

CLIFFE DEKKER HOFMEYR

PRODUCT LIABILITY & NCC ENFORCEMENT

Presented by: Anja Hofmeyr, Tim Smit,
Serisha Hariram and Paige Winfield



INTRODUCTION & OVERVIEW

Increased NCC enforcement activity

Growing consumer complaints

Public recalls across multiple industries

Heightened reputational exposure



THE LEGAL FRAMEWORK

Applicability of the CPA

- Transactions occurring within SA
- Goods supplied or services performed in terms of a transactions to which CPA applies
 - Exclusions
 - Consumers



CONSUMER RIGHTS AND KEY PROVISIONS



Section 55 – Right to safe, good quality goods

Section 56 – Implied warranty of quality

Section 58 – Warning concerning fact and nature of risks

Section 60 – Safety Monitoring and recall

Section 61 – Liability for damage caused by good

SECTION 61

LIABILITY FOR DAMAGES CAUSED BY GOODS



“(1) Except to the extent contemplated in subsection (4), the producer or importer, distributor or retailer of any goods is liable for any harm, as described in subsection (5), caused wholly or partly as a consequence of-

- (a) supplying any unsafe goods;*
- (b) a product failure, defect or hazard in any goods; or*
- (c) inadequate instructions or warnings provided to the consumer pertaining to any hazard arising from or associated with the use of any goods, irrespective of whether the harm resulted from any negligence on the part of the producer, importer, distributor or retailer, as the case may be.”*

UNPACKING SECTION 61

- **Applicability**
 - WHO: producer, importer, distributor or retailer
 - WHAT: defects, failure, hazards, unsafe goods
- **Strict Liability**
- **Defences to CPA product liability claims**
- **Remedies under the CPA**





SUPPLIER

COMPLAINT TRENDS



Untraceable /
“Ghost Suppliers”

Illegal Imports &
Non-Compliance

Motor Vehicle Complaints



FOOD SAFE

Food Safety &
Spaza Shops

Greenwashing



NCC COMPLAINT PROCEDURES

Lodge complaint on NCC's e-services portal

Complaint screened to determine jurisdiction

If ADR process not followed, referred to ADR

If ADR followed, complaint assessed for completeness



NCC COMPLAINT PROCEDURES (CONT)

If all required documents are provided, complaint referred for analysis.

If all required documents are not provided, it must be provided within 5 days.

Outcome of analysis and recommendations.



CURRENT RECALLS

Figure 1: Product recalls per supplier



RECALL PROCEDURE



Reports of safety concerns



Monitor & Analyse



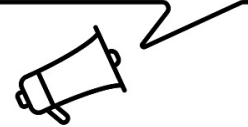
Investigate



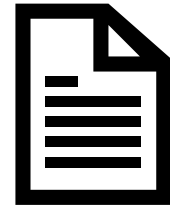
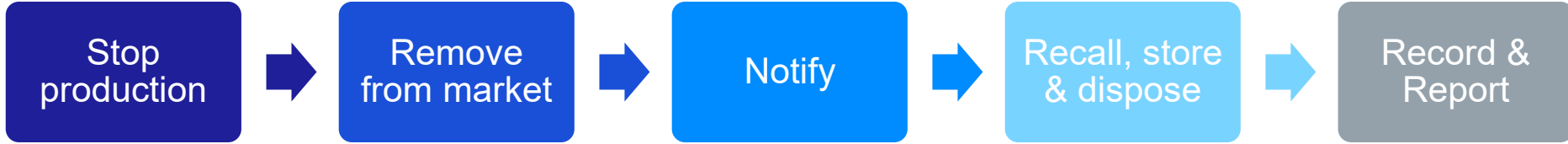
Notify



RECALL



RECALL PROCEDURE



RISK MITIGATION



LEGAL LIABILITY



**REGULATORY
SCRUTINY**

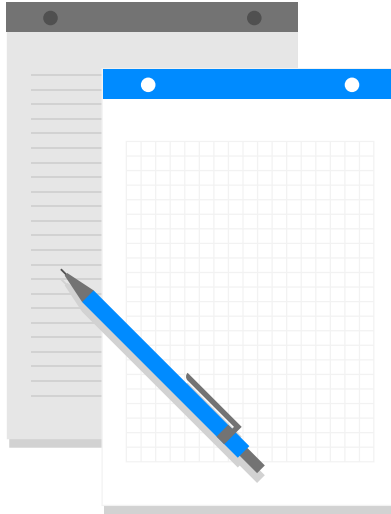


**REPUTATIONAL
RISK**



**INSURANCE
EXPOSURE**

INSURANCE IMPLICATIONS



Appropriate product liability cover

Scope of Cover

Exclusions

PRESENTERS

Presenters



Anja Hofmeyr
Director
Dispute Resolution
CDH



Tim Smit
Director
Dispute Resolution
CDH



Paige Winfield
Senior Associate
Dispute Resolution
CDH



Serisha Hariram
Senior Associate
Dispute Resolution
CDH

COPYRIGHT

All rights reserved. This presentation and/or any part thereof is intended for personal use and may not be reproduced or distributed without the express permission of the author/s.

© 2026

cliffedekkerhofmeyr.com

