



**NRCS approach to  
the development  
of Technical  
Regulations  
presented by :  
Zen Fourie**

**Researched by:  
Emmah Monyanga  
17 September 2014**

# Points of discussion

- **Introduction –The NRCS**
- **The South African technical infrastructure and regulatory approach**
- **NRCS mandate**
- **The NRCS's value chain**
- **General focus of technical regulations**
- **The development and amendment procedure to create Technical Regulations**



# NRCS Regulatory Research and Development (RR & D)

- NRCS conducts regulatory research:
  - ✓ Government policies, priorities and possible effects on NRCS's mandate.
  - ✓ Identify new areas of regulatory interventions.
  - ✓ Risk- and impact assessments to assess the feasibility of the proposed technical regulations (TRs) or Compulsory specifications (VCs).
  - ✓ Optimise or improve the regulatory effort:
    - Benchmarking of the NRCS regulatory activities against those of other regulators
    - New technology or standards

# Regulatory Research and Development ( RR & D)

- Why regulate?
- ✓ Free market economy – some things falling through the cracks?
- ✓ Market failures?
- ✓ Await failures, or anticipate failures?
- ✓ The role of externalities on regulatory decision making
- ✓ Command and control approach? –Thou shall not..
- ✓ Regulatory standard appropriate (to risk)
- What about the international community –WTO TBT

# Regulatory Research and Development ( RR & D)

- Why regulate?
- ✓ Good science involved in regulation
- ✓ Regulations - economic sense – or at least not nonsense
- ✓ Public perceptions - a main regulatory driver
  - ✓ Public requirements - higher degree of control than economically efficient cost?
- ✓ How does good science and economic sense jell?
- ✓ Justice Learned Hand: Negligence exists if the loss caused by the negligence times the probability of damage exceeds the cost of preventing the loss.
- ✓ Level of liability damages also reflects the cost of prevention

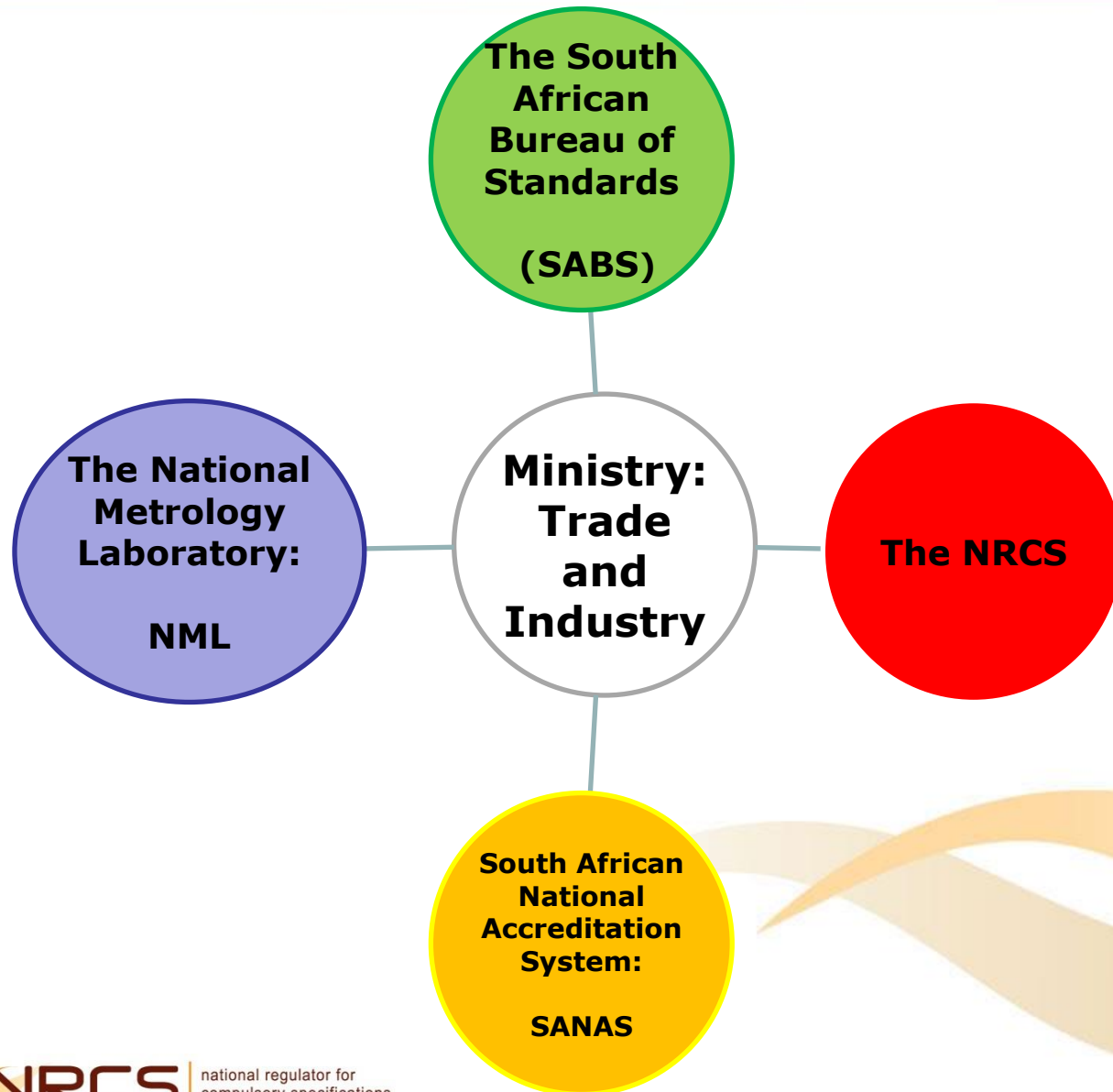
# Regulatory Research and Development ( RR & D)

