

A big win for natural medicine in South Africa

By [Daleen Totten](#)

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On 11 April, the Supreme Court of Appeal (SCA) in Bloemfontein upheld the judgement of the Gauteng North High Court which struck down the controversial 2017 Complementary Medicine regulations under the Medicines Act.



Source: [Fxabay](#)

Both the High Court and five-seat bench of the SCA unanimously agreed that the South African Health Products Authority (SAHPRA) has no legal jurisdiction to regulate substances that are not medicines or scheduled substances, and to that extent, the 2017 regulations were unlawful.

The verdict follows after the Alliance of Natural Health Products South Africa (ANHP), took the Minister of Health and the SAHPRA to court over contested regulations that would regulate all natural health products, defined as complementary medicines and health supplements, as medicines.

According to ANHP, it is not the statutory duty of SAHPRA in terms of the Medicines Act to regulate complementary medicines and health supplements as defined in the regulations, according to the original spirit and intention of the 57 year old Medicines Act. Complementary medicines include products such as vitamins, minerals, amino acids, enzymes, pro- and prebiotics, herbal remedies, homeopathic medicines and sports supplements, among others.

Minister of Health to green-light natural health product regulation

The SCA partially upheld the challenge of the regulations. It was of the opinion that the declaration of invalidity should be suspended for a 12-month period in order for the Minister of Health (and not the SAHPRA) to exercise his prerogative to find an appropriate legal path to regulate the natural health product industry. All parties agreed in filings that appropriate regulation is needed to regulate the natural health product sector, and the court agreed.

"This monumental case opens a new exciting chapter in the way in which natural health products are to be potentially regulated and sold in South Africa. At last, the industry has clarity on what is, and what is not a medicine.

"Many companies have spent many millions of rands in an attempt to comply with the regulations, and are continually hitting their heads against a brick wall with an unco-operative regulator.



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Clarity provided on marketing of vitamins and herbal remedies

"This SCA judgement finally delineates key issues of contention and will provide the natural health products sector much needed clarity on how it wishes to proceed marketing their products going forward. They will hopefully have a choice in whether to sell their products as food-like health supplements without health claims purporting to diagnose, treat, mitigate, modify or prevent disease, or as medicines under a dense thicket of costly regulations designed around pharmaceutical medicines," says Anthony Rees, chairman of the Traditional and Natural Health Alliance (TNHA)*.

This is a significant victory for consumers, who can now continue to access natural health products for their health and wellness in South Africa!

A big thank you to the ANHP and the TNHA, and all the individuals and companies who supported and funded their campaigns.

* The TNHA is a founding member of the ANHPSA.

ABOUT THE AUTHOR

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