



## JUTA'S ADVANCE NOTIFICATION SERVICE

OCTOBER 2018

**Dear South African Law Reports and Criminal Law Reports subscriber**

Herewith the cases in the October 2018 law reports

**JUDGMENTS OF INTEREST IN THE OCTOBER 2018 EDITIONS OF THE SALR AND SACR LAW REPORTS. SEE ALSO, FURTHER BELOW, THE TABLE OF CASES FOR THE BOTSWANA LAW REPORTS 2016(1).**

- [Click on the case name to download the original judgment.](#)

### **SOUTH AFRICAN LAW REPORTS**

#### **Decision of South African Football Association's Arbitration Tribunal: whether administrative action**

*Ndoro v South African Football Association* concerns a direction of the National Soccer League (NSL) to the football club Ajax Cape Town, that one of its players, Mr Tendai Ndoro, not be fielded.

Ajax and Ndoro take the matter to the Dispute Resolution Chamber of the NSL and it finds Ndoro eligible to play. However, the NSL appeals to the Arbitration Tribunal of the South African Football Association, and it finds the Chamber has no jurisdiction in the matter.

Ajax and Ndoro then apply to the High Court to review the Tribunal's award; and it considers the question whether the Tribunal's decision is administrative action.

*Ndoro and Another v South African Football Association and Others* 2018 (5) SA 630 (GJ)

#### **Waiver of right to claim maintenance on dissolution of marriage**

In *ST v CT* the court considers the enforceability of a spouse's waiving of her right to claim maintenance on the dissolution of the marriage, recorded in the couple's antenuptial contract.

Is the clause contrary to public policy?

*ST v CT* 2018 (5) SA 479 (SCA)

#### **Is a 'Club fee' a cost of credit?**

This case concerns a retailer's offering of a 'Club' membership to its credit customers. The membership gives access to various services and benefits.

Is the Club membership fee a cost of credit in s 101 of the National Credit Act 34 of 2005?

*Edcon Holdings Ltd v National Consumer Tribunal and Another* 2018 (5) SA 609 (GP)

## **SOUTH AFRICAN CRIMINAL LAW REPORTS**

### **Charge of contravening statute; defence of customary law right to perform act**

When the State charge Mr Gongqose with contravening the Marine Living Resources Act 18 of 1998 by attempting to fish in a marine protected area, Mr Gongqose raises as his defence, a customary law right of access to marine resources in the area concerned.

The appeal court is posed the questions, inter alia: has the Act extinguished the right; and is Mr Gongqose's act, performed under the right, lawful?

*Gongqose and Others v Minister of Agriculture, Forestry and Fisheries and Others* 2018 (2) SACR 367 (SCA)

### **Factors supporting mitigation of sentence: belief in witchcraft**

In this case the accused's belief in witchcraft has a causative role in his attack on the victim. At sentencing, is the belief a valid mitigating factor?

*S v Xaba and Others* 2018 (2) SACR 387 (KZP)

### **18 months' direct imprisonment for theft of biltong**

The accused, a 29 year old father of three, steals biltong to the value of R1100, and receives an 18 month prison sentence. Is the sentence appropriate?

*S v Heuwel* 2018 (2) SACR 436 (WCC)

## **WE WELCOME YOUR FEEDBACK**

Please send any comments or queries to [lawreports@juta.co.za](mailto:lawreports@juta.co.za).

Kind Regards

**The Juta Law Reports Team**

## **SOUTH AFRICAN LAW REPORTS**

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