- Why regulate?
- ✓ How much should be spent to regulate?
- ✓ Breakeven point - non compliance damage vs cost of control
- ✓ Regulating at an economical efficient level
- ✓ Benefit exceeds the cost of control
- ✓ Role of Scientists, economist and other experts
- ✓ The regulatory challenge – Cost benefit analysis
- ✓ Interception point of perceptions of damage, cost of control, fairness and irreversibility

- Facilitate :
  - ✓ Development of new Compulsory Specifications( VCs) and Technical regulations (TRs)
  - ✓ Amendment of existing VCs and TRs.
  - ✓ Repeal of obsolete VC's.

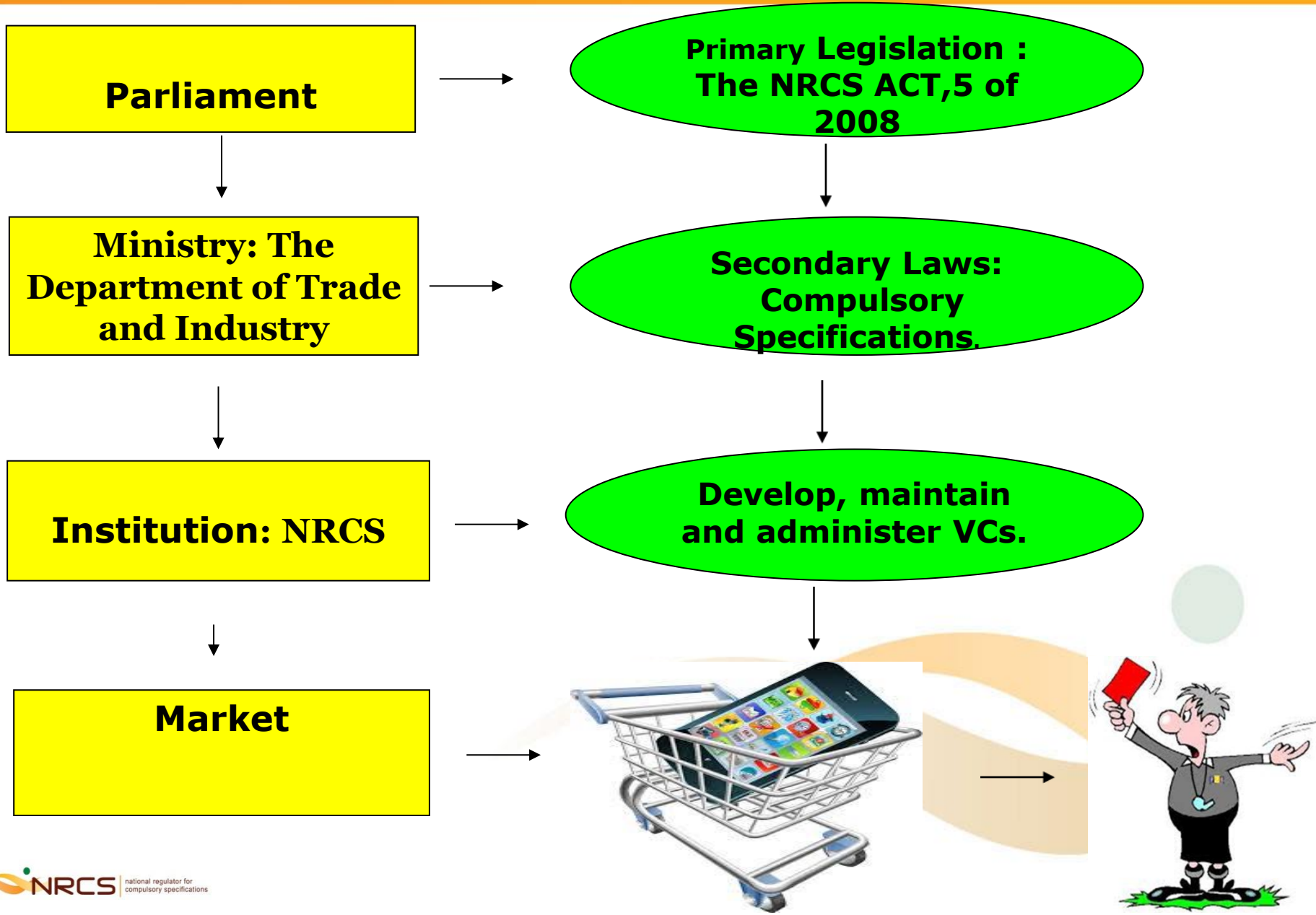


# NRCS : PART OF THE SOUTH AFRICAN TECHNICAL INFRASTRUCTURE ENTITIES OF THE DTI





# LEGISLATIVE STRUCTURE



# South Africa's quality infrastructure and its international linkages



•Parliament, Government departments, industry groups, consumer groups



•and other standards writers and professional bodies



• Audit, Calibrate, Evaluate, Examine, Inspect, Test



•Government, inspections, certification and accreditation bodies and laboratories

