak kan word en kan enige bevel maak waarvoor in hierdie Wet met betrekking tot so 'n aansoek voorsiening gemaak word; of

- (ii) bewerings van verbode handeling deur te bepaal of verbode handeling plaasgevind het en, indien wel, deur 'n remedie te voorsien waarvoor in hierdie Wet, die Kredietwet of die Verbruikersbeskermingswet voorsiening gemaak word;
- (b) 'n bevel vir kostes toestaan onderworpe aan die bepalings van die Nasionale Kredietwet; en
- (c) enige ander bevoegdheid wat wetlik aan hom opgedra is, uitoefen.

Geskiktheid van lede van Verbruikershof

20. (1) Die lede van die Verbruikershof, gesamentlik gesien, moet –
- (a) 'n breë dwarsprofiel van die bevolking van die Provinsie verteenwoordig;
 - (b) uit genoeg mense met regsopleiding en -ervaring om aan die vereistes van artikel 23(2) te voldoen, bestaan.
- (2) Elke lid van die Verbruikershof moet –
- (a) 'n burger van Suid-Afrika wees;
 - (b) gepaste ondervinding hê en minstens oor 'n universiteitsgraad in ekonomie, regte, handel, nywerheid of verbruikersake beskik; en
 - (c) verbind wees tot die doelstellings van hierdie Wet, die Kredietwet en die Verbruikersbeskermingswet.

Ampstermyn van lede van Verbruikershof

21. (1) Elke lid van die Verbruikershof dien vir 'n termyn van vyf jaar.
- (2) Die verantwoordelike Lid kan 'n lid van die Verbruikershof by die verstryking van daardie lid se ampstermyn heraanstel, maar niemand kan vir meer as twee opeenvolgende termyne in die amp van die Voorsitter van die Verbruikershof aangestel word nie.
- (3) Die Voorsitter kan per skriftelike kennisgewing van een maand, geadresseer aan die verantwoordelike Lid –
- (a) uit die Verbruikershof bedank; of

- (b) as Voorsitter bedank, maar as 'n lid van die Verbruikershof aanbly.
- (4) 'n Lid van die Verbruikershof, uitgesonder die Voorsitter, kan bedank deur minstens een maand skriftelik kennis te gee aan die verantwoordelike Lid.

Adjunk-voorsitter van Verbruikershof

22. (1) Die verantwoordelike Lid wys 'n lid van die Verbruikershof as Adjunk-voorsitter van die Verbruikershof aan.
- (2) Die Adjunk-voorsitter verrig die werksaamhede van die Voorsitter wanneer –
- (a) die amp van Voorsitter vakant is; of
 - (b) die Voorsitter om enige ander rede tydelik nie in staat is om daardie werksaamhede te verrig nie.

Verbruikershofverrigtinge

23. (1) Die Voorsitter is verantwoordelik vir die bestuur van die sake-lading van die Verbruikershof en dra elke aangeleentheid wat na die Verbruikershof verwys word op aan –
- (a) 'n lid van die Verbruikershof; of
 - (b) in enige ander geval, 'n paneel bestaande uit drie lede van die Verbruikershof.
- (2) By die opdra van 'n aangeleentheid aan 'n lid of 'n paneel kragtens subartikel (1), maak die Voorsitter seker –
- (a) in die geval van 'n enkele lid, dat die lid iemand is wat geskikte regskwalifikasies en ondervinding het; en
 - (b) in die geval van 'n paneel –
 - (i) dat minstens een lid van die paneel iemand is wat geskikte regskwalifikasies en ondervinding het; en
 - (ii) wys 'n lid van die paneel aan om die paneel se verrigtinge te lei.
- (3) Indien 'n lid van die paneel vanweë bedanking, siekte, dood, onwilligheid, of onttrekking van 'n verhoor kragtens artikel 21 nie die verrigtinge rakende 'n aangeleentheid wat aan daardie paneel opgedra is, kan voltooi nie, moet die Voorsitter –
- (a) gelas dat die verhoor van daardie saak voor die oorblywende lede

van die paneel voortgaan, behoudens die vereistes van subartikel (2)(b); of

- (b) die verrigtinge voor daardie paneel beëindig en 'n ander paneel saamstel, wat enige lid of lede van die oorspronklike paneel kan insluit, en gee aan daardie paneel opdrag om 'n nuwe verhoor te hou.
- (4) Die besluit van 'n paneel oor 'n saak wat na hom verwys is, word op skrif gestel en sluit die redes vir daardie besluit in.
- (5) 'n Besluit van 'n enkele lid van die Verbruikershof wat 'n saak in subartikel (1)(a) bedoel, aanhoor, of van 'n meerderheid van die lede van 'n paneel in enige ander geval, is die besluit van die Verbruikershof.

