THE FINANCIAL SERVICES TRIBUNAL

CASE NO: PA1/2021

In the matter between

AMANDA DOLORES LAETITIA NIEMIEC Applicant

and seven Others

and

CONSTANTIA INSURANCE CO LTD First Respondent

THE PRUDENTIAL AUTHORITY Second Respondent

and three Other Respondents[1]

Tribunal panel: LTC Harms (chair), Adv Harshila Kooverjie SC and Attorney Zama Nkubungu-Shangisa

For the applicants: Adv Kate Hofmeyr SC and Adv Hannine Drake instructed by Richard Spoor Inc

For Constantia: Adv Steven Budlender SC and Adv Ingrid Cloete instructed by Webber Wentzel

For the PA: (watching brief) Mr Mabusa Majozi instructed by Werksmans Inc

Hearing: virtual on 15 October 2021

Re reconsideration of a decision by the PA made in terms of the (new) Insurance Act 18 of 2018, Schedule 3 item 6(5) – conversion of licences

[1] These three were mis-joined and need not be listed or referred to.

DECISION

A THE APPLICATION:

1. The applicants are (former) policy holders of accident and health insurance policies underwritten by the first respondent, Constantia Insurance Co Ltd. There were two kinds, namely the Prime Living Cover Growth Policy and the Living Legacy Policy. Constantia had issued some 5427 policies of these to policy holders such as the applicants.

2. The application is also brought in the interest of about 90 persons who support the applicants and the application, it is said, is in the interest of the balance of former policy holders, particularly the about 800 who are older than 70 and who represent about 17% of the total.

3. The Prudential Authority (the "PA"), the second respondent, exists by virtue of sec 32 of the Financial Sector Regulation Act 9 of 2017, and is responsible for the licensing of insurers.

4. The applicants apply for the reconsideration of a decision by the PA made in terms of the (new) Insurance Act 18 of 2018, Schedule 3 item 6(5).

5. The decision concerns the treatment of these policies by the PA as part of the conversion of the then existing licence registration of Constantia as a short-term

insurer under the Short-term Insurance Act 53 of 1998 to a non-life insurer under the (new) Insurance Act.

6. Counsel for the applicants provided a useful introduction on which we rely. During the period between 1 July 2018 and 1 July 2020, the PA was tasked with converting licences held by insurers under the old statutory regime (the Short-term Insurance Act and Long-term Insurance Act 52 of 1998)[2] to licences under the new statutory regime prescribed in the Insurance Act.

7. The new regime distinguishes between life and non-life insurance businesses, and it requires insurers to be licensed for one or other business, but not both (sec 25(1)):

> **"An insurer . . . must be licensed to conduct life or nonlife insurance business, and may not be licensed to conduct both."**

8. The old regime did not distinguish between licensing categories on a "life" and "non-life" basis as the Insurance Act now does. It distinguished between long-term and short-term insurance. The categories are similar but not the same.

9. However, "accident and health" policies like those in dispute in this matter, with both life and non-life risk components, were regulated and licensed by the Short-term Insurance Act. They were defined in sec 1 as

[2] These Acts were repealed in part only and the extent to which they remain in force does not feature this case.

a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if a disability, health or death event contemplated in the contract as a risk event occurs . . ..

10. Constantia was one such short-term insurer which, under the old regime, had offered these accident and health policies during 2010 and 2015, which complied with the definition and had in that sense both life and non-life components but remained short-term policies regulated by the Short-term Insurance Act.

11. These policies were not long-term policies and were not covered by a licence to do business under the Long-term Insurance Act.

12. Under the new regime, "accident and health" policies may be issued under Table II item 14 by non-life insurers that cover costs or loss of income resulting from -

* a disability or death event caused by an accident; or
* a health event, other than costs or services regulated under the Medical Schemes Act, 1998, but includes any kind, type or category of contract identified by the Minister in regulations as an insurance policy that may be entered into under this class.[3]

13. In short, non-life insurers are only permitted to conduct with "accident and health" policies the business of insuring:

- Costs or loss of income (and not "policy benefits")
- in the event of a disability or death event
- caused by an accident (and not illness or death because of other causes).

[3] The alternative does not feature in this case.

14. This limitation affected holders of the affected policies materially albeit each differently. Graphic examples are given in the founding affidavit paras 67 to 78.

