

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 1584

10 December 2021

NATIONAL CONSUMER COMMISSION

I, **Thezi Mabuza**, the Acting Commissioner of the National Consumer Commission, hereby publish draft guidelines the National Consumer Commission will follow when assessing an application for accreditation of Consumer Protection Group in terms of Section 78 (3) of the Consumer Protection Act 68 of 2008.

Interested persons/ groups /entities /institutions may submit their written comments to the draft guidelines not later than the 31 January 2022, quoting the following reference number **NCC/GN01/2021** to The National Consumer Commission, P.O. Box 36628, Menlo Park, 0102, for the attention of Mr Jabulani Mbeje or email to J.Mbeje@thencc.org.za.

Ms Thezi Mabuza

Acting Commissioner

National Consumer Commission

Accreditation Application: Consumer Protection Group

Accreditation and certification

The National Consumer Commission (NCC) and/ or its delegated structure shall give a written assurance and formal recognition that the applicant's application conforms to the specific requirements of Section 78 of the Consumer Protection Act (CPA) and capable of carrying the required tasks by issuing an accreditation certificate to an accredited consumer protection group

Governing operating procedures and quality assurance

The NCC and/ or its delegated structure shall have an oversight over the applicant with regard to execution of function related to the CPA and the associated consumer programs, by way of monitoring the effectiveness of any accredited consumer protection group.

Name of the applicant

Domicilium Citandi (Business Address) of the applicant

Statement of Purpose

The applicant must outline the statement of purpose to assist the NCC to easily determine and ascertain if the applicant is fit for purpose in terms of Section 78 of the Consumer Protection Act (CPA).

Scope of accreditation application

The applicant must indicate if they apply for accreditation for specific category of consumers or all consumers in general in terms of section 78 (3) (a) of the CPA.

Overview of the capacity, expertise, experience and skills

The applicant must provide an overview of the capacity, expertise and the requisite skills and experience that they have

Terms of accreditation

The applicant must demonstrate if they have the resources carry to out its functions in terms of Section 78 (1) and (2) of the CPA. The resources must include infrastructure and financial resources

Governance and the structure of the applicant

What is the governance structure of the applicant? Is the applicant fit for purpose to be a consumer ambassador in line with the CPA and the applicable consumer regulations? Is the applicant a going concern without and free from any potential insolvency cases?

Certification & accreditation by other bodies

Is the applicant certified and/or accredited with other bodies/agencies?

Business plans and financial plans

Seeking accreditation requires commitment, planning, knowledge and resources. How will the applicant execute/ fulfil its role as consumer protection group in terms of the CPA? What is the allocated budget and what are its plans for carrying out its functions as an accredited consumer protection group? What is its financial model?

Organizational structure

Conflict of interests

Any conflict of interests must to be declared by the applicant. As a condition preceding accreditation. All the applicant's directors and officers must familiarize themselves with the NCC Conflict of Interest Policy.

Anti-fraud and anti-corruption statement

Description of planned activities

Annexures

Mention annexures that supports this accreditation application:

GUIDELINES TO BE FOLLOWED BY THE NATIONAL CONSUMER COMMISSION IN ASSESSING APPLICATIONS FOR ACCREDITATION OF CONSUMER PROTECTION GROUPS IN TERMS OF SECTION 78 OF THE CONSUMER PROTECTION ACT 68 OF 2008 (THE CPA)

1. PART A

1.1 PREAMBLE

The National Consumer Commission (The NCC) has identified the accreditation of Consumer Protection Groups as one of its priority initiative for promotion and compliance with the Consumer Protection Act 68 of 2008 (CPA).

Section 78 (3) of the CPA empowers the NCC to accredit Consumer Protection Groups that will protect interests of consumer individually, or of consumers collectively, in any matter or before any forum contemplated in the CPA and or intervene in any matter before any forum contemplated in the CPA, if the interest of consumer/s represented by that group are not otherwise adequately represented in the said forum.

Section 78(5) also empowers the NCC to put in place a monitoring system to ensure the effectiveness of the accredited Consumer Protection Group. The Minister has already promulgated Regulations in terms of section 78(6) of the CPA, relating to standards, procedures and related matters for the NCC to follow in assessing applicants for accreditation as Consumer Protection Groups. Despite the promulgation of such regulations, Consumer Protection Groups have not yet applied to the NCC for their accreditation.

The NCC has now undertaken to develop these guidelines to assist the interested Consumer Protection Groups and provide guidance on critical information required when applying for accreditation as a Consumer Protection Group in terms of section 78 (3), read with regulation 38 of the CPA.

1.2. INTRODUCTION

The purpose hereof is to provide practical guidelines to prospective consumer protection groups on matters that need to be covered when applying for accreditation as a consumer protection group in terms of section 78 of the CPA. The requirements listed herein are not exhaustive, but contain the minimum contents that should form part of the accreditation application.

Consumer protection groups are encouraged to use these guideline as the basis for their accreditation applications. There are many advantages that can be gained by being accredited as a consumer protection group in terms of section 78 of the CPA and those advantages also come with certain obligation such as being monitored by the NCC whether the accredited consumer group is effective and efficient in that it can comply with the purposes and policies of the CPA when carrying out its functions in terms of the CPA.

The NCC may also impose reasonable conditions on the accreditation of consumer protection group so as to further the purposes of the CPA. Although the CPA does not impose an obligation on the Commission to prepare these guidelines, the NCC has found it prudent to assist the aspirant consumer protection groups to understand the basic/ minimum requirements and the procedure for application for accreditation it terms of the CPA.

