

## **LOOKING AT THE CONSUMER PROTECTION ACT** by Jeff Osborne

The all-new Consumer Protection Act (CPA) will bring to South Africa world-class laws that intended to protect all consumers in the way they buy items, sign contracts or do any general business.

The act was signed by government on the April 24 2009 and published with the intention to bring the statute on to the books with in a 12 to 18 month implementation period.

One small problem currently is that at this time no regulations are yet finalised and the fact remains that with 122 separate sections that constitute the document means that there may be a lot of devil in the detail that needs to be unravelled.

Here's a short guide to the areas the act governs and some of the proposed laws:

### **Promotion**

The act sets out three basic principles: promote, provide and prohibit to follow in dealing with consumers and product suppliers in the market place.

The enforced framework to establish consists of consumer transactions and arguments. The act would supply responsible consumer behaviour to a degree and develop a civil partnership between civil society and government.

### **Provisions**

Set out in the act are ways to follow the law with regard to the protection of consumer rights. These include a move to improve standards on the availability of consumer information by way of some fundamental rights to equality, privacy, choice, honest dealings and also fair value mechanisms. The aim is to guarantee full redress and responsible business practice for consumers through the establishment of a new National Consumer Commission.

### **What is Outlawed**

Prohibitions are dealt with in the new act and include the non-allowance of certain unfair marketing and business practices. Unconscionable behaviour by business along with all misleading marketing practices and other fraudulent schemes are also taken into account.

The scope of to whom the act will apply is fully covered and just to name a few it applies to banking services, financial services, tenders, undertaking, underwriting or the assumption of any risk, clubs, trade unions activity or associations, and goods and service providers.

Exempt, sadly, is the insurance industry, short or long term insurance as well as advice under the FATS and their intermediary services as well as collective bargaining and employment agreements.

The act covers consumers, goods, services and suppliers. This includes descriptions in full of consumer goods services and suppliers, direct marketing, unsolicited goods, wrong goods delivered, and a host of variations in this type of business. It includes service and implied guarantees of warranty, while liability for damage or negligence sections ensure that consumer rights are protected.

### **Improved**

The act also details just how understandable language must apply to persons of average language skills and minimal experience as a consumer of that type of goods or services.

Here a court can in some cases restore money or property to a consumer and compensate them for losses and expenses incurred.

This also enforces a demand that all manufacturers carefully label disclaimers and warranties where possible as well as improve product methods, quality control and take out product liability

### **List of Consumer Rights**

Eight UN Consumer Rights

- Right to the satisfaction of basic needs
- Right to safety
- Right to be informed
- Right to choose
- Right to be heard
- Right to redress
- Right to consumer education
- Right to a healthy and sustainable environment

#### Nine CPA Rights

- Right to equality in the consumer market place
- Right to privacy
- Right to choose
- Right to disclosure and information
- Right to fair and responsible marketing
- Right to fair and honest dealing
- Right to fair, just and reasonable terms and conditions
- Right to fair value, good quality and safety