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GENERAL NOTICE

NOTICE 428 OF 2011

DEPARTMENT OF TRADE AND INDUSTRY

REGULATIONS FOR THE AMENDMENT OF THE REGULATIONS FOR MATTERS RELATING TO THE FUNCTIONS OF THE TRIBUNAL AND RULES FOR THE CONDUCT OF MATTERS BEFORE THE NATIONAL CONSUMER TRIBUNAL

In terms of section 120(1)(c) of the Consumer Protection Act 2008 (Act 68 of 2008) the Minister may consult with the Chairperson of the Tribunal , and by notice in the Gazette, make regulations for matters relating to the functions of the Tribunal, and rules for the conduct of matters before the Tribunal.

I, Dr Rob Davies, Minister of Trade and Industry, in consultation with the Chairperson of the Tribunal, hereby amend the regulations for matters relating to the functions of the Tribunal and rules for the conduct of matters before the Tribunal published under Government Notice No. 789, in Government Gazette 30225 of 28 August 2007, as set out in the Schedule hereto.



Dr. Rob Davies, MP

Minister of Trade and Industry

SCHEDULE

Definition

1. In these regulations “the Rules” means the Regulations for matters relating to the functions of the Tribunal and Rules for the conduct of matters before the National Consumer Tribunal published under Government Notice No. 789, in Government Gazette 30225 of 28 August 2007

Amendment of Table of Contents of the Rules

2. The table of contents in the Rules is hereby amended -
 - (1) by the insertion after

“4. *Proceedings before the Tribunal*” of the following item:
“4A Representative or class proceedings”;
 - (2) by the substitution for-

“24. *Matters struck off*”
by :
“24. *Non appearance*”

Amendment of rule 1 of the Rules

3. Rule 1 of the Rules is hereby amended:
 - (1) by the addition to rule 1 of the following subrule, the existing rule becoming subrule (1):
 - “(2) Any reference to a section in these rules is a reference to a section in the Act unless the context indicates otherwise.”
 - (2) by the insertion after the definition of Applicant of the following definition:

“ “*Commission*” means the National Consumer Commission

established by Section 85 of the CPA.”;

(3) by the insertion after the definition of Sheriff of the following definitions:

“ “the Act” means the National Credit Act, 2005 (Act 34 of 2005).”;

“ “the CPA” means the Consumer Protection Act, 2008 (Act 68 of 2008)”;

“ “the Registrar of Companies” means the Registrar of Companies appointed in terms of the Companies Act, 1973 (Act 61 of 1973) or the official performing similar functions in terms of any subsequent legislation.”

Amendment of rule 2 of the Rules

4. The following subrule is hereby substituted for subrule 2 of rule 2 of the Rules:

“(2) The contact details of the Tribunals are:-

(a) Physical address:-

Ground Floor, Building B
272 West Avenue,
Lakefield Office Park
Centurion

(b) Postal address:-

Private Bag X110
Centurion
0046

(c) Telephone (012) 663 5615

(d) Facsimile (012) 663 5693.

(e) Email to registry@thenct.org.za.”

Amendment of rule 3 of the Rules

5. Rule 3 of the Rules is hereby amended:

- (1) by the substitution in subrule (a) of subrule (1) for the expression “Table1” of the expression “Table1A and Table1B”;
- (2) by the deletion of the comma after the word “which” in paragraph (d) of subrule (1).

Insertion of rule 4A of the Rules

6. The following rule is hereby inserted in the Rules after rule 4:

“Representative or class proceedings

4A Any person or persons, who intend to approach the Tribunal in any manner provided for in the CPA and in terms of these rules and who base their *locus standi* on Section 4(b), (c), (d) or (e) of the CPA or on either one or more of those provisions, must first make application to the Tribunal for :-

- (1) Leave to approach the Tribunal on this basis; and
- (2) If such leave is granted, directions from the Tribunal as to:-
 - (a) Service of further papers;
 - (b) joinder and/or participation of other parties ; and
 - (c) the further proceeding of the matter”

Amendment of rule 5 of the Rules

7. Rule 5 of the Rules is hereby amended:

- (1) By the substitution in subrule (b) of subrule (1) for the word “service” of the word “payment”;
- (2) By the insertion of brackets at the start of paragraphs a), b) and c) so that the paragraphs are identified as paragraphs “(a)”, “(b)” and “(c)”.

Amendment of rule 6 of the Rules

8. Paragraph (b) of rule 6 of the Rules is hereby amended by the insertion of the words “filed with the Tribunal” after the word “documents”.

Amendment of rule 7 of the Rules

9. Paragraph (b) of subrule (4) of rule 7 of the Rules is hereby amended by the substitution for the number “3” of the number “5”.

Amendment of rule 8 of the Rules

10. Rule 8 of the Rules is hereby amended by the addition to rule 8 of the following subrule, the existing rule becoming subrule (1):
 - “(2) The application shall lapse if the Applicant does not take any further steps in completing the application within the time permitted by the Registrar as contemplated in sub-rule(b).”

Amendment of rule 9 of the Rules

11. Rule 9 of the Rules is hereby amended:
 - (1) by the insertion in subrule (1) after the word “Regulator” of the words “or in terms of Section 73(4) or Section 75(2) of the CPA for a complaint referred to a Consumer Court”;
 - (2) by the insertion in subrule (1) after the word “Complainant” of the words “in the referred matter”;
 - (3) by the substitution in paragraph (c) of subrule (2) for the words and punctuation “Table 1,,” for the words and punctuation “Table 1A; then”;
 - (4) by the deletion in subrule (2) of the expression “(d)” the words following thereafter no longer being a subparagraph.

