



Business Compliance Guide on the Consumer Protection Act

1. What is the Consumer Protection Act?

- a. The Consumer Protection Act (CPA) is a law of general application administered by the National Consumer Commission. It applies to all industries except those that have been exempted, like Banking, Insurance and Credit etc.

2. Is it compulsory for business, big and small, to comply with its provisions?

- a. Yes, it is mandatory for business offering goods and services to consumers within the Republic of South Africa to uphold and comply with its provisions.

3. Who is a consumer?

- a. A consumer includes not only the person (be it a natural or juristic) to whom goods and services are supplied or promoted, but the actual user of the goods, or the recipient or beneficiary of the service. It could be a person other than the one who entered into a purchase agreement with the supplier and paid for the goods and services.

4. What is the threshold for business to get protection in terms of the Act?

- a. Businesses with an annual turnover of up to R2m are entitled to get protection in terms of the CPA. They can lodge a complaint with either the Consumer Goods and Services Ombud (CGSO), the Motor Industry of South Africa (MIOSA) or the Provincial Consumer Affairs Offices hosted in the 9 provinces to get redress.

Common complaints when buying goods and services

5. Must retailers provide proof of payment/ receipts for each transaction?

- a. Section 26(2) provides that suppliers of goods and services *must* provide consumers with a written sales record as proof of purchased (receipt) for every transaction. Such a record must include the supplier's full / registered name,

address, vat no, date and description of the goods and services supplied, unit price, quantity and total amount including taxes where applicable. It is the sales record that will prove when the transaction took in the event of a dispute.

6. What do “No Warranties, No Returns and No Refunds” signs mean?

- a. No warranty, no returns and no refund notices are misleading to consumers. The CPA (S 56) allows return of defective products within a period of 6 months after delivery, at the risk and expense of the supplier.
- b. Section 56(2) provides consumers a mandatory warranty of 6 months which allows for the return of defective products. The supplier must at the direction of the consumer either, replace or repair defective product or whichever option the consumer choose.
- c. The supplier must further provide a statutory warranty of three months on the parts whether new or reconditioned as well as on the repairs done. If the failure or defect has not been remedied, the supplier loses the option to repair again. The only option is to refund or replace.

7. What should suppliers disclose about the products and services they are offering?

- a. Prices of the products must be displayed in a prominent and clear manner. The price must be in SA Rands, however other currencies maybe also be reflected as well.
- b. Product labels and trade descriptions must be applied either on the product itself or on the packaging. Such labels and trade description must not intentionally mislead consumers.
- c. Expiry, best before or use by dates must be displayed as is and not changed to mislead consumers. Expired goods should not be displayed for sale to consumers.

8. What suppliers should disclose when selling goods and services online

- a. Disclosure requirements by suppliers in terms of the CPA includes the following:
 - i. the information about the product must be in plain and understandable language;
 - ii. prices must be displayed in SA Rands (other currencies may be included);

iii. labels and trade descriptions must not be misleading.

b. In terms of Electronic Communications and Transactions Act 25 of 2002, which governs online transactions, suppliers must also make the following information available to consumers on the web site where such goods or services are offered:

- i. Its full name and legal status;
- ii. its physical address and telephone number;
- iii. its web site address and e-mail address;
- iv. membership of any self-regulatory or accreditation bodies to which that supplier belongs or subscribes and the contact details of that body;
- v. any code of conduct to which that supplier subscribes and how that code of conduct may be accessed electronically by the consumer;
- vi. in the case of a legal person, its registration number, the names of its office bearers and its place of registration;
- vii. the physical address where that supplier will receive legal service of documents;
- viii. a sufficient description of the main characteristics of the goods or services offered by that supplier to enable a consumer to make an informed decision on the proposed electronic transaction;
- ix. the full price of the goods or services, including transport costs, taxes and any other fees or costs;
- x. the manner of payment;
- xi. any terms of agreement, including any guarantees, that will apply to the transaction and how those terms may be accessed, stored and reproduced electronically by consumers;
- xii. the time within which the goods will be dispatched or delivered or within which the services will be rendered;
- xiii. the manner and period within which consumers can access and maintain a full record of the transaction;
- xiv. the return, exchange and refund policy of that supplier;
- xv. any alternative dispute resolution code to which that supplier subscribes and how the wording of that code may be accessed electronically by the consumer;

- xvi. the security procedures and privacy policy of that supplier in respect of payment, payment information and personal information;
- xvii. where appropriate, the minimum duration of the agreement in the case of agreements for the supply of products or services to be performed on an ongoing basis or recurrently; and
- xviii. the rights of consumers in terms of section 44, where applicable.

How to service consumer complaints?

Business should have the following to ensure that they are able to service consumer complaints effectively

- a) Have return and refund policy and complaints process displayed eligibly.
- b) Have a complaints desk and a dedicated person to attend to consumer complaints.
- c) Ensure that staff is properly trained on the provisions of the CPA.
- d) Keep records of all complaints and resolutions taken.

The ECT Act provides for consumers who may have complaints in relation to online transactions to report them to a Consumer Protection Body within respective provinces.

Complaints for fast moving goods may be directed to: The Consumer Goods and Services Council (CGSO) at: 0860 000 272 or send email to: info@cgso.org.za.

Complaints relating to motor vehicles maybe directed to: Motor Industry Ombud of SA (MIOSA) at: 0861 164 672 or send email to: info@miosa.co.za

Suppliers who need assistance with understanding and complying with the provisions of the Consumer Protection Act may approach the National Consumer Commission for assistance. Presentations and workshops are offered by the Commission at no cost. Requests may be forwarded for the attention of Ms B Hewu at: b.hewu@thenc.org.za. Suppliers may also direct their request for an advisory opinion at: j.modiba@thenc.org.za. Requests are welcome from both small, medium and large business.