Verhore deur Verbruikershof

24. (1) Wanneer die Verbruikershof 'n saak verhoor wat kragtens hierdie Wet, die Verbruikersbeskermingswet of die Kredietwet na hom verwys is, is die bepalings van Dele D en E van Hoofstuk 7 van die Kredietwet, elk gelees in samehang met die veranderings vereis deur die konteks, op die verhoor van toepassing.
- (2) 'n Bevel wat die Verbruikershof uitreik ná die verhoor van 'n saak in subartikel (1) bedoel, het regsgeldigheid soortgelyk aan 'n bevel gemaak deur onderskeidelik 'n verbruikershof kragtens artikel 140 van die Kredietwet of artikel 73 van die Verbruikerswet.
- (3) In 'n aangeleentheid wat ingevolge hierdie Wet voor die Verbruikershof gebring word moet die Verbruikershof-
- (a) die gees en oogmerke van hierdie Wet bevorder; en
 - (b) gepaste bevels maak om praktiese uitvoering aan die verbruikers se reg op toegang tot herstel, met inbegrip van, maar nie beperk nie tot-
 - (i) 'n bevel in hierdie wet bepaal; en
 - (ii) 'n innoverende bevel wat die verwesenliking van verbruikers se regte ingevolge hierdie Wet beter verhoog, beskerm, bevorder en verseker, insluitende publikasie van die hofbevel.

Botsings en openbaarmaking van belange

25. (1) 'n Lid van die Verbruikershof verteenwoordig nie iemand voor die Verbruikershof nie.
- (2) Indien dit tydens 'n verhoor waaraan 'n lid van die Verbruikershof deelneem vir daardie lid lyk asof die saak 'n finansiële of ander belang in artikel 29 bedoel, van daardie lid raak, moet –

- (a) daardie lid die feite en aard van daardie belang onmiddelik en volledig aan die Voorsitter en die voorsittende lid by daardie verhoor bekend maak; en
- (b) daardie lid onttrek van enige verdere betrokkenheid by daardie verhoor.

Optrede van lid van Verbruikershof ná verstryking van ampstermyn

26. Indien 'n lid van die Verbruikershof steeds besig is om 'n saak voor die Verbruikershof te oorweeg wanneer daardie lid se ampstermyn verstryk, kan daardie lid voortgaan om as 'n lid op te tree ten opsigte van daardie aangeleentheid alleenlik.

Deel B

ADMINISTRASIE VAN VERBRUIKERSHOF

Griffier van Verbruikershof

27. (1) Die verantwoordelike Lid stel, in konsultasie met die Verbruikersbeskermer, iemand met geskikte ondervinding en minstens 'n universiteitsgraad in ekonomie, regte, handel, nywerheid of openbare sake aan as Griffier van die Verbruikershof, wat vir alle sake wat betrekking het op die administratiewe werksaamhede van die Verbruikershof verantwoordelik is.

HOOFSTUK 4

ALGEMENE BEPALINGS

Deel A

AANGELEENTHEDE RAKENDE LEDE VAN VERBRUIKERSHOF

Geskiktheid om as ampsbekleër van 'n Verbruikershof te dien

28. (1) Om geskik te wees om te dien as 'n ampsbekleër van 'n Verbruikershof, en om in daardie amp voort te gaan, word vereis dat iemand –
- (a) 'n geskikte en gepaste persoon is;
 - (b) nie onderworpe is aan enige diskwalifisering in subartikel (2) omskryf nie;
 - (c) die beëdigde verklaring in subartikel (3) vermeld aan die verantwoordelike Lid voorgelê het; en

