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GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

No. R. 1209 **30 November 2006**

Regulations made in terms of the National Credit Act, 2005 (Act No 34 of 2005)

By virtue of the power vested in me by section 171 of the National Credit Act, 2005, I, Mandisi Mpahlwa, Minister of Trade and Industry, hereby

1. **prescribe the nature of, time-frame, form and manner in which consumer credit information held by credit bureaux must be reviewed, verified, corrected or removed in terms of section 73, as per Schedule 1 hereto, and**

2. **amend the Regulations made in terms of the National Credit Act, 2005 (Act No 34 of 2005) as published in Government Gazette No 28864 Vol 491 on 31 May 2006, as per Schedule 2 hereto.**

U. Mpahlwa

28-11-2006

Mandisi Mpahlwa, MP **Date**

Minister of Trade and Industry

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SCHEDULE 1

Verification, review and removal of consumer credit information

1. In the Regulations, any word or expression defined in the National Credit Act, 2005 (the Act) bears the same meaning as in the Act and:-

"**adverse consumer credit information**" includes:

(a) adverse classifications of consumer behaviour, which are subjective classifications of consumer behaviour and include classifications such as 'delinquent', 'default', 'slow paying', 'absconded' or 'not contactable'; and

(b) adverse classifications of enforcement action, which are classifications related to enforcement action taken by the credit provider, including classifications such as 'handed over for collection or recovery', 'legal action', or 'write-off';

"**dormant account**" means an account

(a) for which no payment was received from the consumer, or

(b) where no enforcement action, as defined in regulation 19(4)(b) of the regulations in terms of the National Credit Act No.34 of 2005, has been taken,

for a period of at least 24 months on 1 September 2006, but excludes credit facilities and any accounts where there is no contractual requirement for monthly payments to be made.

2. A registered credit bureau must remove the following consumer credit information, as reflected on records held by credit bureaux on 1 September 2006:

(a) adverse consumer credit information in respect of debt of less than R500,

(b) consumer credit information related to dormant accounts, except if there is no adverse information on the account.

(2) Consumer credit information as referred to in regulation 2(1) must be removed by 1 June 2007.

3.(1) By 1 June 2007 a registered credit bureau must remove consumer credit information related to Civil court judgments, reflected on a consumer's credit record on 1 September 2006,

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(a) of up to R500, except if a consumer has more than 2 unpaid judgments on his/her credit record;

(b) of up to R5,000, if the judgment is older than 18 months, except if a consumer has more than 2 unpaid judgments on his/her credit record;

(c) of up to R50,000, if the full amount in respect of the judgment was paid by the consumer by 1 September 2006.

(2) Consumer credit information as referred to in regulation 3(1) must be removed by 1 June 2007.

(3) A registered credit bureau must remove information as referred to in regulation 3(1)(c) if a consumer produces prima facie proof of the full payment of the judgment debt, and may only reinstate such information if the prima facie proof is refuted by credible evidence.

(4) If the information is removed in terms of regulation 3(1)(c), the credit bureau must advise all other registered credit bureaux.

(5) A credit bureau that receives advice in terms of 3(4) must remove any similar information from its records.

4.(1) A registered credit bureau must further remove consumer credit information related to civil court judgments of up to R50,000, reflected on a consumer's credit record on 1 September 2006, if the full amount in respect of the judgment is paid by the consumer between 1 September 2006 and 1 September 2007.

(2) Consumer credit information as referred to in regulation 4(1) must be removed within 3 months of the date of the judgment having been paid.

(3) A registered credit bureaux must remove the information as referred to in regulation 4(1) if a consumer produces prima facie proof of the full payment of the judgment debt, and may only reinstate such information if the prima facie proof is refuted by credible evidence.

(4) If the information is removed in terms of regulation 4(1), the credit bureau must advise all other registered credit bureaux.

(5) A credit bureau that receives advice in terms of 4(4) must remove any similar information from its records.

5.(1) By 31 August 2007 a registered credit bureau must submit to the National Credit Regulator an audit report, conducted after 1 June 2007 by an independent auditor, addressing the following matters:

(a) Verifying that all information referred to in regulations 2 and 3 was removed from consumer credit records by 1 June 2007;

(b) Assessing the systems and procedures put in place by the credit bureau to:

(i) identify and remove inaccurate information on consumer credit information records held by a registered credit bureau;

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(ii) identify and not record consumer credit information received from credit providers and other sources, if there is a reasonable belief that such information may be inaccurate;

(iii) ensure that the credit bureau implemented appropriate procedures to ensure compliance with, and complies with retention periods as provided for in the Act and regulations; and

(iv) identify and remove incidents of multiple listings in respect of consumer credit information;

(c) On the basis of a representative statistical sample, indicate the extent to which consumer credit information records, held by a credit bureau:

(i) contain incorrect data;

(ii) contain multiple listings;

(iii) comply with prescribed retention periods, and

(iv) the extent and nature of disputed information on credit bureaux records.