Amendment of rule 12 of the Rules

12. Paragraph (b) of subrule (1) of the Rules is hereby amended by inserting after the word “application” the words “in the principal matter”.

Amendment of rule 17 of the Rules

13. Rule 17 of the Rules is hereby amended-

- (1) by the substitution in subrule (6):

- (a) in paragraph (a) for the words “a hearing” of the word “adjudication”;
- (b) in paragraph (b) for the words “hearing” of the word “adjudication on the point of law”

- (2) by the insertion after subrule (7) of the following subrule:

“(7A) In any matter which originated as a complaint to the Commission, referred to the Tribunal in terms of s 73, 74 or 75 of the CPA, the presiding member may direct the Commission to investigate or further investigate the matter or to procure further specified evidence”.

Amendment of rule 19 of the Rules

14. Paragraph (a) of subrule (1) of Rule 19 of the Rules is hereby amended-

- (1) by deletion of the words “on the other parties”;
- (2) by insertion after the expression “TI.r19” of the words “by hand delivery, fax or email”.

Amendment of rule 21 of the Rules

15. Subrule (1) of rule 21 of the Rules is hereby amended-

- (1) By insertion after the expression "17(5)(e)" of the word "or";
- (2) By substitution, after the word "during", for the word "a" of the word "the";

Substitution of rule 24 of the Rules

16. The following rule is hereby substituted for rule 24 of the Rules:

"Non appearance

24. (1) If a party to a matter fails to attend or be represented at any hearing or any proceedings, and that party-
- (a) is the applicant, the presiding member may dismiss the matter by issuing a written ruling; or
 - (b) is not the applicant, the presiding member may-
 - (i) continue with the proceedings in the absence of that party; or
 - (ii) adjourn the hearing to a later date.
- (2) The Presiding member must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subrule (1).
- (3) If a matter is dismissed, the Registrar must send a copy of the ruling to the parties"

Amendment of rule 25 of the Rules

17. The following subrules are hereby substituted for subrules (2) and (3) of Rule 25 of the Rules:

- "(2) An Applicant may make application By way of form TLr25(2) for purposes of obtaining a default order, if no response to the application was filed within the time stated in the application

- (2A) Upon receipt of an application in terms of subrule (2), the registrar shall set the matter down for hearing of the default order and deliver a notice of set-down of the default proceedings to the applicant.
- (3) The Tribunal may make a default order-
- (a) after it has considered or heard any necessary evidence; and
 - (b) if it is satisfied that the application documents were adequately served.”

Amendment of rule 26 of the Rules

18. Rule 26 of the Rules is hereby amended-

- (1) by deletion in subrule (1) of the word “Consumer”;
 - (2) by substitution in subrule (1) for the words “of the panel” of the words “members of the Tribunal”;
 - (3) by the substitution for subrule (5) of the following subrule:
 - “(5) The appellant must-
 - (a) prepare 4 copies of the record of the ruling appealed against; and
 - (b) prepare 4 copies of the of the appeal documentation; and
 - (c) index and paginate such documents in separate bundles.”;
- (4) by the substitution in subrule (6) for the word “sub-regulation” of the word “subrule”.

Amendment of rule 27 of the Rules

19. Rule 27 of the Rules is hereby amended by the substitution-

- (1) in subrule (2) for the words “may not be confined” of the words “is not restricted”;
- (2) in subrule (3) for the word “reasonable” of the word “reasonably”.

Substitution of rule 29 of the Rules

20. The following rule is hereby substituted for rule 29 of the Rules:

“Certificate of prohibited or required conduct

29. (1) Any person may submit a request in writing to the Registrar for the Tribunal to issue a certificate in terms of section 164(3)(b) of the Act or in terms of Section 115(2)(b) of the CPA.
- (2) The Chairperson must issue a section 164(3)(b) notice or a notice in terms of section 115(2)(b) of the CPA if the conduct was found by the Tribunal to be prohibited or required in terms of the Act or the CPA, as the case may be.
- (3) A section 164(3)(b) certificate or a certificate in terms of Section 115(2)(b) of the CPA, must-
- (a) be issued in the form of TI.164(3);
 - (b) be signed by the Chairperson;
 - (c) name the person requesting the certificate; ;
 - (d) describe in detail the conduct which was found to be a prohibited or required conduct in terms of the Act or the CPA
 - (e) state the specific section of the Act or the CPA in terms of which the conduct was found to constitute prohibited - or required conduct; and
 - (f) set out the basis on which the finding was made.”

Amendment of rule 31 of the Rules

21. Subrule (3) of rule 31 of the Rules is hereby amended by the deletion of the words “physical of” after the words “mail to the”.

Amendment of rule 32 of the Rules

22. Rule 32 of the Rules is hereby amended by the substitution for subrule (2) and (3) as well as the addition of the following subrules:

- “(2) Any alleged confidential information forming part of an application, response or other written submission to the Tribunal must be contained in a separate annexure and clearly marked 'confidential'.
- (3) Subject to an eventual finding that information is not confidential, information marked as confidential may be excluded from documents required to be served on parties under Table 2.
- (4) When submitting any information claimed to be confidential, such person will include a written statement setting out the grounds for the claim of confidentiality.
- (5) Within 10 business days of submission of the confidentiality claim, the Tribunal must notify such person as to whether or not the Tribunal will treat the information submitted as confidential.
- (6) If the Tribunal has notified such a person that the information will not be treated as confidential, it may not make the information available to any other party at a time earlier than 5 days after having notified such person in terms of subrule (5)”.