- (d) 'n burger van die Republiek is en normaalweg in die Provinsie woonagtig is.
- (2) Iemand kan nie 'n ampsbeker van 'n Verbruikershof wees nie indien daardie persoon –
 - (a) 'n politieke ampsdraer is;
 - (b) 'n ongerehabiliteerde insolvente persoon is, of insolvent word en die insolvensie tot die sekwestrasië van sy of haar boedel lei;
 - (c) vanweë wangedrag uit 'n vertrouenspos ontslaan word, of vantevore ontslaan is;
 - (d) behoudens 'n bevel van 'n hof met regsbevoegdheid as geestelik versteurd verklaar is;
 - (e) gedurende die voorafgaande tien jaar in die Republiek of elders skuldig bevind is aan diefstal, bedrog, vervalsing of die uitgee van 'n vervalsde dokument, meened, 'n misdryf ingevolge die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), 'n misdryf ingevolge Hoofstuk 2 of 3 van die Voorkoming van Georganiseerde Misdadwet, 1998 (Wet No. 121 van 1998), 'n misdryf ingevolge die Finansiële Inligtingsentrumwet, 2001 (Wet No. 38 van 2001) of 'n misdryf wat oneerlikheid behels; of
 - (f) skuldig bevind is aan enige ander misdryf gepleeg ná die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993, (Wet No. 200 van 1993), en tot tronkstraf sonder die keuse van 'n boete gevonnissen is.
- (3) Vóór aanstelling as 'n ampsbeker van 'n Verbruikershof lê die kandidaat aan die verantwoordelike Lid 'n beëdigde verklaring voor, waarin sodanige kandidaat verklaar dat hy of sy –
 - (a) geskik is vir sodanige aanstelling; en
 - (b) nie kragtens hierdie Wet vir sodanige aanstelling gediskwalifiseer word nie.
- (4) Die verantwoordelike Lid het deurentyd die reg om aan te dring op voldoende bewys van die volgehoue geskiktheid van enige ampsbeker van 'n Verbruikershof of om 'n ondersoek of navraag in daardie verband te doen of te laat doen.

Botsende belange

29. (1) 'n Ampsbeker van 'n Verbruikershof –
- (a) doen nie mee aan enige aktiwiteit wat die integriteit van die

Verbruikershof kan ondermyn nie;

- (b) woon nie die verrigtinge van die Verbruikershof by, neem nie daaraan deel of oefen nie 'n invloed daarop uit indien daardie ampsbeker met betrekking tot die aangeleentheid wat voor die Verbruikershof dien enige finansiële of ander belang het wat die ampsbeker verhinder om die pligte van 'n ampsbeker van die Verbruikershof op 'n regverdige, onbevooroordeelde en behoorlike wyse na te kom nie;
 - (c) stem nie by enige verrigtinge van die Verbruikershof aangaande 'n aangeleentheid in paragraaf (b) bedoel nie;
 - (d) maak nie privaat gebruik van of trek nie voordeel uit enige vertroulike inligting verkry in die nakoming van pligte as 'n ampsbeker van die Verbruikershof nie; of
 - (e) maak nie enige inligting in paragraaf (d) vermeld aan enige derde party bekend, tensy dit as deel van daardie persoon se amptelike werksaamhede as 'n lid van die Verbruikershof vereis word nie.
- (2) Vir die doel van subartikel (1)(b) sluit 'n finansiële belang nie 'n onregstreekse belang by enige fonds of belegging in indien die persoon in daardie subartikel bedoel geen beheer oor die beleggingsbesluite van daardie fonds of belegging het nie.
- (3) Indien dit te eniger tyd vir 'n ampsbeker van 'n Verbruikershof lyk of 'n aangeleentheid wat voor die Verbruikershof dien op 'n belang van daardie ampsbeker in subartikel (1)(b) vermeld, betrekking het –
- (a) onthul die ampsbeker die aard van daardie belang onmiddellik en volledig aan die Verbruikershof; en
 - (b) onttrek die ampsbeker van die verrigtinge, sodat die oorblywende ampsbekers die aangeleentheid kan bespreek en bepaal of die ampsbeker verbied behoort te word om aan enige verdere verrigtinge aangaande daardie aangeleentheid deel te neem.