B **<u>THE NELL JUDGMENT</u>**:

15. A precursor to this application, was the proceedings before Vally J which led to his judgment in *Nell and Others v Constantia Insurance Company Limited and Others* (10068/2020) [2020] ZAGPJHC 142 (26 June 2020). Much was made of the judgment during argument, and it is accordingly necessary to place it in context and determine what it held that impacts on this decision.

16. The applicants were, like the present applicants, policy holders of one or other of the two accident and health policies issued by Constantia in its capacity as short-term insurer (para 3). Constantia sought to cancel the policies on notice, relying on a term of the policies and the Policy Protection Rules. The court held that it could not for reasons that are not now germane.

17. It held that Constantia had to follow the conversion route prescribed by the new Act. It said:

> **[25] Section 5(1) of the IA [Insurance Act] makes it imperative for any person who conducts an insurance business in South Africa to be registered under the IA. Section 23 of the IA requires an insurer to apply for a licence from the seventh respondent, the Prudential Authority. Section 25(1) provides that an insurer must only be licensed to conduct either a life or non-life insurance business. As no insurer had been licensed in terms of the IA at the time of its promulgation, the IA through its transitional arrangements provided that all licences obtained in terms of the STIA or LTIA remained valid for a period of two years from the date**

of promulgation, thus allowing these insurers to continue conducting business during this two-year period. The insurer is required to have its previously obtained licence converted to a licence under the IA. The [PA] is the body that is entrusted with the power to convert the licences. It must, however, convert them within a period of two years from 1 July 2018. The conversion must comply with s 25 of the IA, i.e., the conversion must allow the insurer to continue to conduct either a life insurance or a non-life insurance business. This raises the question as to what happens to the life insurance business of an insurer, as well as to the policyholders affected by that business, if it is only allowed to conduct a non-life insurance business. This is the very problem that has arisen in this case. The IA attends to this issue in the following manner: [and the learned Judge quoted Schedule 3 item 6 – see below].

[26] To this end, the IA makes it clear that policies that provide cover for accident and health risks do not extend to risks associated with non-accidental death or disability. The latter fall into the life insurance business category whereas the former fall into the non-life insurance business category. It does so by providing a revised definition of an 'Accident and Health' policy as one that "(c)overs costs or loss of income resulting from a disability or death event caused by accident". The CoverGrow policy provides cover for a death or disability event caused by an accident as well as by 'illness', and the Living Legacy policy provides cover for a death or disability event caused by an accident as well as by 'natural causes'. Death or disability cover for the latter events - 'illness or natural causes' - can only be provided by an insurer licensed to conduct a life insurance business.

[27] Fundamentally then, the IA compels every insurer to elect whether to operate a life insurance business or a non-life insurance business. The first

respondent chose the latter, although it does not say exactly when it took this decision. Having made its decision, it commenced engaging with the [PA] so that its licence could be converted in line with its decision to conduct a non-life insurance business.

[29] Once the first respondent elected to have its licence converted to one allowing it to conduct a non-life insurance business, it would not be able to continue holding on to the CoverGrow and Living Legacy policy contracts in their present form after 1 July 2020.

18. The honourable Court issued an order setting aside the cancellation by Constantia of the policies of the 74 applicants, and declared them to remain extant. The other policy holders were to be informed of the order, claims since the cancellation had to be honoured provided policy holders paid their premiums within 30 days and elected to remain insured under the policies, and, significantly, Constantia was directed to include the policies as part of the conversion material to be submitted to the PA in terms of Schedule 3 Item 6 of the Insurance Act.

19. It is no longer contended that the order was not complied with. Constantia, which only had short-term insurance business under the old regime (something Vally J did not know) and whose premium income from the accident and health policies was less than 2% of the total, applied for a conversion of its business from short-term insurer to non-life insurer, and this was granted (schedule 3, item 6(4)).[4]

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[4] Item 6(4)(b):

Despite paragraph (a) and subject to any limitations relating to a type or kind or insurer or insurance business provided for in the Act, a previously registered insurer who applies for the conversion of its registration to a license to conduct—

(i) life insurance business must only be licensed to conduct a class or sub-class of life insurance business referred to in Table 1 of Schedule 2; and

20. It could in the circumstances have not applied for a conversion to life insurance business and the validity of the conversion is not in issue.