(d) Based upon the findings from the review of the representative statistical sample and discussions with the credit bureau, identify:

(i) the most important reasons for inaccurate or disputed information being recorded and retained on consumer credit information records;

(ii) the names of the credit providers or other sources of information, from whom inaccurate or disputed information is most frequently received.

(e) Recommend appropriate action or procedures to be implemented by a registered credit bureau to ensure full compliance with these regulations.

(f) Address any other matter within the ambit of the provisions of section 73 of the Act, as required by the National Credit Regulator.

(2) By 31 March 2008, a registered credit bureau must submit to the National Credit Regulator an audit report, conducted by an independent auditor by 28 February 2008, addressing the following matters:

(a) Verifying that all information as referred to in regulations 2, 3 and 4 was removed from consumer credit information records by 30 November 2007;

(b) Assessing the effectiveness of interventions implemented in terms of regulation 5(1)(e).

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(c) On the basis of a representative statistical sample, perform a further assessment of the consumer credit information records and related matters as referred to in regulation 5(1)(c) and (d), and assess the extent of the improvement in comparison to the assessment as referred to in regulation 5(1).

(d) Make recommendations for further interventions to be implemented by a registered credit bureau to ensure full compliance with these regulations.

(e) Address any other matter within the ambit of the provisions of section 73 of the National Credit Act, as identified by the National Credit Regulator.

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Schedule 2

Amendment of the Regulations made in terms of the National Credit Act, 2005 (Act No 34 of 2005) as published in Government Gazette No 28864 Vol 491 on 31 May 2006

1. Amend the Regulations made in terms of the National Credit Act, as published in Government Gazette No. 28864, as follows:

1(1) Delete regulation 17, and replace with new regulation 17 as below.

"Retention periods for credit bureau information

17.(1) The consumer credit information as per the following Table may be displayed and used for purposes of credit scoring or credit assessment for a maximum period from the date of the event, as indicated:

	Categories of Consumer Credit Information	Description	Maximum period
1.	Details and results of disputes lodged by consumers	Number and nature of complaints lodged and whether complaint was rejected. No information may be displayed on complaints that were upheld.	18 months
2.	Enquiries	Number of enquiries made on a consumer's record, including the name of the entity / person who made the enquiry and a contact person if available	2 years
3.	Payment Profile	Factual information pertaining to the payment profile of the consumer	5 years
4.	Adverse classifications of consumer behaviour	Subjective classifications of consumer behaviour	1 year
5	Adverse classifications of enforcement action	Classifications related to enforcement action taken by the credit provider	2 years
6.	Debt Restructuring	As per section 86 of the Act, an order given by the Court or Tribunal	Until a clearance certificate is issued
7.	Civil court judgments	Civil court judgments including default judgment	The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider in terms

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			of section 86 of the Magistrates' Court Act, 32 of 1944.
8.	Administration Orders	As per the court order	The earlier of 10 years or until order is rescinded by a court
9.	Sequestrations	As per the court order	The earlier of 10 years or until rehabilitation order is granted
10.	Liquidations	As per the court order	Unlimited period
11.	Rehabilitation Orders	As per the court order	5 years
12.	Other information	Any other information not included in any category above	2 years

(2) The date of the event is the date on which the relevant order was given or the date on which the event occurred which is being displayed in the consumer credit record;

(3) Adverse classifications of consumer behaviour are subjective classifications of consumer behaviour and include classifications such as 'delinquent', 'default', 'slow paying', 'absconded' or 'not contactable';

(4) Adverse classifications of enforcement action are classifications related to enforcement action taken by the credit provider, including classifications such as 'handed over for collection or recovery', 'legal action', or 'write-off';

(5) Payment profile refers to the consumer's payment history in respect of a particular transaction."

2. Delete regulation 18(4)(e) and replace with

"18(4)(e) setting a limit in respect of the supply of goods, services or utilities"

3. Delete 18(6)(a) and replace with

"18(6)(a) status and history of outstanding obligations and payments in respect of goods, services or utilities supplied to consumers"

4. Delete 18(7)(b) and replace with

"18(7)(b) Any person who supplies goods, services or utilities to consumers, whether for cash or on credit"