Verwydering uit die amp

30. (1) Die verantwoordelike Lid kan, by skriftelike kennisgewing, enige ampsbeker van 'n verbruikersbeskermingsentiteit uit die amp verwyder, indien die ampsbeker onderworpe raak aan 'n diskwalifisering in artikel 28(2) bedoel.
- (2) Die verantwoordelike Lid kan, ná oorweging van die bevindinge van 'n ondersoektribunaal deur hom of haar aangestel, enige ampsbeker van 'n

Verbruikershof uit die amp verwyder, indien die ampsbeksleër –

- (a) versuim of weier om die bepalings van hierdie Wet rakende die nakoming van sy of haar pligte na te kom;
 - (b) sonder geldige rede uit sy of haar werkplek of in een jaar van meer as twee geskeduleerde werksaamhede van die betrokke Verbruikershof afwesig is of, in die geval van afwesigheid om mediese redes, versuim om 'n geldige mediese sertifikaat te toon;
 - (c) skuldig bevind word aan onbehoorlike gedrag of onbekwaam bevind word om sy of haar pligte kragtens hierdie Wet behoorlik na te kom.
- (3) 'n Tribunaal wat bewerings teen 'n ampsbeksleër van 'n Verbruikershof subartikel (2) ondersoek, kan slegs 'n bevinding maak ná oorweging van verhoë deur die ampsbeksleër oor die bewerings wat teen hom of haar gemaak is.
- (4) 'n Kennisgewing in subartikel (1) of (2) bedoel, meld die redes vir die verwydering van die ampsbeksleër.

Vergoeding en voordele van ampsbeksleërs van verbruikersbeskermingsentiteite

31. 'n Ampsbeksleër van 'n Verbruikershof word sodanige redelike vergoeding en toelaes uit die fondse van die Verbruikershof betaal as wat die verantwoordelike Lid, in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies in die Provinsie, van tyd tot tyd by kennisgewing in die *Provinsiale Koerant* mag bepaal.

Deel B

ADMINISTRATIEWE BEPALINGS

Personeel van owerheid

32. (1) Die verantwoordelike Lid –
- (a) bepaal 'n diensstaat vir die owerheid; en
 - (b) stel sodanige personeel aan, onderworpe aan die Staatsdienswet 1994, soos gewysig, as wat nodig is op die diensstaat van die owerheid aan om hom in staat te stel om sy werksaamhede te verrig.
- (2) Die verantwoordelike Lid, in oorleg met die Lid van die Uitvoerende Raad verantwoordelik vir finansiële aangeleenthede in die Provinsie, bepaal vooraf die salaris en ander bedinge en voorwaardes van diens van iemand wat kragtens subartikel (1)(b) aangestel word.
- (3) Die verantwoordelike Lid kan skriftelik die bevoegdheid om iemand

kragtens subartikel (1)(b) aan te stel, deleger aan die Verbruikersbeskermer of 'n ampsbekleër by die owerheid.

- (4) Al die werknemers van die bestaande Verbruikersbeskermingsowerheid word met die inwerkingtreding van hierdie Wet, met behoud van bestaande bepalings en diensvoorwaardes, insluitende vergoeding en ander voordele, ooreenkomstig die bepalings van die Staatsdiens Wet, 1994 soos gewysig, na die permanente diensstaat van die owerheid binne die Departement oorgeplaas.

Deel C

MISDRYWE EN STRAWWE

Vertrouensbreuk

33. (1) Dit is 'n misdryf om enige persoonlike of vertroulike inligting rakende enigiemand se sake bekend te maak, wat verkry is –
- (a) in die verrigting van enige werksaamheid kragtens hierdie Wet; of
 - (b) as gevolg van die indiening van 'n klag of deelname aan enige verrigtinge kragtens hierdie Wet.
- (2) Subartikel (1) geld nie vir inligting wat bekend gemaak is –
- (a) vir die doel van behoorlike administrasie of toepassing van hierdie Wet nie;
 - (b) vir die doel van regspleging nie; of
 - (c) op die versoek van 'n inspekteur, ondersoeker, owerheidsliggaam of Verbruikershoflid wat gemagtig is om die inligting te ontvang nie.