Amendment of rule 33 of the Rules

23. Paragraph (a) of subrule (3) of rule 33 of the Rules is hereby amended by the substitution for the words “from thereon” of the words “then”.

Amendment of rule 35 of the Rules

24. The following subrule is hereby substituted for subrule (4) of rule 35 of the Rules:

- “(4) Subsequent to the payment of a fine or remittance, but no later than 3 business days after the payment, a payment advice in the form of TLR35 with a copy of the deposit record must be delivered to the Tribunal.”.

Amendment of rule 36 of the Rules

25. Rule 36 is hereby amended by the deletion of subrule (3).

Amendment of rule 37 of the Rules

26. Rule 37 of the Rules is hereby amended by the insertion in subrule (1) after the word “Act” of the words “and the CPA”;

Amendment of rule 38 of the Rules

27. Rule 38 of the Rules is hereby amended by the substitution in subrule (1) for the words “set out in schedule 1 to the Rules” of the words “contained in the schedule 1 at the end of the Rules”.

Amendment of schedule 1 of the Rules

28. Schedule 1 of the Rules is hereby amended as follows:

- (1) by the deletion in all of the Forms in Part 1,2,3,4, 5, 6 and 7 of the references to rules “4-16”, “13-17” or “11 -17” where these appear after the words “accordance with Tribunal Rules”;
- (2) by the deletion in Forms TI.r34 and TI.148(1), of Part D, the current Part E in Forms TI.r34 and TI.148(1) being renamed Part D.
- (3) by substitution in the renamed Part D of form TI.r34 for paragraph (a) of the following paragraph:

“(a) proof of service in accordance with Tribunal Rule 30 for the party named in Part B.”.
- (4) by substitution in the renamed Part D of Form TI.148(1) for paragraph (b) of the following paragraph:

“(b) proof of service in accordance with Tribunal Rule 30 for the other parties to the ruling”.
- (5) Form TI.165 is amended by the deletion-
 - (a) of Part E, the current Part F being renamed Part E;
 - (b) of paragraph (c) in the renamed Part E.
- (6) by deletion in the heading of part 2 in the forms after the word “Complaints” of the words “to the Regulator”.

- (7) Form TI.149(1) is hereby amended by the insertion in “Part C” after the expression “Section 136,” of the words “or, having applied for relief to a court in terms of the Consumer Protection Act, 2008 or having filed a complaint with the National Consumer Commission (Delete whichever is not applicable),”;
- (8) Forms TI.138(1) TI.r12 are amended-
- (a) by insertion of the following paragraph as Part E, the existing Part E becoming Part F:
- “Part E: Applicants certification of payment of application fee
I/we certify that the application fee specified in Table 2 has been transferred / deposited into the Tribunal's designated bank account.
The Applicant's deposit / transfer reference is _____”
- (b) by addition of the following sub-paragraph to Part F:
- “(c) proof of payment in accordance with the rules. “
- (9) Form TI.128(1) is amended by substituting the following Part for Part C:
- “Part C: Grounds for compensation
I/ we claim compensation from the credit provider named in Part B, on the grounds that grounds that:
- the credit provider did not sell the goods as soon as reasonably possible
- or
- The credit provider did not sell the goods at the best price reasonable obtainable
- If goods were surrendered voluntarily,
- state the date on which notice of termination was given in terms of section 127(1) and append a copy of the notice, if possible
 - state the date on which the goods were delivered to the credit provider, with a copy of the receipt if possible
 - describe any other communications with the credit provider prior to the sale and append copies if possible

- attach the credit provider's written estimate of the value of the goods as required in terms of s.127(2).

If goods were repossessed in terms of an attachment order, state the date of the order and append a copy, if possible

If the claim is based on an unreasonable delay in the sale of goods,

- state the date of the sale of goods
- state the interest and other costs to you resulting from any unreasonable delay in the sale

If the claim is based on an unreasonable price obtained on the sale of goods,

- describe the property sold
- state the net proceeds of the sale
- state your estimate of the value of the property, setting out the basis for your evaluation
- append any document supporting the valuation of the property.

Attach a copy of the credit provider's written notice given in terms of s.127(5)(b)."

- (10) Form TI.r19 is amended by replacing the words "notified of this application" under Part C of that form, with the words "notified of the withdrawal";
- (11) Form TI.138 (1) is amended by inserting in Part C after the word "Regulator" the words "or by the Commission.";
- (12) Form TI.r12 is amended by substituting after the words "proceedings before the National", for the words "Credit Regulator" of the words "Consumer Tribunal";
- (13) By substituting form TI.164(3) for the following form:

“

Form TI.164(3)

The National Consumer Tribunal Certificate issued in terms of s. 164(3)(b) of the National Credit Act (Act 34 of 2005) or certificate issued in terms of section 115(2)(b) of the Consumer Protection Act (68 of 2008).

Date _____

To The Registrar or Clerk of the Court

In the matter between _____
(the claimant)

and _____
(the respondent)

The National Consumer Tribunal, having considered evidence relating to conduct regulated by the National Credit Act (“the Act”) or the Consumer Protection Act (“CPA”), has, with respect to the conduct described below, namely:

(a) found the conduct to be prohibited conduct in terms of section _____ of the Act/Regulations / CPA/Regulations; or

(b) found the conduct to amount to a failure to perform according to the requirements of section _____ of the Act/Regulations / CPA/Regulations.

