



# CENTRIQ

INSURANCE INNOVATION

## UPDATE ON REGULATORY STATUS

### CONSUMER PROTECTION ACT (CPA)

<b>UPDATE</b>	<p>The Act aims to protect the constitutional rights of the consumer by ensuring that businesses do not exploit the consumer and that consumers have access to efficient and effective redress; and are educated about their rights and responsibilities. The FSB is in the process of appointing a consultant to undertake a comprehensive assessment of all sector laws vis a vis the Consumer Protection Act. The insurance industry will be informed of the developments and will be consulted on the preliminary and final outcomes of the assessment.</p>
<b>LEGAL STATUS / REGULATIONS</b>	<p>The Short-Term Insurance Act, 1988 and (Act No 53 of 1998 and the Long Term Insurance Act, 1988 (Act No 52 OF 1988) were excluded from the ambit of the laws which were considered during the consolidation of consumer protection laws. The Acts were excluded subject to the sector laws being aligned with the consumer protection measures provided for in the CPA within a period of 18 months from the commencement of the CPA failing which the provisions of CPA will apply. The 18 months grace period will be effective from the commencement of the Act which is 1 April 2011. The National Consumer Commission (NCC) has published draft service delivery standards for advisory opinions and clarifications for the commission in the Government Gazette for public comment. The notice is published in terms of the Consumer Protection Act of 2008. Written comment on the draft guidelines were invited until 30 July 2011. The NCC emphasises that it aims to offer services that meet the standards expected by both stakeholders and the commission. The guidelines spell out the core values that stakeholders can expect when dealing with the commission.</p> <p>Some of the important aspects covered by the Consumer Protection Act are:</p> <ul style="list-style-type: none"><li>• Language - Product/service information must be in a language appropriate for the target market, and understandable to someone with average literacy skills.</li><li>• Agreements - Any agreement that seems excessively one-sided against the customer can be ruled to be unreasonable and therefore not applicable.</li><li>• Contract terms and renewals - Fixed-term agreements cannot be automatically renewed at the end of the term, except on a month-to-month basis.</li><li>• Cooling off period - Consumers who buy something that is marketed directly to them have a five-day "cooling off" period in which to return the item.</li><li>• Refunds, repairs and warranties - Consumers have up to six months to return faulty or unsafe goods, regardless of the warranty that the seller might provide. Repair work that falls outside warranty must be quoted for in writing. Suppliers cannot charge for quoting, or charge more than what is quoted. If a consumer claims damages as a result of an unsafe, faulty or hazardous product, it is up to the supplier to prove they are not at fault.</li><li>• Marketing - Consumers can pre-emptively block direct marketing attempts. Marketers must first obtain permission before they can market to someone directly.</li></ul>
<b>DATE ASSENTED BY THE PRESIDENT</b>	<p>President Kgalema Motlanthe signed the Act into law on 24 April 2009 and the Act was gazetted on 29 April 2009.</p>
<b>EFFECTIVE DATES</b>	<p>The Act came into effect on 1 April 2011.</p>