Belemmering van administrasie van Wet

34. (1) Dit is 'n misdryf om enigiemand wat 'n bevoegdheid uitoefen of 'n werksaamheid verrig wat deur hierdie Wet aan daardie persoon gedelegeer, toegeken of opgelê is, te belemmer, teë te staan, te dwarsboom of onredelik te beïnvloed.
- (2) Dit is 'n misdryf as iemand wat gedagvaar is –
- (a) sonder voldoende rede versuim om op die gespesifiseerde tyd en plek te verskyn, of om aanwesig te bly tot hy of sy verskoon word; of
 - (b) opdaag soos vereis, maar –
 - (i) weier om ingesweer te word of 'n plegtige verklaring af te lê; of

- (ii) versuim om 'n boek, dokument of ander voorwerp soos gelas voor te lê as dit in besit of onder beheer van daardie persoon is.
- (3) Dit is 'n misdryf as iemand wat ingesweer is of 'n plegtige verklaring afgelê het –
 - (a) versuim om enige vraag volledig en na die beste van sy of haar vermoë te antwoord, behoudens artikel 13(5); of
 - (b) valse getuienis gee met die wete of in die geloof dat dit vals is.

Misdrywe met betrekking tot Verbruikersbeskermer en Verbruikershof

35. (1) Dit is 'n misdryf as iemand 'n bevel van die Verbruikershof oortree of versuim om dit na te kom.
- (2) Dit is 'n misdryf as iemand –
- (a) enigiets doen wat bedoel is om die Verbruikershof of 'n beheerinstansie onbehoorlik te beïnvloed rakende 'n aangeleentheid wat met 'n ondersoek verband hou;
 - (a) enige bevindinge van die Verbruikershof of 'n beheerinstansie rakende 'n ondersoek vooruitloop op 'n wyse wat bedoel is om die verrigtinge of bevindinge te beïnvloed;
 - (b) enigiets rakende 'n ondersoek doen wat minagting van die hof sou wees indien die verrigtinge in 'n geregshof plaasgevind het;
 - (d) met opset vals inligting aan 'n beheerinstansie verskaf;
 - (e) die Verbruikershof, of 'n lid van die Verbruikershof, in hul onderskeie amptelike hoedanighede in diskrediet bring;
 - (f) moedswilliglik die verrigtinge van 'n verhoor onderbreek of hom of haar wangedra in die plek waar 'n verhoor gehou word;
 - (g) strydig met 'n lasbrief vir betreding en ondersoek optree; of
 - (h) sonder magtiging, maar onder voorwendsel van magtiging kragtens artikel 14 –
 - (i) 'n perseel betree en deursoek; of
 - (ii) op 'n voorwerp of dokument beslag lê of dit verwyder.

- (3) Geen self-inkriminerende antwoord verskaf of verklaring gemaak deur enigiemand aan die Owerheid of 'n inspekteur of ondersoeker wat bevoegdhede kragtens hierdie Wet uitoefen, is toelaatbaar as getuienis teen daardie persoon in strafregtelike verrigtinge in enige hof teen daardie persoon nie, behalwe in strafregtelike verrigtinge ten opsigte van meened of waar daardie persoon teregstaan op 'n misdryf in subartikel(2)(d) of artikel 37(3) bedoel, en dan slegs insoverre die antwoord of verklaring ter sake is om die betrokke misdryf te bewys.

Misdrywe met betrekking tot verbode handeling

36. (1) Dit is 'n misdryf as enigiemand sonder magtiging 'n tentoongestelde prys, etikettering of handelsbenaming verander, verberg, vervals, verwyder of uitlaat.
- (2) Dit is 'n misdryf om te versuim om ooreenkomstig 'n nakomingskennisgewing op te tree, maar niemand kan vir sodanige misdryf ten opsigte van 'n nakomingskennisgewing vervolg word indien die Verbruikersbeskermer na aanleiding van die versuim van daardie persoon om daardie kennisgewing na te kom by die Verbruikershof aansoek gedoen het vir die oplegging van 'n administratiewe boete nie.

Strawwe

37. (1) Enigiemand wat aan 'n misdryf kragtens hierdie Wet skuldig bevind word, kan –
- (a) in die geval van oortreding van artikel 36(1), 'n boete of tronkstraf vir 'n tydperk van hoogstens 10 jaar, of beide 'n boete en tronkstraf opgelê word; of
- (b) in enige ander geval, 'n boete of tronkstraf vir 'n tydperk van hoogstens 12 maande, of beide 'n boete en tronkstraf opgelê word.