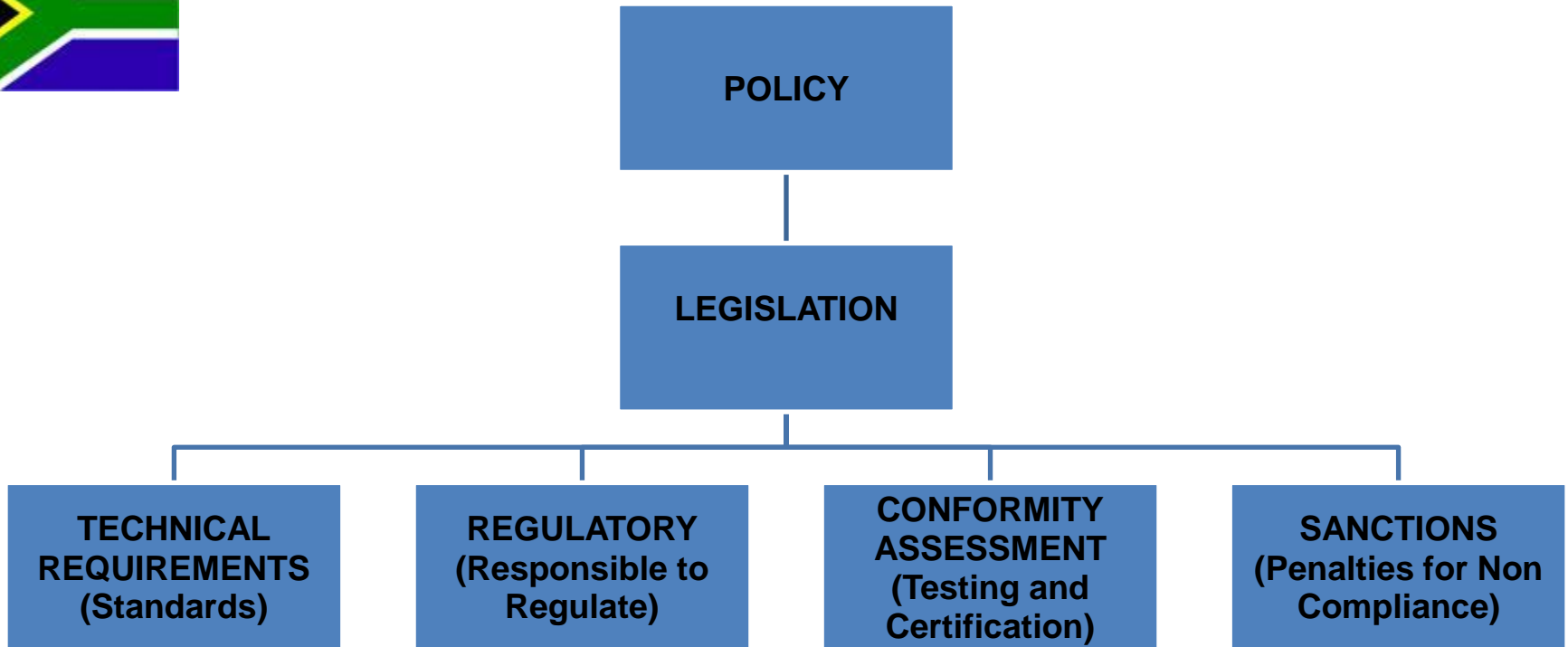


• Other government Regulators

•Technical outcomes that society can trust, and use in decision making



# Technical Infrastructure: REGULATORY SUPPORT



# THE NRCS MANDATE

- Established through the National Regulator for Compulsory Specifications Act in 2008 (Act 5 of 2008).
- Previously, the Regulatory Division of the South African Bureau of Standards (SABS).
- Develop, maintain and administer of technical regulations including Compulsory Specifications (VC = Verpligte/Compulsory) to:
  - Protect public health and safety,
  - Protect the environment (sustainability)
  - Ensure that national and international trade is fair and based on reliable measurements of quantity( Mass, Volume, Length and Area).
  - Administer National Building Regulations under the NBR Act, 1977.

# Compulsory Specifications mandate

## “Compulsory specifications”

**13.** (1) The Minister may, on the recommendation of the Board, in respect of any commodity, product or service which may affect public safety, health or the environment, by notice in the *Gazette*—

**(a) declare a SANS or a provision of a SANS to be a compulsory specification —**

(i) by referring to the **title and the number of that standard only**, without indicating the year or edition number, and if that SANS is amended, the amended SANS is deemed to have been incorporated; or

(ii) by referring to the **title, number and year or edition number of that SANS**;

