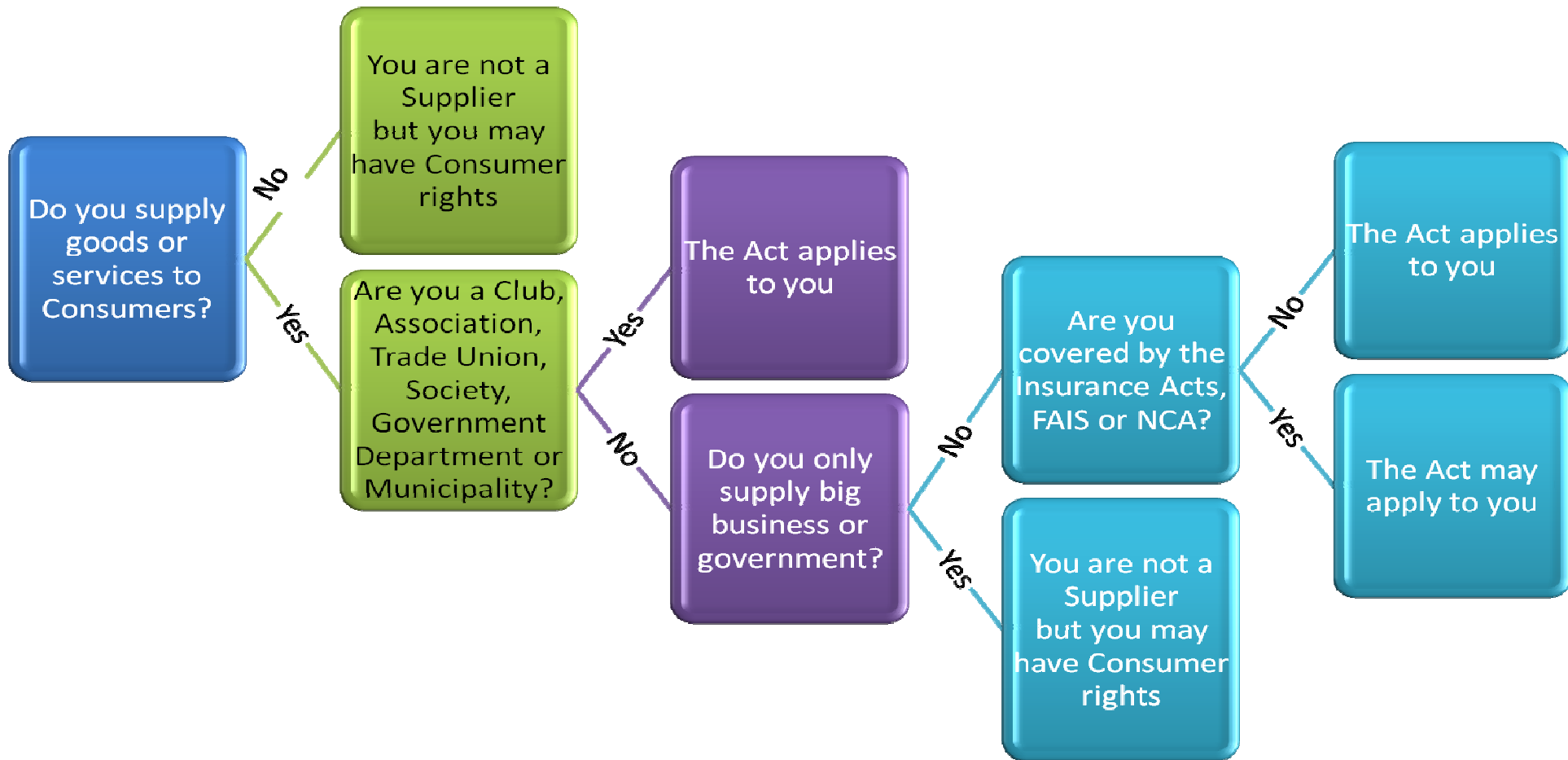


# THE CONSUMER PROTECTION ACT

## HOW DOES IT AFFECT YOU?

Courtesy of <http://madeasy.co.za>



1. **The Consumer Protection Act ('CPA')** will be phased in over a period of time. It was originally due to come into effect on 24 October 2010, however, with ministerial extension of the effective date to 31 March 2011.

2. Provisions dealing with the National Consumer Commission and the regulations came into effect on 1 April 2011.

### 3. Does the Act apply to my business?

3.1 It is important to note that the CPA does not apply to all transactions and/or businesses. Therefore, the most important step is to determine whether it applies to a particular business or transaction. In doing so, one would need to consider the following basis steps.

3.1.1 **Are the transactions being entered into transactions as contemplated by the CPA?** In order to determine this one would have to have reference to the definitions of 'goods', 'consumer', 'services', 'supply' and 'transaction'. Interestingly, a user, recipient or beneficiary of goods or services is also regarded as a consumer even if that user, recipient or beneficiary was not a party to an agreement relating to the supply of goods.

3.1.2 **Certain transactions are exempt from the provisions of the CPA.** These are transactions that will be specified in the aforementioned ministerial regulations.

3.1.3 **An agreement between two large organisations on the basis of annual turnover or asset value exemption is exempt from the provisions.** However, should the same agreement be entered into between a private party and an organisation, the CPA will apply. Thresholds for annual turnover or asset value exemption will be promulgated under the

regulations to the CPA. The threshold (annual turnover / asset value) amount, per the regulations is set at R2-million.

3.1.4 It is necessary to consider whether the organisation operates within the supply chain as a **producer, importer, distributor and retailer of goods or as service provider** and in such an event the extent of the applicability of the CPA to these various activities. Manufacturers, for example, need to consider the implications of the product liability provisions of the CPA.

### 4. The implications of the CPA for you.

4.1 The CPA may have an impact on products, business management and processes, as well as interactions with customers.

4.2 Many organisations have elected to comply with international consumer best practice and, as such, may be less impacted by the CPA than others. Also, organisations highly regulated, for example, those regulated by the Financial Services Board in the financial services sector could very well be less impacted by the provisions of the CPA.

4.3 The CPA could similarly impact on different parts of an organisation in various ways, for example, a credit card company although regulated by the financial services sector, regulations and laws, may not be significantly affected by the provisions of the CPA when it comes to its day-to-day business, but the loyalty programmes of such a credit card company may be affected.

## 5. What to do.

5.1 Understand the CPA and the implications thereof. This could include finding out whether certain activities may already be regulated and therefore alleviate the impact of the CPA on your organisation.

5.2 Establish the impact, if any, of the CPA on new businesses or products prior to launching or entering into negotiations regarding such new business or products.

5.3 Train those who are dealing with contracts, new products and customer service on a daily basis in the provision of the CPA.

5.4 Ensure that your marketing and advertising, agents, employees, consultants or agencies are fully aware of the impacts of the CPA.

## 6. Product liability.

6.1 Product liability provisions should be assessed and all contracts relating to product liability should, where appropriate, be amended.

6.2 Organisations should be mindful of the insurance cover aspects.

## 3.

7. **Attached** hereto please find a brief flowchart which we trust will assist in your decision making as to whether the CPA is applicable to your business or any transaction carried out by your business or in fact your dealings with your clients.

***SHOULD YOU REQUIRE A PRESENTATION OR OPINION ON THE  
CONSUMER PROTECTION ACT, CONTACT [denisw@wri.co.za](mailto:denisw@wri.co.za)***