The finding is based on the following grounds:

Tribunal Reference Number _____

Date of finding by Tribunal _____

Signed at _____ on _____

Chairperson, or duly authorised to sign on
behalf of the Chairperson “

(14) By the addition to Part 1 of the following forms:

Form TI.60(3) & 101 CPA

Application to the National Consumer Tribunal – Objection to notice issued by Commission

This application must be filed with the Tribunal and served on the parties mentioned in Part D, in accordance with Tribunal Rules.

Date _____

To The National Consumer Commission

And to _____

(if the Applicant is not the person to whom the Commission issued the Notice, then address this application also to these persons to whom the notice was issued)

Please take note that the Applicant named in Part A has commenced proceedings before the National Consumer Tribunal for an order to set aside a notice issued by the Commission in whole or in part on the grounds set out in Part C of this application.

Further note that you may oppose the application by serving an answer within 15 business days of the date of this notice on the Applicant and on the other parties to whom this notice is addressed. Your answer must comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

The Applicant is,

- the person to whom the Commission has addressed a notice; or
- a third party affected by the notice issued by the Commission in the following way:

(provide a detailed description)

If the Applicant is a third party, provide details of the person to whom the Commission Issued the notice:

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

If the application is more than 15 days after the date receipt of the Notice issued in terms of section 100(1) or more than 20 business days after the notice issued in terms of s.60(3), state reasons why the application should be permitted:

Part B: Notice to be reviewed

Notice of the Consumer Commission to be reviewed is-

- (1) Date of Notice issued by Commission

(attach a copy of the Notice)

- (2) Section of CPA in terms of which the Notice was issued

Part C: Grounds of objection

Set out in detail the grounds for the review of the Notice issued, including details of the relief sought, i.e. whether the notice should be modified or set aside in whole or in part (alternative grounds may be stated if based on the same facts)

Part D: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the following persons have been notified of this application:

- (1) the National Consumer Commission, by service in the manner indicated below, of a copy of this Form:
- delivery to the Commission's physical address
 - dispatch by registered mail to the Commission's postal address
 - dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow
- (2) the person to whom the notice was issued (if the Applicant in this matter is someone other than that person) by service in the manner indicated below, of a copy of this Form:
- delivery to that person's physical address
 - dispatch by registered mail to that person's postal address
 - dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow
- (omit or delete section (2) if not applicable)

Part E: Applicant's certification of other documents appended to the application

I/we certify that the following documents are appended to this application:

- (a) copies of the documents required under Part B;
- (b) proof of service in accordance with Tribunal Rule 30 for each of the parties named in Part D.

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorised to sign on
behalf of the Applicant

Form TI.80(5) CPA

Application to the National Consumer Tribunal to review a decision of the Registrar of Companies

This application must be filed with the Tribunal and served on the parties mentioned in Part D, in accordance with Tribunal Rules.

Date _____

To The Registrar of Companies

And to _____

(if the Applicant is not the person
In respect of whose business
Name The Registrar of Companies
made a determination, then
address this application also to
such person)

Please take note that the Applicant named in Part A has commenced proceedings before the National Consumer Tribunal for an order to set aside a decision of the Registrar of Companies on the grounds set out in Part C of this application.

Further note that you may oppose the application by serving an answer within 15 business days of the date of this notice on the Applicant and on the other parties to whom this notice is addressed. Your answer must comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

The Applicant is,

- the person in respect of whose business name the Registrar of Companies made a determination ("the affected party"); or
- a third party affected by the decision in the following way:

_____ (provide a detailed description)

If the Applicant is a third party, provide details of the affected party:

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

If the application is more than 20 business days after the date of the decision to be reviewed, state reasons why the application should be permitted:

Part B: Decision to be reviewed

The following action of the Registrar of Companies in terms of s.80(4) to be reviewed is

_____ (describe) -

Append to this Form a copy of the notices issued by the Registrar of Companies in terms of section 80(4)(a) (and 80(4)(b) if applicable), the written record of the Registrar's determination to be reviewed and state clearly which aspect of the decision is to be reviewed:

Part C: Grounds for review

Set out in detail the grounds for a review of the determination (alternative grounds may be stated if based on the same facts)

Part D: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the following persons have been notified of this application:

- (1) the Registrar of Companies, by service in the manner indicated below, of a copy of this Form:
- delivery to the Registrar's physical address
 - dispatch by registered mail to the Registrar's postal address
 - dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow
- (2) the affected party (if the Applicant in this matter is someone other than that person) by service in the manner indicated below, of a copy of this Form:
- delivery to the affected party's physical address
 - dispatch by registered mail to the affected party's postal address
 - dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow
(omit or delete section (2) if not applicable)

Part E: Applicant's certification of other documents appended to the application

I/we certify that the following documents are appended to this application:

- (a) copies of the documents required under Part B;
- (b) proof of service in accordance with Tribunal Rule 30 for each of the parties named in Part D.

Signed at _____ on _____
by _____ (name) _____ (position)

Applicant, or duly authorised to sign on
behalf of the Applicant

Form TI.100(6) CPA

The National Consumer Tribunal Notice of Motion

This notice must be filed with the Tribunal and served in accordance with Tribunal Rules on the party mentioned in Part E.

Date _____

To _____

(the respondent)

Please take note that the National Consumer Commission has brought an application against the Respondent to impose an administrative fine in terms of section 100(6) of the Consumer Protection Act, 68 of 2008 to the National Consumer Tribunal for the order set out in Part D.