21. The magic figure of 5000 plus was significantly affected by the order, which applied to all policy holders, whether applicants or not. More than six months after the cut-off date set by Vally J, 486 policyholders had paid their arrear premiums. 4695 did not pay and their policies had lapsed when the impugned decision was taken. This means that the relief sought could at best affect 486 holders.

22. The extracts from the decision of Vally J put an end to the mainstay of the argument of the applicants. The learned Judge did not hold that the accident and health policies were life policies. He said expressly that they were short-term policies. And he said that on conversion Constantia could no longer hold onto the policies in their present form. To repeat,

> **"the IA makes it clear that policies that provide cover for accident and health risks do not extend to risks associated with non-accidental death or disability. The latter fall into the life insurance business category whereas the former fall into the non-life insurance business category."**

23. The constant refrain in the applicant's case that Vally J held that the PA could not cancel the policies is simply incorrect. He was not called upon to make such a decision and he did not. In any event, this is a non-issue as will be shown.

(ii) non-life insurance business must only be licensed to conduct a class or sub-class of non-life insurance business referred to in Table 2 of Schedule 2.

C CONVERSION OF THE ACCIDENT AND HEALTH POLICIES:

24. Because of the conversion of the licence to a non-life insurance business, the PA had to deal with the non-compliant accident and health policies. Item 6(5) provides as follows:

> **If the Prudential Authority does not convert the registration of a previously registered insurer to a licence to conduct insurance business in respect of a specific class or subclass set out in Schedule 2 that is similar to the business that the previously registered insurer was registered for on the effective date because-**
>
> **. . .**
>
> **(b) of the application of subitem (4) (b), [quoted earlier]**
>
> **the Prudential Authority must direct the insurer to make arrangements to the satisfaction of the Prudential Authority to—**
>
> **(i) discharge its obligations under all insurance policies entered into in respect of that class or subclass before the conversion of that insurer's registration;**
>
> **(ii) ensure the orderly resolution of that insurance business of the insurer; or**
>
> **(iii) transfer that insurance business to another insurer under section 50 of this Act by a specified date.**

25. The question that arises in this application is whether the arrangements directed by the PA to Constantia relevant to the accident and health policies was procedurally and

substantially “appropriate”. In this context it is also necessary to refer to item 13, which reads:

The Prudential Authority, to facilitate the incremental implementation of this Act, may, by notice in the Gazette-

. . .

(b) where practicalities require the progressive or incremental application of a specific provision of this Act, exempt any insurer . . . from that provision for a period and on conditions determined in the notice.

26. The PA’s direction (at A97), issued a month after the judgment of Vally J, noted that the cancellation by the Constantia was by virtue of the judgment unlawful and of no force and effect, and that it had to direct Constantia how to deal with the policies with due consideration of the interests of the policyholders. It recorded that Constantia’s registration had already been converted from short-term insurer under the old regime to a non-life insurance business under the new regime; that the policies in their present form do not meet requirements of the classes and sub-classes of policies set out in Table 2 of Schedule 2 of the new Act and “thus these cannot be legally underwritten by a licenced non-life insurer”; and that item 6(5) gave it three options. It decided on the second, the orderly resolution of that insurance business.

27. To interrupt the narrative: although the application of either option (i) or (iii) was raised as a ground for reconsideration, the issue was not pursued during argument, which was focussed on the form and content of the resolution direction.

28. Returning to the directive: Constantia had to offer each policyholder (a) a replacement policy with a personal accident death policy and (b) discounted individual funeral products (the detail is irrelevant).

29. What Constantia was not directed to do was to extend or provide each policyholder with health benefits because, as the PA said, it would be illegal for Constantia to continue underwriting health life benefits.

D THE FUNCTIONS OF THE TRIBUNAL AND ITS POWERS:

30. The position of the Tribunal is despite its many decisions not always appreciated and applied during argument. A person aggrieved by a decision of the PA may apply to this Tribunal for a 'reconsideration' of the decision (sec 230(1)(a) read with sec 218 of the definition of 'decision'). A reconsideration constitutes an internal remedy as contemplated in sec 7(2) of the Promotion of Administrative Justice Act 3 of 2000 (PAJA).

31. Apart from the fact that we are concerned with a reconsideration with its own procedural rules (sec 232) and not an appeal in the ordinary sense of the word, the powers of the Tribunal in the case of a reconsideration of a decision of the PA is limited: the Tribunal may only (i) set aside the decision and remit the matter to the PA for reconsideration or (ii) dismiss the application (see sec 234(1)(a) and (c)). We may not under paragraph (b) set the decision aside and substitute it with our own decision.