(2) Ondanks enige andersluidende wetsbeplaging, het 'n landdroshof regsbevoegdheid om 'n straf in subartikel (1) bepaal, op te lê

Administratiewe boetes

38. (1) Die Verbruikershof kan 'n administratiewe boete ten opsigte van 'n verbode of verpligte handeling opelê.
- (2) 'n Administratiewe boete kragtens hierdie Wet opgelê, oorskry nie –

29

- (a) 10 persent van die respondent se jaarlikse omset gedurende die voorafgaande boekjaar; of
- (b) R1 000 000,
of sodanige hoër persentasie of groter som geld as wat die verantwoordelike Lid van tyd tot tyd by kennisgewing in die *Provinsiale Koerant* mag bepaal nie.
- (3) By die bepaling van 'n gepaste administratiewe boete, oorweeg die Verbruikershof –
 - (a) die aard, duur, erns en omvang van die oortreding;
 - (b) enige verlies of skade gely as gevolg van die oortreding;
 - (c) die gedrag van die respondent;
 - (d) die markomstandighede waarin die oortreding plaasgevind het;
 - (e) die vlak van wins gemaak uit die oortreding;
 - (f) die mate waarin die respondent met die Verbruikersbeskermer en die Verbruikershof saamgewerk het; en
 - (g) of die respondent vantevore hierdie Wet oortree het.
- (4) Vir die doel van hierdie artikel is die jaarlikse omset van 'n verskaffer ten tyde van die beraming van 'n administratiewe boete die totale inkomste van daardie verskaffer in die onmiddellik-voorafgaande jaar, soos op die voorgeskrewe wyse bepaal.
- (5) 'n Boete betaalbaar kragtens hierdie Wet word inbetaal by die Provinsiale Inkomstefonds vermeld in artikel 226 van die Grondwet.

Middellike aanspreeklikheid

39. (1) Indien 'n werknemer of agent of iemand kragtens hierdie Wet aanspreeklik is vir enigiets wat in die loop van daardie persoon se diens of aktiwiteite namens hul hoof gedoen of nagelaat is, is die werkgever of hoof gesamentlik en afsonderlik saam met daardie persoon aanspreeklik.
- (2) Hierdie artikel is nie van toepassing met betrekking tot strafregtelike aanspreeklikheid nie.

Deel D

ALLERLEI AANGELEENTHEDE

Regulasies

40. (1) Die verantwoordelike Lid kan regulasies maak met betrekking tot –

- (a) enige vorm wat vir die doel van hierdie Wet gebruik moet word;
 - (b) 'n aangeleentheid wat kragtens hierdie Wet vereis word of voorgeskryf mag word;
 - (c) 'n geld betaalbaar kragtens hierdie Wet; en
 - (d) in die algemeen, enige aangeleentheid ten opsigte waarvan dit nodig of wenslik is om regulasies te maak om die doelstellings van hierdie Wet te verwesenlik.
- (2) Voordat enige regulasies kragtens subartikel (1) gemaak word, publiseer die verantwoordelike Lid die konsepregulasies in die *Provinsiale Koerant* vir openbare kommentaar.
 - (3) 'n Regulasie kragtens subartikel (1)(c) of (d) gemaak, kan slegs met die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir finansiële aangeleenthede in die Provinsie gemaak word.

Herroeping van wette

- 41. (1) Die Noord-Kaapse Verbruikersbeskermingswet, 2012 (Wet No. 1/2012) word hierby herroep.
- (2) Die verantwoordelike Lid mag, na konsultasie met die Verbruikersbeskermer en die Lede van die Verbruikershof, hierdie Wet deur proklamasie wysig.

Oorgangs- en oprigtingsmaatreëls

- 42. (1) Vir die doeleindes van hierdie artikel beteken “vorige Wet” die Noord-Kaapse Verbruikersbeskermingswet, 2012 (Wet No. 1/2012).
- (2) 'n Ondersoek gedoen of reëling gemaak ingevolge die vorige Wet, word geag gedoen of gemaak te gewees het ingevolge 'n vergelykbare bepaling van hierdie Wet.
- (3) Enigiets anders wat ingevolge 'n bepaling van die vorige Wet gedoen is en wat ingevolge 'n ooreenstemmende bepaling van hierdie Wet gedoen kan word, word geag gedoen te wees ingevolge die laasgenoemde bepaling.