Further note that you may oppose the application by serving an answer on the Applicant and on any other party to whom this notice is addressed. Your answer must be within 15 business days of the date of this notice and comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers of the Commission:

Person responsible for this referral, and position within the Commission

Company registration or identity number _____**Part B: Details of the respondent**

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part C: Details of the Compliance Notice

Date on which the Compliance Notice was issued _____

Attach a copy of the compliance Notice

Part D: Order sought from the Tribunal

I/we hereby apply for an order in the following terms (insert details of Notice issued and details of failure to comply):

Part E: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the party named in Part B has been notified of this application by service in the manner indicated below, of a copy of this Form:

- delivery to the party's physical address
- dispatch by registered mail to the party's postal address
- dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow.

Part E: Applicant's certification of other documents appended to the application

I/we certify that the following records are appended to this application:

- (a) an affidavit setting out the facts on which the application is based.
- (b) proof of service in accordance with Tribunal Rule 30 for the party named in Part B.
- (c) the notice issued in terms of Section 100(1).

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorized to sign on
behalf of the National Consumer Commission

Form TI.102(3)(b) CPA

The National Consumer Tribunal Notice of Motion

This notice must be filed with the Tribunal and served in accordance with Tribunal Rules on the party mentioned in Part E.

Date _____

To _____

(the respondent)

Please take note that the National Consumer Commission (“the Commission”) has brought an application to impose extend the time period within which it shall be entitled retain the books, document or other objects (“the items”) are to be retained in the Commission’s possession, in terms of section 102(3)(b) of the Consumer Protection Act, 68 of 2008 to the National Consumer Tribunal as per the order set out in Part D.

Further note that you may oppose the application by serving an answer on the Applicant and on any other party to whom this notice is addressed. Your answer must be within 5 business days of the date of this notice and comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers of the Commission:

Person responsible for this Application, and position within the Commission

Company registration or identity number _____

Part B: Details of the respondent

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part C: Details of the Items

Date on which the Commission took possession of Items

Description of items sought to be retained

Part D: Order sought from the Tribunal

I/we hereby apply for an order in the following terms (insert details of time period for retention requested):

Part E: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the party named in Part B has been notified of this application by service in the manner indicated below, of a copy of this Form:

- delivery to the party's physical address
- dispatch by registered mail to the party's postal address
- dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow.

Part E: Applicant's certification of other documents appended to the application

I/we certify that the following records are appended to this application:

- (a) an affidavit setting out the facts on which the application is based.

(b) proof of service in accordance with Tribunal Rule 30 for the party named in Part B.

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorized to sign on
behalf of the National Consumer Commission

(15) By the addition to Part 2 of the following forms:

Form T1.73(2)(b) CPA

The National Consumer Tribunal Notice of Motion

This notice must be filed with the Tribunal and served in accordance with Tribunal Rules on the party mentioned in Part E.

Date _____

To _____

(the respondent)

Please take note that the National Consumer Commission has referred a complaint against the Respondent set out in Part B in terms of s.73(2)(b) of the Consumer Protection Act 2008 to the National Consumer Tribunal for the order set out in Part D.

Further note that you may oppose the application by serving an answer on the Applicant and on any other party to whom this notice is addressed. Your answer must be within 15 business days of the date of this notice and comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers of the Commission:

Person responsible for this referral, and position within the Commission

Company registration or identity number _____

Part B: Details of the respondent

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part C: Details of the Complaint

Date on which the complaint was lodged _____

Description of complaint _____

Attach affidavit setting out grounds for the referral.

Part D: Order sought from the Tribunal

I/we hereby apply for an order in the following terms:

Part E: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the party named in Part B has been notified of this application by service in the manner indicated below, of a copy of this Form:

- delivery to the party's physical address
- dispatch by registered mail to the party's postal address
- dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow.

Part E: Applicant's certification of other documents appended to the application

I/we certify that the following records are appended to this application:

- (a) an affidavit setting out the facts on which the referral is based.
- (b) proof of service in accordance with Tribunal Rule 30 for the party named in Part B.

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorized to sign on
behalf of the National Consumer Commission

Form TI.73(3) & 75(1)(b) & (2) CPA

The National Consumer Tribunal Notice of Motion

This notice must be filed with the Tribunal and served in accordance with Tribunal Rules on the party mentioned in Part D.

Date _____

To _____

(the respondent)

And to the National Consumer Commission

And to the Consumer Court

(insert details if the matter has been referred to a Consumer Court in terms of s.75(1)(a) or 73(2)(a))

Please take note that the Applicant in Part A has commenced proceedings before the National Consumer Tribunal for an order that a complaint detailed in Part C be referred directly to the Tribunal in terms of section:-

- 73(3)
- 75(1)(b)
- 75(2)

Mark whichever is applicable.

Further note that you may oppose the application by serving an answer on the Applicant and on any other party to whom this notice is addressed. Your answer must be within 15 business days of the date of this notice and comply with the Tribunal Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part B: Details of the person against whom the complaint was filed

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part C: Details of the complaint referral

Attach a copy of the complaint referral.

Part D: Order sought from the Tribunal

I/we hereby apply for an order in the following terms

1. That leave be granted to refer to complaint directly to the Tribunal
(attach an affidavit setting out grounds for such leave to be granted)

Part E: Applicant's certification of notice to parties, service of documents and means of service

I/we certify that the party named in Part B has been notified of this application by service in the manner indicated below, of a copy of this Form:

- delivery to the party's physical address
- dispatch by registered mail to the party's postal address
- dispatch by fax or e-mail, with delivery to a physical address or by registered mail to follow.