32. That does not mean that the Tribunal does not have to come to a decision on the merits of the application. It must satisfy itself with reasons that the decision of the PA was "wrong" before it can set it aside but the PA could, on remit, revert to its original decision or make another decision. All it need do is to reconsider.

33. We said this before in *MET Collective Investments (RF) (Pty) Ltd v Financial Sector Conduct Authority* (Case No A23/2019):

"Although we have before stated our position clearly, it appears that we have to do it again. Our position is, as it was with the then Appeal Board of the Financial Services Board, when the judgment in *Nichol and Another v Registrar of Pension Funds and Others* [2006] 1 All SA 589 (SCA), 2008 (1) SA 383 (SCA) was delivered. The Court pointed out that the Appeal Board was a specialist and independent tribunal as contemplated in sec 34 of the Constitution:

'***It has very wide powers on appeal, including the power to confirm, set aside or vary the decision of the Registrar against which the appeal is brought; to refer the matter back for consideration or reconsideration by the Registrar in accordance with such directions as the Board may lay down; or to order that its own decisions be given effect to. In addition, it is empowered under section 26(2A) to grant interim relief by suspending the operation or execution of the decision appealed against and, under section 26(14), it can make an appropriate order as to costs. The Appeal Board therefore conducts an appeal in the fullest sense – it is not restricted at all by the Registrar's decision and has the power to conduct a complete rehearing, reconsideration and fresh determination of the entire matter that was before the Registrar, with or without new evidence or information***.'

In short, this Tribunal is not much different, and it exercises an appeal jurisdiction of the first category referred to in *Tikly v Johannes NO* 1963 (2) SA 588 (T) 590.

34. We also repeated:

"As to reviews, in *JSE Limited v The Registrar of Security Services* the Appeal Board said follows:

'***This brings us to review grounds. The Appeal Board is not a review 'court' as defined in the Promotion of Administrative Justice Act 3 of 2000 ('PAJA'). Reviews are concerned with process; appeals with result. But that does not necessarily mean that review grounds may not overlap with appeal grounds. This is especially the position where a flawed process impacts on the result, for example, where the Registrar omitted to have regard to a jurisdictional fact***.'

We have since said the same about this Tribunal."

35. Although the Tribunal is an "expert" tribunal, it obviously is less qualified than the PA to make multi-faceted and polycentric decisions on licencing of insurers. That is why the Tribunal can only set aside decisions of the PA if it is satisfied that it is wrong, and the final decision remains that of the PA. The following dictum in *Staufen Investments (Pty) Ltd v The Minister of Public Works, Eskom Holdings SOC Ltd & Registrar of Deeds, Cape Town* (200/2019) [2020] ZASCA 18; [2020] 2 All SA 738 (SCA); 2020 (4) SA 78 (SCA) where the party also "raised a plethora of issues in regard to substantive and procedural fairness" appears to be apposite:

it is important to note that the first respondent's decision was a multi-faceted and polycentric decision requiring '. . . an equilibrium to be struck between a range of competing interests and considerations and which is to be taken by a person or institution with specific expertise in that area . . .' An evaluation as to whether an expropriation was expedient would necessarily lie within the domain of the expropriating authority. Although not immune from judicial review it was

a decision to which the principle of 'deference', which required that the decision should be 'shown respect by the courts', applied.

E PROCEDURAL UNFAIRNESS AND LACK OF AUDI:

36. It is not in contention that the PA did not comply with the basic requirement of the audi principle as it exists at common-law and codified in sec 3(2) of PAJA. These rules are not, as sec 3(4) and (5) always applicable, and may be departed from if reasonable and justifiable. The requirements of procedural fairness are contextual and relative. Every situation does not warrant the need for parties to make representations.[5]

37. The applicants' somewhat inconsistent case is set out in detail in its augmented grounds (A531 to A 536). During argument the focus was on the right of the applicants to "interrogate" at "granular" level the financial justification for the decision by reassessing the financial viability of Constantia and considering steps that it could take to make these policies viable in the hands of Constantia to retain them in their present form. For this they require additional information which the PA and Constantia failed or refused to give them. What the applicants by implication seek is discovery and interrogation leading to maintaining the *status quo ante* the new Act.