Kort titel en inwerkingtreding

- 43. Hierdie Wet heet die Noord-Kaapse Verbruikersbeskermingswet, 2021, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

GENERAL NOTICE 354 OF 2023**KHAI-MA LOCAL MUNICIPALITY****Approval of the Precinct Plan for the Namakwa SEZ as part of Khâi-Ma Spatial Development Framework (SDF)**

Notice is hereby given in terms of Section 20(1) and Section 24(1) of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013 - SPLUMA), Section 13 of Local Government: Municipal Systems Act (Act No. 32 of 2000) that the Municipal Council of Khâi-Ma Local Municipality officially adopted and approved the Precinct Plan (PP) for Namakwa SEZ. Public consultation commenced 10 June 2022. The approval of the PP took place during the Council meeting of 24 November 2022 (Item No 1: KH-SCM 24/11/2022) and the implementation of the said plan will commence on 27 March 2023.

The Precinct Plan as integral part of the Spatial Development Framework is a strategic document setting out objectives reflecting the desired spatial form of these precincts, as well as identifying strategies and policies through which to achieve such objectives.

Further details regarding this may be obtained from the Khâi-Ma Municipality (Mr E. Vries, Email: vries@khaima.gov.za, Tel: 054 933 1000) during normal office hours (between 07:30 and 12:30 and 13:30 to 16:30 on Monday to Fridays).

Mr Christiaan Fortuin
Acting Municipal Manager
P.O Box 108
Pofadder
8890

ALGEMENE KENNISGEWING 354 VAN 2023**KENNISGEWING KH05/23 VAN 2023****KHAI-MA PLAASLIKE MUNISIPALITEIT****Goedkeuring van die Plaaslike Ruimtelike Ontwikkelingsraamwerk vir die Namakwa SEZ as deel van die Ruimtelike Ontwikkelingsraamwerk (ROR) van die Khâi-Ma Plaaslike Munisipaliteit**

Kennis geskied hiermee ingevolge Afdeling 20(1) en 24(1) van die Ruimtelike Beplanning en Grondgebruik Bestuurswet (Wet 16 van 2013 – SPLUMA) en Afdeling 13 van die Plaaslike Regering: Munisipale Sisteem Wet (Wet 32 van 2000) dat die Munisipale Raad van Khâi-Ma Plaaslike Munisipaliteit amptelik die Plaaslike Ruimtelike Ontwikkelingsraamwerk (PRO) vir die Namakwa SEZ, goedgekeur het. Publieke deelname is amptelik geopen op 10 Junie 2022. Die PRO is aanvaar tydens die Raadsvergadering van 24 November 2022 (Item No 1: KH-SCM 24/11/2022) en die implementering van die gemelde plan sal plaasvind op 27 Maart 2023.

Die Plaaslike Ruimtelike Ontwikkelingsraamwerk, as integrale deel van die Munisipale Ruimtelike Ontwikkelingsraamwerk, is 'n strategiese dokument wat die doelwitte vir 'n wenslike stedelike vorm van hierdie area uiteensit en wat ook strategieë en beleide identifiseer waardeur doelwitte bereik moet word.

Verdere besonderhede is verkrygbaar vanaf die Khâi-Ma Munisipaliteit (Mnr. E Vries, Epos vries@khaima.gov.za, Tel: 054 933 1000) gedurende normale kantoorure (Maandae tot Vrydae, 07:30 tot 12:30 en 13:30 tot 16:30).

Die Munisipale Bestuurder

Posbus 108
Pofadder
8890

MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS**MUNICIPAL NOTICE 144 OF 2023****SIYANCUMA MUNICIPALITY****SECTION 49 – PUBLIC NOTICE OF THE SUPPLEMENTARY VALUATION ROLL 2022/2023 IN RESPECT OF THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT NO 6 OF 2004**

Notice is hereby given, in terms of Section 49 of the Local Government: Municipal Property Rates Act No. 6 of 2004 (hereafter referred to as the "Act"), that the Supplementary Valuation Roll for the period 1 April 2023 to 30 June 2024 is open for public inspection at the , Main Building, 13 Charl Cillier Street Civic Centre Siyancoma Municipality, the period 6 March 2023 to 7 April 2023, Mondays to Fridays, during office hours, i.e. 07H30 to 16:30; as well as on the Siyancoma Municipality's website, www.siyancuma.gov.za

ALL PERSONS ARE ENCOURAGED TO MAKE USE OF OUR WEBSITE AND EMAILS TO RETREIVE AND SUBMIT INFORMATION.

