

PRESS RELEASE

Business Interruption Complaints and the Role of the Ombudsman for Short-Term Insurance

Johannesburg – Tuesday 02 June, 2020: The office of the Ombudsman for Short-Term Insurance, (OSTI), has always and continues to encourage complainants to first approach their insurers and attempt to resolve their complaints directly with their insurers before approaching OSTI.

This is according to Edite Teixeira-Mckinon, CEO at the office of the Ombudsman for Short-Term Insurance.

“Where complainants approach OSTI before approaching their insurers to resolve their complaints, OSTI refers these complaints to the insurers and gives the insurers the opportunity to resolve these complaints directly with their complainants. If a complaint is not resolved, the complaint is then allocated to an assistant ombudsman in the office for further investigation,” says Teixeira-Mckinon.

She points out that the Terms of Reference of OSTI set out the office’s jurisdiction. “The office has jurisdiction over complaints by insureds against their own insurers which pertain to short-term/non-life insurance and fall within the office’s monetary jurisdictional limits as determined by the OSTI Board, from time to time,” she says.

The office’s current monetary limits are set out in clause 4.1.3 of the Terms of Reference, which reads as follows:

“The limits are currently as follows namely, (a) R3.5 million for general complaints relating to all types of cover, except for home owners/building cover; (b) R6.5 million for complaints arising from home owners/building cover. The same quantum limits apply to personal lines complaints and commercial complaints.”

“If a complaint’s monetary value exceeds the OSTI’s monetary limits, then the complainant can agree to abandon a portion of his/her complaint to bring the complaint within OSTI’s monetary limits,” explained Teixeira-Mckinon. The Terms of Reference can be found on OSTI’s website at www.osti.co.za

In line with clause 5 of the Terms of Reference, Teixeira-Mckinon went on to say that the office decided some time ago not to deal with commercial complaints pertaining to certain types of insurance covers. These covers are listed on the commercial application for assistance form. The commercial application for assistance form can be found on OSTI’s website at www.osti.co.za

One of the types of cover that the office does not deal with is the cover for loss of profits. “The decision not to deal with the cover for loss of profits and the other listed covers was taken because these covers are complex in nature and require specific expertise which the office does not possess and they are therefore better suited to be determined by a court of law or through another dispute resolution forum,” she said.

Clause 5 reads as follows:

“5. LIMITS ON THE JURISDICTION OF THE OMBUDSMAN

Subject to these terms of reference, the Ombudsman shall have the power to consider a complaint made to him and make a recommendation or Ruling in regard thereto except:

5.1 Where the Ombudsman determines that it is more appropriate that the complaint be dealt with by a court of law or through any other dispute resolution process;”

Teixeira-McKinon went on to say that it is for OSTI to determine whether or not a business interruption complaint is complex and requires specific expertise which the office does not possess and therefore whether the complaint is one that the office can or cannot deal with.

“As the office has always done, it will continue to deal with each complaint on its own merits and to make decisions based on the law and, where appropriate, equity,” she concluded.

For any further information please contact Edite Teixeira-McKinon, CEO at the office of the Ombudsman for Short-Term Insurance on email edite@osti.co.za

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OSTI CEO Edite Teixeira-McKinon

Note to the editor:

About the Ombudsman for Short-Term Insurance

The Ombudsman for Short-term Insurance (OSTI) is an independent, non-profit industry ombud scheme. Short-term insurance includes: motor, house owners (buildings), householders (contents), cell phone, travel, disability and credit protection insurance, and commercial insurance for small businesses and sole proprietors (with a turnover of less than R35 million per annum). OSTI’s mandate is to provide the insuring public and the short-term insurance industry with a free, efficient and fair dispute resolution mechanism through an alternative dispute resolution process, applying the law and principles of fairness and equity. OSTI is not a court of law. It examines the information and evidence placed before it by the parties to a dispute and makes recommendations that are guided by the legal position and principles of fairness and equity. In rare instances where required, OSTI may make rulings. It does not, nor is it empowered to, procure evidence or witnesses, or investigate a complaint. OSTI, it must be stressed, operates independently of both the Financial Sector Conduct Authority and the Prudential Authority in its adjudication and dispute resolution process.

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