38. The PA explained in detail why it was not feasible to comply with the primary rules of the audi principle (cf sec 3(4) of PAJA) and there was no real answer to that. It was difficult to follow the oral argument as to who should have been involved in notification and and the extent of the interaction and the like.

[5] *Metro Projects CC v Klerksdorp Municipality* 2004 (1) All SA SCA at para 13.

39. It should be noted that the PA received 205 representations. The representations were analysed, and this is what the objectors proposed:

- The policy is to be transferred to another underwriter on the same terms and conditions i.e., the same risk benefits for the same premiums;
- A similar policy is provided with similar risk benefits and similar premiums subject to the underwriting of such similar policy agreeing to the waiver of any waiting period;
- All premiums paid in terms of the policy to be refunded together with interest at the current prime rate and compensation since the objector's insurability and risk profile changed since the policy was taken out.

40. It is unnecessary to deal with the audi in any detail because we accept the submission by Constantia that procedural irregularities at first instance may, depending on the circumstances, be cured by a procedurally fair appeal. (*Minister of Environmental Affairs and Tourism and Another v Scenematic Fourteen (Pty) Ltd* 2005 (6) SA 182 (SCA) at paras 33-35; *Slagment (Pty) Ltd v Building, Construction and Allied Workers' Union and Others* 1995 (1) SA 742 (A) at 756F-757A.) There is no reason why this should not be the case in this matter. The Tribunal can consider the merits of the PA's decision afresh – including all the submissions the applicants say they would or could have made, given the opportunity, and those they say were given short shrift by the PA. Therefore, any procedural fairness concerns the applicants may have regarding the PA's process can be cured by a full and fair hearing on appeal to the Tribunal.

41. The applicants sought to distinguish the mentioned case law because the Tribunal may only remit and not replace the decision of the PA with its own. That is a distinction without a difference. The Tribunal can only set aside and remit a decision once it is satisfied that it is "wrong".

42. In any event, as Constantia's counsel said, any imperfect procedure must be causally related to the wrong decision. As will be shown, non-compliance with the primary audi rules did not lead to a wrong decision.

F CANCELLATION OF THE POLICIES:

43. The main reconsideration ground relates to the applicants' misconception of the effect of the change in legislation.

44. As mentioned, the applicants submit that the new Act does not entitle the PA to cancel policies or instruct Constantia to do so, and that the judgment of Vally J held as much. The decision of the PA, they say, amounted to a cancellation of the policies by the PA or Constantia. This argument to the extent not already traversed is far-fetched.

45. The policies were not cancelled. The policies lapsed because Constantia was no longer permitted to conduct that business. As Vally J said:

> **[29] Once the first respondent elected to have its licence converted to one allowing it to conduct a non-life insurance business, it would not be able to continue holding on to the CoverGrow and Living Legacy policy contracts in their present form after 1 July 2020.**

46. The policies became illegal, subject to the transitional provisions.

G REFUND OF PREMIUMS:

47. The issue of a refund of premiums was raised, as said, by policy holders prior to the PA's decision. More submissions about the same could not have made a difference. The value of submissions does not depend on numbers but on substance.

48. When dealing with the practical effect of a setting aside, counsel submitted that this is the (only?) viable option because it is "entirely compatible with the factual reality that the [policies] have been terminated."

49. The applicants' written argument (para 49) stated that the PA had not considered this option and that its decision must be set aside on that ground, and under the heading 'remedy' it was submitted that this is the one option that will have a practical effect.

50. As counsel, conceded, it is wrong to say that the PA did not consider the option. The PA said that it did, and such allegation was not placed in issue.

51. The fact that the PA did not at the time give reasons is irrelevant. One could surmise that the PA agreed with the view of the Financial Sector Conduct Authority, the other regulator under the FSR Act (the first being the PA),[6] that since premiums are paid monthly for cover which is provided monthly, there is no build-up of funds (something counsel conceded to be correct). Essentially, the policyholder pays for the insurer being on risk. Where the insurer is not on a risk the policyholder will not pay and vice versa there is no basis for premiums to be refunded in the normal scope of how insurance operates.[7]

[6] Sections 56 to 58.

[7] The FSCA also said that these policies could be cancelled on notice based on their terms and the regulations. Vally J held otherwise but this does not affect the correctness of the other statements, which were dealt with in other contexts in the answering affidavit (e.g., A640 para 178).