Property owners or other persons are hereby invited, in terms of Section 49 of the Act, to lodge a request to review at the municipality in respect of any matter reflected in, or omitted from, the Supplementary Valuation Roll within the abovementioned period

Attention is specifically drawn to the fact that in terms of Section 50(2) of the Act, a request to review must be in relation to a specific individual property and not against the General Valuation Roll as such.

Written requests to review can be send to olyn@siyancuma.co.za/shanteldickson78@gmail.com

For enquiries, please contact Mrs C Visser or Ms S Dickson on 053 298 1810

Closing date for submissions : Friday , 7 April 2023 BEFORE 16:00

A handwritten signature in black ink, appearing to read 'MF Manuel'.

Mr MF Manuel

MUNICIPAL MANAGER

Closing times for **ORDINARY WEEKLY** **2023** NORTHERN CAPE PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- **23 December**, Friday for the issue of Monday **02 January 2023**
- **30 December**, Friday for the issue of Monday **09 January 2023**
- **09 January**, Monday for the issue of Monday **16 January 2023**
- **16 January**, Monday for the issue of Monday **23 January 2023**
- **23 January**, Monday for the issue of Monday **30 January 2023**
- **30 January**, Monday for the issue of Monday **06 February 2023**
- **06 February**, Monday for the issue of Monday **13 February 2023**
- **13 February**, Monday for the issue of Monday **20 February 2023**
- **20 February**, Monday for the issue of Monday **27 February 2023**
- **27 February**, Monday for the issue of Monday **06 March 2023**
- **06 March**, Monday for the issue of Monday **13 March 2023**
- **13 March**, Monday for the issue of Monday **20 March 2023**
- **17 March**, Friday for the issue of Monday **27 March 2023**
- **27 March**, Monday for the issue of Monday **03 April 2023**
- **31 March**, Friday for the issue of Monday **10 April 2023**
- **06 April**, Thursday for the issue of Monday **17 April 2023**
- **17 April**, Monday for the issue of Monday **24 April 2023**
- **21 April**, Friday for the issue of Monday **01 May 2023**
- **28 April**, Friday for the issue of Monday **08 May 2023**
- **08 May**, Monday for the issue of Monday **15 May 2023**
- **15 May**, Monday for the issue of Monday **22 May 2023**
- **22 May**, Monday for the issue of Monday **29 May 2023**
- **29 May**, Monday for the issue of Monday **05 June 2023**
- **05 June**, Monday for the issue of Monday **12 June 2023**
- **09 June**, Friday for the issue of Monday **19 June 2023**
- **19 June**, Monday for the issue of Monday **26 June 2023**
- **26 June**, Monday for the issue of Monday **03 July 2023**
- **03 July**, Monday for the issue of Monday **10 July 2023**
- **10 July**, Monday for the issue of Monday **17 July 2023**
- **17 July**, Monday for the issue of Monday **24 July 2023**
- **24 July**, Monday for the issue of Monday **31 July 2023**
- **31 July**, Monday for the issue of Monday **07 August 2023**
- **04 August**, Friday for the issue of Monday **14 August 2023**
- **14 August**, Monday for the issue of Monday **21 August 2023**
- **21 August**, Monday for the issue of Monday **28 August 2023**
- **28 August**, Monday for the issue of Monday **04 September 2023**
- **04 September**, Monday for the issue of Monday **11 September 2023**
- **11 September**, Monday for the issue of Monday **18 September 2023**
- **18 September**, Monday for the issue of Monday **25 September 2023**
- **22 September**, Friday for the issue of Monday **02 October 2023**
- **02 October**, Monday for the issue of Monday **09 October 2023**
- **09 October**, Monday for the issue of Monday **16 October 2023**
- **16 October**, Monday for the issue of Monday **23 October 2023**
- **23 October**, Monday for the issue of Monday **30 October 2023**
- **30 October**, Monday for the issue of Monday **06 November 2023**
- **06 November**, Monday for the issue of Monday **13 November 2023**
- **13 November**, Monday for the issue of Monday **20 November 2023**
- **20 November**, Monday for the issue of Monday **27 November 2023**
- **27 November**, Monday for the issue of Monday **04 December 2023**
- **04 December**, Monday for the issue of Monday **11 December 2023**
- **11 December**, Monday for the issue of Monday **18 December 2023**
- **18 December**, Monday for the issue of Monday **25 December 2023**

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