Part G: Applicant's certification of other documents appended to the application

I/we certify that the following records are appended to this application:

- (a) an affidavit setting out the facts on which the application is based.
- (b) proof of service in accordance with Tribunal Rule 30 for the party named in Part B.

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorised to sign on
behalf of the Applicant

(16) By the addition to Part 5 of the following forms:

Form Tl.r30

Application to the National Consumer Tribunal for an order of substituted service

This application must be filed in accordance with Tribunal Rule 30.

Date _____

In the matter between _____ (Applicant)

and _____ (Respondent)

Tribunal Reference Number _____

("the principal matter")

Part A: Details of the Applicant

Name, physical and postal address, email, telephone and fax numbers

Company registration or identity number

National Credit Regulator registration number and date of registration with the Regulator, if applicable

Part C: Order sought from the Tribunal and grounds for application

I/we, hereby apply to the Tribunal for an order:

- (a) that non-compliance with Rule 30 (service and proof of service of documents) be condoned for the following reasons (describe attempts at serving in the conventional way and state the difficulties experienced):

- (b) that the means of service or the publication of a notice, in the manner described below, be taken as substituted service to the party mentioned in Part B:

**Part B: Applicant's certification of other documents
appended to the application**

I/we certify that the following documents are appended to this application.

- (a) proof of attempts and failure to serve in a manner, required by Rule 30(1) to (3)

Signed at _____ on _____

By _____ (name) _____ (position)

Applicant, or duly authorized to sign in
behalf of the Applicant

Form Tl.r4A CPA

Application to the National Consumer Tribunal for leave to institute proceedings
for or on behalf of persons set out in section 4(b) to (e) of CPA

This application must be filed with the Tribunal and served on the parties
mentioned in Part D, in accordance with Tribunal Rules 4-16.

Date _____

To _____

And to _____

(to be addressed to all affected parties)

Please take note that the Applicant named in Part A has commenced
proceedings before the National Consumer Tribunal for an order for leave to
institute proceedings described in part B on behalf of persons set out in Part C .

Further note that you may oppose the application by serving an answer within 15
business days of the date of this notice on the Applicant and on the other parties
to whom this notice is addressed. Your answer must comply with the Tribunal
Rules.

Part A: Details of the Applicant

Name, physical and postal address, e-mail, telephone and fax numbers:

Company registration or identity number _____

Part F: Applicant's certification of other documents appended to the application

I/we certify that the following documents are appended to this application:

- (a) copies of the documents required under Part B and C;
- (b) proof of service in accordance with Tribunal Rule 30 for each of the parties named in Part D;

Signed at _____ on _____

by _____ (name) _____ (position)

Applicant, or duly authorised to sign on
behalf of the Applicant"

Form Tl.r25(2)

Application to the National Consumer Tribunal for a default order

This application must be filed in accordance with Tribunal Rules.

Date _____

In the matter between _____ (Applicant)

and _____ (Respondent)

Tribunal Reference Number _____
("the principal matter")

Part A: Details of the Applicant

Name, physical and postal address, email, telephone and fax numbers

Company registration or identity number

National Credit Regulator registration number and date of registration with the Regulator, if applicable

Part C: Order sought from the Tribunal and grounds for application

I/we, hereby apply to the Tribunal for a default order in the principal matter as per the draft order attached hereto on the grounds that:

- (a) The application in the principal matter was served on _____ (state date)
- (b) The time period within which the party was required to file a response expired on _____ (state date)
- (c) The party has failed to deliver a response within required time period

**Part B: Applicant's certification of other documents
appended to the application**

I/we certify that the following documents are appended to this application.

- (a) All documents filed in the principal matter;
- (b) Draft default order formulated as an order of the tribunal

Signed at _____ on _____

By _____ (name) _____ (position)

Applicant, or duly authorized to sign in
behalf of the Applicant

- (17) By the addition of the following table 1B, the existing table 1 becoming table 1A:

Table 1B	
Section of the CPA	Type of application
60(3)	Application by producer or importer to review a Notice issued by Commission in terms of Section 6(2)
70(3)	Application for consent order after resolution of dispute by ADR agent
73(3)	Application for referral to the Tribunal by any party to a referral by the Commission in terms of s.73(2)(a) of the CPA, with application for leave that matter be referred to the Tribunal
73(2)(b)	Referral of complaint by Commission
74(1)	Application for consent order
75(1)(b)	Referral to the Tribunal by a complainant who submitted a complaint to the Commission in terms of s.71(1) of the CPA, with application for leave to refer
75(2)	Application for referral to the Tribunal by a Respondent when matter has been referred to a Consumer Court by Commission in terms of section 75(1) (a), with application for leave to refer
80(5)	Application to review the determination of the Registrar made in terms of s.18(4) of the CPA
100(6)	Application by the Commission for imposition of administrative fine for failure to comply with compliance notice issued in terms of s.100(1)
101(1)	Application to review issuing of notice in terms of s.100 of the CPA
102(3)(b)	Application by commission for extension of the time to retain books, documents or objects
106(1)	Claim of confidentiality of information submitted and determination of such claim in terms of section 106(3) of the CPA
114(1)	Application for interim relief