52. The new law did not declare the policies void *ex tunc* but *ex nunc*. Supervening impossibility does not affect obligations *ex tunc*, and in this case it did not. Constantia remained obliged to comply with its accrued policy obligations and it is not disputed that it did honour those obligations.

53. There is a serious procedural issue. Not once in all these papers did the applicants raise the issue. It could have done so in the founding affidavit, in its augmented grounds (filed after the PA had said that it had considered and rejected the option), and even in its replying affidavit.

54. The replying affidavit is telling and emphatic:

> "**In any event, the contracts have not been terminated. Because of the reason is the PA's Decisions is unlawful. [Constantia's] implementation thereof is unlawful and a repudiation of [them] . . .. The applicants reject Constantia's repudiation. They seek to enforce the Policies, and tender payment of arrear premiums**." (B689)

55. Rule 67 of the Tribunal Rules states the generally applicable rule:

> **The argument is limited to the grounds upon which the application for reconsideration is based.**

56. Counsel submitted that the rule does not apply where there is no prejudice to the respondents because the PA, on referral, may consider the matter anew and that Constantia could then present its case on repayment.

57. The first answer is that the prejudice lies in the setting aside of the decision itself which apparently will, at least for the interim period, in a manner which counsel could not

explain, bring all back to the order of Vally J. As Constantia's counsel said, the applicants seek to unscramble an omelette. The second answer is that the submission flies in the face of authority too trite to quote again.

H THE RUN-OFF OPTION:

58. The applicants submitted that the PA should have instructed Constantia to conduct an orderly "run-off" of the policies and that the PA, although it considered the option, it rejected it "because it took the view that placing these policies in run-off would severely negatively impact Constantia's already precarious financial position".

59. The submission went further and explained how the financial position of Constantia could have been dealt with by the PA by requiring capital add-ons, recapitalisation schemes and so forth. (It is in this context that the applicants wish to "interrogate" the finances of Constantia and the actuarial assumptions and calculations.)

60. The problem with the submission is that it omitted to deal with the PA's main reason – presumably because counsel did not have an answer to it – and limited the argument to the ancilliary reason. It is consequently necessary to quote the relevant paragraph fully (B718):

> **option (ii) directing the insurer to ensure the orderly resolution of that business of the insurer - it would be legally impermissible for CICL to continue to maintain its obligations, in terms of the Affected Policies, on conversion as the Affected policies contained aspects of both non-life and life insurance business. To allow CICL to continue to maintain its obligations and therefore continue with the Affected Policies, would circumvent the specific requirements of the Insurance Act that required that a non-life insurer must not conduct life business. In**

addition, the risks posed in the Affected Policies being placed in run-off (for the full remaining duration of the Affected Policies) would severely negatively impact CICL's already precarious solvency position. Simply put CICL would not have the capital reserves to sustain the risks posed by the Affected Policies. In the circumstances the Prudential Authority considered option (ii) to provide a middle ground in that it could direct CICL to offer replacement policies in line with the Decision.[8]

61. The applicants' case as understood by the PA and confirmed in the replying affidavit is that it means that the policies must run their normal course ("run off") because they could not have been terminated (A 706 para 58). As mentioned more than once, Vally J held that the option was not legally available. Item 13 does not allow the PA to bypass the objects of the Act indefinitely. The period here intended ends at the death of the last surviving policy holder and although many are relatively old, there are some younger than 40. Continuation of the business until it has run its full course does not "resolve" it as intended by the Act.

I CONDONATION:

62. The applicants sought condonation for the late launching of the application. The PA does not oppose such applications. However, Constantia does, referring especially on the practical and legal problems that would arise with the unscrambling and the fact that it had complied with a binding directive of the PA, which meant that the matter became moot. Because of our earlier assessment of the merits, we find it unnecessary to address the issues raised by Constantia. We consequently grant condonation.

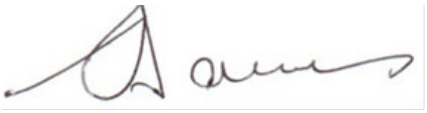
[8] Underlining in the original.

J CONCLUSION:

63. In the premises this application is unsuccessful. The following order is made:

The application for reconsideration is dismissed.

Signed on 27 October 2021 on behalf of the Tribunal panel.



LTC Harms (deputy chair)