

The necessity for Ombudsmen within the South African Justice system

(Johan van Vreden: Motor Industry Ombudsman of South Africa) – 14 December 2014

With the South African Department of Justice being overloaded and the courts stretched to their limits, Government as early as 1998 realised that alternative dispute resolution would have to be established in order to assist the courts in dispensing justice as required by South Africa's world renowned Constitution.

The model favoured by Government was that of Industry Ombudsmen. The reason for this was that when the Consumer Protection Act No. 68 of 2008 (Act) was promulgated it was soon realised that, even though well written and progressive, it covered too wide a scope to allow for the knowledgeable industry specific justice to be dispensed. With this in mind, industry specific Ombudsmen were established with the help and financial support of the different industries that make up the South African economy.

To ensure that, the model chosen as suitable alternative dispute resolution platforms, Ombudsmen offices were voluntary organisations and did not have statutory powers to enforce rulings. However, where industries have placed themselves voluntarily under the jurisdiction of their Industry Ombudsman this very rarely posed a problem and disputes were resolved normally amicably amongst the parties.

However, to ensure that the Act provide adequate protection for both consumers and service providers it was soon clear that regulations will have to be drawn up to support the Act. The best solution was to allow the different industries that make up the South African economy do draw up industry codes that would complement and explain the Act to the consumer and service provider alike.

The South African Motor Industry was chosen to draw up the very first industry specific Code of Conduct. The process started in 2009 and after six years of debate and great expense the South African Automotive Industry Code of Conduct was finally written into Law as gazetted by the Honourable Minister of Trade and Industries on the 17th October 2014. Under the definition of the motor industry all service providers are now under the jurisdiction of the Motor Industry Ombudsman of South Africa (MIOSA) and this will ensure that both industry service providers and consumers will receive justice in the form of dispute resolution that is industry knowledgeable, fair to all parties, cost effective and above all impartial.

In order to assure the effectiveness of the MIOSA, it presented industry with a budget that was duly audited, presented and accepted by the Industry and Government. Even though the levy to the office of the MIOSA has now become a legal requirement, it was also realised that to keep the financial burden on Industry as low as possible, it is crucial for the Industry to register as a matter of urgency to ensure that the levy remain as low as possible with even the possibility of further reductions as the support base grows.

To register as soon as possible Industry service providers are advised to either register or logon with the Username and Password emailed on the 19th December 2014.

As an industry, let's work together to ensure that industry and consumers receive the justice and treatment that we all as citizens of South Africa deserve.