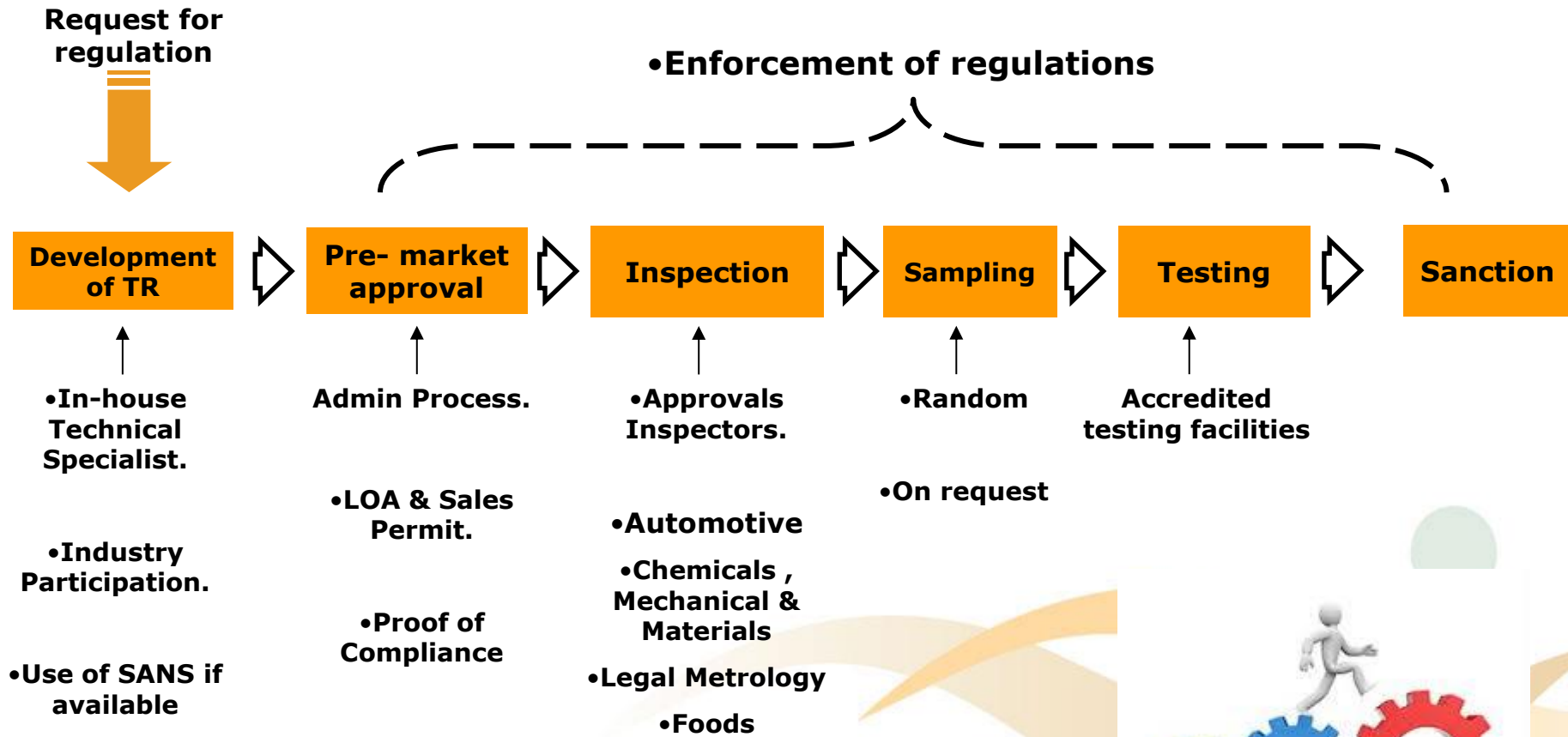
(b) declare an **amended SANS or an amended provision of a SANS** to be a compulsory specification if the original declaration was made in terms of subsection (1)(a)(ii);

(c) **declare or amend a compulsory specification if a SANS or a provision of a SANS is not available** in terms of paragraphs (a) and (b); or

(d) **withdraw** a compulsory specification.

# The NRCS Technical Regulations Value Chain

## Process Flow



# GRP:

- ✓ Regulation must meet the objective :
  - Set functional and performance requirements for **products and services** that address specific **risks** to public health and safety and/or to the environment, promote **fair trade** and **consumer protection**.
  - Include administrative requirements e.g. Application for approval processes.



# GRP - National Technical Regulatory Framework (NTRF)

Core principles for the NTRF include:

- ✓ Transparency;
- ✓ The use of the least trade restrictive measures;
- ✓ Internationally harmonised measures;
- ✓ Necessity;
- ✓ Proportionality; and
- ✓ Non- discrimination.





# The DTI – Responsible for WTO matters

- Dti responsible for WTO matters
- WTO/TBT Agreement states the need for National Enquiry Points to handle enquiries & notifications on technical regulations
- The dti mandated SABS to manage the SA National Technical Barriers to Trade (TBT) Enquiry & Notification Point
- The dti mandated DAFF to manage the SA National Sanitary and Phyto-sanatary (SPS) Enquiry & Notification Points

# CSP 350: Development and approval of technical regulations

Request to NRCS CEO/Research Manager



**Feasibility** of request by Approvals Committee (AC) – **YES/NO**



Appoint project Manager from Research department



Project proposal to AC



Technical stakeholder working group meeting



**Risk Assessment** (Report to AC) – **YES/NO**



Technical stakeholder working group meeting



Draft technical regulation



**Regulatory Impact Assessment** (Report to AC) – **YES/NO**



Full stakeholders' meeting



# CSP 350: Development and approval of technical regulations



**Draft second version of technical regulation & circulate**



**Finalize technical regulation (to AC for signing off)**



**Submit to NRCS Executive for review and approval**



**To dti for Ministers' approval**



**First gazetting for comments (60 days)  
Inform WTO**



**Comments review meeting**



**To dti for final gazetting!**