- (18) By the insertion after the word “Section” in the first column of Table 1A the words “of the Act”;
- (19) By the insertion in Table 2, in respect of the row in which “Section 128(1)” appears in column “a”, in column “e”-
- (a) At the end of paragraph (1) the words “, or the attachment order mentioned in s.131”;
 - (b) of a new paragraph “(6) if available, a copy of the credit provider’s written notice mentioned in s127(5)(b)”.
- (20) By the substitution in table 2, in respect of the row in which “Rule 11” appears in column “a” , in column “h” for the expression “TI.r23” of the expression “TI.r11”.
- (21) By the substitution in table 2, in respect of the row in which “Rule 12” appears in column “a”,-
- (a) in column “e” for the paragraph therein of the following paragraph “Proof of service mentioned in Form TI.r12”;
 - (b) in column “h” for the expression “TI.r26” of the expression “TI.r12” ;
- (22) By the substitution in table 2, in respect of the row in which “Section 149(1)” appears in column “a”, in column “g” for the words “respondent in” for “respondent or”;
- (23) By the substitution in table 2 in respect of the row in which “Section 56(1)” appears in column “a”, in column “f” for the expression “One thousand rand (R1000.00)” of the expression “n/a”.
- (24) By the substitution in table 2 in respect of the row in which “Section 71(3)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (25) By the substitution in table 2 in respect of the row in which “Section 99(2)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (26) By the substitution in table 2 in respect of the row in which “Section 114(1)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.

- (27) By the substitution in table 2 in respect of the row in which “Section 115(1)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (28) By the substitution in table 2 in respect of the row in which “Section 128(1)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (29) By the substitution in table 2 in respect of the row in which “Section 141(1)(b)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (30) By the substitution in table 2 in respect of the row in which “Section 137(3)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (31) By the substitution in table 2 in respect of the row in which “Section 149(1)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (32) By the substitution in table 2 in respect of the row in which “Rule 34” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (33) By the substitution in table 2 in respect of the row in which “Section 148(1)” appears in column “a”, in column “f” for the expression “two hundred rand (R200.00)” of the expression “n/a”.
- (34) By the substitution in table 2 in respect of the row in which “Section 140(4) and Section 141(2)(a)” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (35) By the substitution in table 2 in respect of the row in which “Section 165” appears in column “a”, in column “f” for the expression “one hundred rand (R100.00)” of the expression “n/a”.
- (36) By the addition, in Table 2 in respect of the rows in column “a” in which the following appears:
 - (a) “Section 59(1)”;
 - (b) “Section 63(5)”;
 - (c) “Section 138(1)”;
 - (d) “Section 142(3)(f)”;
 - (e) “Rule 12”;

of the following consecutively numbered paragraph in column “e” of the aforementioned rows:

“ proof of payment utilizing Form Tl.r35”.

- (37) By the addition of part 1B, in Table 2, of the Schedule A to these regulations the existing part 1 becoming part 1A.
- (38) By the addition of part 2B, in Table 2, of the Schedule B to these regulations the existing part 2 becoming part 2A.
- (39) By the addition of part 4B, in Table 2, of the Schedule C to these regulations the existing part 4 becoming part 4A.
- (40) By the addition of items under part 5, in Table 2, of the Schedule D to these regulations.

SCHEDULE A

Part 1B: Application directly to the Tribunal in terms of the CPA							
60(3)	application by producer or importer to modify or set aside notice issued by Commission in terms of s60(2)	20 business days from date of notice issued by commission	TI.60(3) & 101 CPA	(1) copy of Notice issued by the Commission (2) an affidavit setting out the grounds for the objection and the order sought from the Tribunal (4) proof of service	n/a	The Commission	On the Commission, Form TI.60(3) & 101 CPA and the affidavit described in <i>column e</i>
80(5)	application to modify or set aside determination of Registrar of Companies in terms of s80(4)	20 business days from the date of determination of the Registrar of companies	Form TI. 80(5) CPA	(1) a copy of the Notice issued in terms of s80(4)(a) (2) a copy of the Notice issued in terms of s80(4)(b), if applicable (3) an affidavit setting out the grounds for the objection and the order sought from the Tribunal (4) proof of service	n/a	The Registrar of Companies	On the Registrar of Companies - Form TI.80(5) CPA and the affidavit described in <i>column e</i>
100(6)(a)	application by the Commission to	The application must be filed	Form TI100(6) CPA	(1) a copy of the Notice issued in	n/a	The person to whom the	The person to whom the compliance notice

SCHEDULE A

	impose an administrative fine for failure to comply with Notice issued in terms of s100(1)	before receipt of an application in terms of s101(1) to set aside the Notice		terms of s100(1) (2) Copies of documents or records in evidence of the prohibited conduct and of the failure or non compliance with the Notice in terms of s100(1)		compliance notice was issued	was issued, Form \TI100(6) CPA and the documents described in (2) of <i>column e</i>
101(1)	application to modify or set aside notice issued by the Commission in terms of s100(1)	The application must be filed within 15(fifteen) business days of receiving the notice, or later if the Tribunal permits	TI.60(3) & 101 CPA	(1) a copy of the notice issued by the Commission in terms of Section 100(1) (2) an affidavit setting out the grounds for the objection and the order sought from the Tribunal (3) proof of service	n/a	The Commission	On the Commission, a copy of Form TI 60(3) & 101 CPA and the affidavit described in <i>column e</i>
70(3)(b)	application for a consent order after dispute resolved by alternative dispute resolution agent	n/a	Form TI.138(1)	(1)A signed copy of the agreement reached between the parties to the dispute resolution, formulated as an order of the Tribunal	One hundred rand (R100.00)	The other persons mentioned in Form TI.138(1)	A copy of Form TI.138(1) and a copy of the agreement mentioned in <i>column e</i>