Accreditation should be seen as a mutual benefit for both the consumers and consumer protection groups.

1.3. LEGISLATIVE FRAMEWORK

Section 78 (3) of the CPA empowers the NCC to accredit a consumer protection group which can be a person or association that;

- a) Functions predominantly to promote or represent the interest of all or a specific category of consumers generally;
- b) Is committed to achieving the purposes of the CPA, and
- c) Engages in or makes a realistic proposal to engage in actions to promote and advance the consumer interest of persons contemplated in section 3 (1) (b) of the CPA.

The purpose and policy of the CPA is clearly set out in section 3 of the CPA. Consumer protection groups are encouraged to refer to the said section when preparing their applications for accreditation.

1.4 ENFORCEMENT ACTION

Section 78 (1) of the CPA empowers an accredited consumer protection group to;

- a) Commence or undertake any act to protect the interest of a consumer individually or of consumers collectively in any matter or before any forum contemplated in the CPA.
- b) Intervene in any matter before any forum contemplated in the CPA, if the interests of the consumer represented by that group are not adequately represented in that forum.

In addition to the above section, an accredited consumer group is also empowered in terms of section 78 (2) of the CPA to direct a general stated concern or complaint to the NCC in respect of any matter within the purpose of the CPA.

2. PART- B

2.1. These guidelines are not intended to replace or amend regulation 38 of the CPA, which was promulgated by the Minister to regulate standards, procedures and related matters which the NCC has to follow in assessing an applicant for accreditation as a consumer group, but should be used to assist the person or association who is applying for accreditation as a consumer protection group, to prepare and submit the application in an easier and more friendly manner.

2.2. PERTINENT INFORMATION TO BE INCLUDED IN THE APPLICATION AND TO BE USED AS A CRITERIA TO ASSESS APPLICATION FOR ACCREDITATION

2.2.1. The accreditation application must be sent by email and addressed to:

J.Mbeje@thencc.org.za.

2.2.2. The applicant must address and cover the following critical points;

- a) The registered name of the association/legal entity and its registration number, if available; where the applicant is legally bound to be registered for VAT, provide the latest copy of its tax clearance certificate, issued by SARS. If it is an ordinary person, his/her full names, identity number, residential and postal address.
- b) The scope of the application: describe whether it will promote interest of all consumers or a specific category of consumers, and the geographical location of the specific category of consumers must be clearly defined.
- c) Its capacity, skills, resources and experience where necessary.
- d) Its business and financial plans for the proposed accreditation.

- e) State whether it subscribes to any anti-corruption and anti-fraud values and principles.
- f) Demonstrate that it is financially viable and detail the financial model it will use to carry out its functions as an accredited consumer protection group.
- g) Provide policies and procedures, together with a schedule of proposed schedule of activities on how to implement its plans.
- h) If the applicant is not an entity, but an individual person, must demonstrate that such individual will not prejudice either him/herself, the consumer and or the NCC.
- i) Any intended collaboration with similar stakeholders in advancing its proposed plans that will provide a service to historically disadvantaged, low income consumers in rural or urban areas.
- j) Its composition, including its governance structure, if applicable.
- k) Its infrastructure and support mechanism that will assist in fulfilling its intended function.
- l) Any other relevant information that will assist the NCC in determining whether the applicant will comply with the provisions of the CPA read with regulation 38 of the CPA.

2.3. OBLIGATIONS OF THE NCC

2.3.1. The NCC shall;

- a) Acknowledge receipt of the application.
- b) Publish the application in the Gazette and any newspaper in compliance with regulation 38 (5) of the CPA.
- c) Assess the application using a desktop process.
- d) Interview and or request further information, where necessary.
- e) Call upon any interested person to make written submission in support or opposition of the application.
- f) Furnish the outcome of the application within 40 working days from the date of receipt of all required information.
- g) If the application is not successful, provide the reasons for the outcome thereof.
- f) Issue an accreditation certificate to a successful applicant that must be displayed in its offices at all time.
- g) Provide support, where necessary, excluding financial support to accredited consumer protection group.

2.4. MONITORING AND EVALUATION OF CONSUMER PROTECTION GROUPS

2.4.1. The NCC shall ensure that the services provided by the accredited consumer protection groups are in line with the purpose and policies of the CPA, by monitoring the effectiveness of the accredited consumer protection groups.

- 2.4.2. The accredited consumer protection groups shall provide quarterly progress report on scheduled activities to the NCC.
- 2.4.3. The NCC shall agree on the format of the quarterly reports to be submitted by consumer protection groups.
- 2.4.4. In addition to quarterly reports referred to above, the NCC may reasonably require any accredited consumer protection group to provide information necessary for the purpose of monitoring, as referred above.
- 2.4.5. Accreditation shall be valid for a period of five (5) years and the accredited consumer protection group must re-apply for accreditation.

2.5. **BASIC PRINCIPLES FOR ADVANCING THE PURPOSE AND POLICY OF THE CPA APPLICABLE TO CONSUMER PROTECTION GROUPS**

The accredited consumer protection groups shall at all times:

- 2.5.1. Promote the spirit, purpose and policy of the CPA.
- 2.5.2. Advocate and promote the realization of consumer rights as enshrined in the CPA.
- 2.5.3. Operate within the confines of the CPA accreditation certificate.
- 2.5.4. Not charge any fee for its services other than out of pocket expenses.

2.5.5. Prioritize the interest of consumers.

2.5.6. Keep records of all its activities carried within the scope of accreditation.

These guidelines may be amended from time to time by the NCC whenever necessary. A copy of a pro- forma accreditation application is attached hereto and shall be accessible from the NCC's website.