SCHEDULE A

102(3)(b)	application by Commission for extension of time to retain book, document or other object for examination	Ten business days before expiration of the 2 month period contemplated in s.102(3)(b)	Form TI.102(3)(b)CPA	<p>(1) a copy of the summons issued in terms of s102(1)</p> <p>(2) copies of the documents sought to be retained or a description of the objects</p> <p>(3) an affidavit setting out the grounds upon which the extension of time is sought</p> <p>(4) proof of service</p>	n/a	The person to whom the summons in terms of s102(1) was issued	On the person to whom the summons was issued, a copy of Form TI.102(3)(b) CPA and the documents described in <i>column e</i>
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SCHEDULE B

Part 2B : Complaint referrals (matters originating as complaints to the Commission) in terms of the CPA							
73(2)(b)	Referral of complaint by Commission after conclusion of investigation	Within 3 years as set out in section 116 of the CPA	Form TI.73(2)(b) CPA	(1) The completed form TI73(2)(b) CPA (2) an affidavit setting out the grounds of the referral and the order sought from the Tribunal (3) proof of service	n/a	All other parties that will be affected by the order or relief sought in terms of Form TI.73(2)	To all other parties, copies of Form TI.73(2), and all documents listed in <i>column e</i>
73(3)	Application by any party to a referral by Commission of matter to consumer court for order that matter be referred to the Tribunal	Within 20 business days of matter being referred to Consumer Court or within longer time permitted by the Tribunal	Form TI.73(3) & 75(1)(b) & (2) CPA	(1) the complainant's complaint (2) the Commission's referral to the Consumer Court with all relevant documents attached to that referral (3) proof of service	n/a	The Commission, all other parties that will be affected by the order or relief sought (in terms of Form TI.73(3) & 75(1)(b) & (2) CPA	To all other parties copies of Forms TI73(3) & 75(1)(b) & (2) CPA and all the documents listed in <i>column e</i>
75(1)(b)	Referral by complainant following the Commission's non referral of a compliant other than on grounds	Within twenty business days of the date of the Notice of Non Referral, or within a longer time permitted by	Form TI73(3) & 75(1)(b) & (2) CPA	(1) the complainant's complaint (2) the Commission's Notice of Non	n/a	All parties that will be affected by the order or relief sought (in terms of Form TI73(3) & 75(1)(b) & (2),	To all other parties, copies of form TI73(3) & 75(1)(b) & (2), CPA and all documents listed in <i>column e</i>

SCHEDULE B

	contemplated in s.116, with application for leave to refer	the Tribunal		Referral (Form NCR 31) (3) affidavit setting out grounds for leave to refer directly to the Tribunal (4) proof of service		CPA	
75(2)	Application by Respondent for referral to the Tribunal in circumstances where the Commission had issued a Notice of Non Referral and the complainant has referred the matter directly to the Consumer Court	Within 20 business days of the date of the complainant's referral to the Consumer Court in terms of s.75(1)(a)	Form TI.73(3) & 75(1)(b) & (2) CPA	(1) the complainant's referral to the Consumer Court, with all annexures thereto (2) the Commission's Notice of Non Referral (3) affidavit setting out grounds for leave to refer directly to the Tribunal (5) proof of service	n/a	All parties that will be affected by the order or relief sought (in terms of Form TI73(3) & 75(1)(b) & (2), CPA	To all other parties, copies of form TI73(3) & 75(1)(b) & (2) CPA and all documents listed in <i>column e</i>

SCHEDULE C

Part 4B : Interim relief in respect of a complaint referral in terms of the CPA							
114(1)	application for interim order pending hearing of complaint or relief sought from court	at any time before the conclusion of the hearing of the matter	Form TL149 (1)	n/a		The Commission, the Respondents or prospective Respondents in the principal matter, as set out in s.114(1)	To all parties mentioned in <i>column g</i> , a copy of Form TL149(1)

SCHEDULE D

Rule 30	Application for an order of substituted service	If the order is required in respect of a respondent in the principal matter, application must be filed concurrently with the application in the principal matter, or, in other circumstances, at a time permitted by the Tribunal	Form TL.r30	(1) documentary proof of attempts and failure to serve in accordance with rules	n/a	n/a	n/a
114(3) of the CPA	application for extension of interim order	At any time before the conclusion of the hearing of the matter	Form TL.r4	(1) a copy of the interim order (2) an affidavit setting out the grounds upon which the interim order should be extended	n/a	The parties to the principal matter	To all parties, a copy of Form,TL.r4 and the affidavit mentioned in <i>column e</i>
Rule 4A	Application for leave to institute proceedings provided for in the CPA on behalf of persons or on grounds set out in Section 4(1), C), (D) or	n/a	Form TL.r4A	(1) Copy of the draft documents in the proceeding the party intends to institute (2) detailed affidavit setting out grounds for leave to	n/a	On the Commission and the Respondent(s)	To all parties a copy of Form TL.r4A and the documents in <i>column e</i>

SCHEDULE D

	(E)			institute proceedings			
Rule 25(2)	Application for Default order after party failed to deliver response within requisite time period	At any time after expiry of the time period within which the party was required to deliver a response	TI.r25(2)	(1) copy of the application delivered by the applicant in the principal application (2) copies of all of the documents which were required to be included in the principal application (3) copy of the order sought formulated as a draft order of the tribunal	n/a	n/a	n/a