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## GOVERNMENT NOTICES

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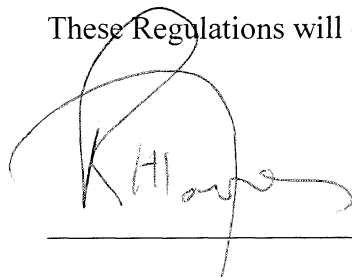
### DEPARTMENT OF TRADE AND INDUSTRY

**No. R. 202****13 March 2015**

#### **NATIONAL CREDIT REGULATIONS INCLUDING AFFORDABILITY ASSESSMENT REGULATIONS**

I, Dr Rob Davies, Minister of Trade and Industry, after having published a Notice inviting public comments to the draft National Credit Regulations including, Affordability Assessment Regulations, which Notice was published in **Government Gazette No.37882** of 01 August 2014 under **Notice10242 of 2014**, as amended in **Government Gazette No.29442** under **Notice R.1209 of 2006**, in **Government Gazette No. 35327** under **Notice R. 362 of 2012**, as amended in **Government Gazette No.37386** under **Notice R,144 of 2014**, do hereby in terms of Section 171(1) of the National Credit Act, 2005 (Act 34 of 2005), publish the final National Credit Regulations including Affordability Assessment Regulations.

These Regulations will come into effect on the date of publication.



**Dr Rob Davies (MP)**

**Minister of Trade and Industry**

Date: 7/3/2015

## SCHEDULE

### CHAPTER 1

#### INTERPRETATION AND DEFINITIONS (Reg1)

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

**“Credit Cost Multiple”**

means the ratio of the total cost of credit to the advanced principal debt, that is, the total cost of credit divided by the advanced principal debt expressed as a number to two decimal places;

**“Credit Record”**

means the consumer’s payment profile including, adverse information on a credit profile held by a credit bureau;

**“Discretionary Income”**

means Gross Income less statutory deductions such as, income tax, unemployment insurance fund, maintenance payments and less Necessary Expenses (at a minimum as defined herein); less all other committed payment obligations as disclosed by a consumer including, such as may appear from the applicant’s credit records as held by any Credit Bureau which income is the amount available to fund the proposed credit Instalment;

**“Gross Income”**

means all income earned without deductions from whatever source;

**“Joint Consumers”**

means consumers that are co-principal debtors who are jointly and severally liable with regard to the same credit agreement and apply jointly for the credit agreement excluding the surety or a credit guarantor under a credit guarantee;

**“National Credit Regulator”**

means the National Credit Regulator established in terms of section 12 of the Act;

**“Necessary Expenses”**

means the consumer’s minimum living expenses including maintenance payments if applicable as determined in accordance with Regulation 23A(9) excluding monthly debt repayment obligations in terms of credit agreements as reflected on the prospective consumer’s credit profile held by a credit bureau;

**“Payment Profile”**

refers to the consumer’s payment history in respect of a particular transaction; and

**“the Act”** means the National Credit Act, 2005 (Act 34 of 2005) as amended.

## CHAPTER 2

### Insertion of regulation 10A to the Regulations

Regulation 10 of the Regulations is hereby amended by the insertion of Regulation 10A as follows:-

#### “Payment distribution agent

#### Criteria for registration as a payment distribution agent

- (1) A person who applies for registration as a payment distribution agent in terms of section 44A of the Act must submit to the National Credit Regulator:-
  - (a) a completed application in Form 46;
  - (b) any additional information required in the application form; and
  - (c) the applicable application fee as set out in the schedule.
- (2) Any person who applies for registration must provide any information required by the National Credit Regulator in terms of section 45(2), within fifteen (15) business days after the request is delivered to the applicant.
- (3) The National Credit Regulator must not register a person as a payment distribution agent unless that person complies with the following requirements:-
  - (a) **Education**
    - (i) maintain and impose appropriate qualification requirements for its employees or contractors who will have authority to represent it in any function of its business of collection and payment distribution;
    - (ii) a successful payment distribution training programme approved by the National Credit Regulator and provided by an accredited institution;

- (iii) a training programme completed within six (6) months after the payment distribution agent has been registered by the National Credit Regulator; and
- (iv) comply with the training programme after registration as a payment distribution agent.

**(b) Experience**

- (i) The payment distribution agency must have an executive director:-
  - (aa) responsible for the day to day operations, with five (5) years experience in dealing with the business of collecting, distributing payments, accounting or financial services;
  - (bb) who is a person with good record of managing the finances of a company; and
  - (cc) responsible for the day to day management of applications.

**(c) Competence**

- (i) A person applying to be registered as a payment distribution agent must:-
  - (aa) have sufficient human, financial and operational resources to carry out the functions of payment distribution agent efficiently and effectively;
  - (bb) put in place adequate resources, systems and procedures to carry out the functions of payment distribution efficiently and effectively;
  - (cc) comply with the Broad-based Black Economic Empowerment Act, 2003 (Act 53 of 2003) as amended;
  - (dd) be registered with the South African Revenue Services and have a valid tax clearance certificate;
  - (ee) be a company incorporated in terms of the Companies Act, 2008 (Act 71 of 2008) or Close Corporations Act, 1984 (Act 69 of 1984) or Cooperatives Act 2005 (Act 14 of 2005);
  - (ff) have a board of directors consisting of not less than three (3) non-executive directors, one of whom must be independent, with qualifications and experience of not less than two (2) years in the accounting, auditing or legal profession;

- (gg) have a director who-
  - (i) is not under the age of eighteen (18) years;
  - (ii) is not subject to an order of mental unfitness or disordered;
  - (iii) was not removed from office of trust on account of misconduct relating to fraud or the misappropriation of money, whether in the Republic or equivalent jurisdictions;
  - (iv) was not a director or member of a governing body of an entity at the time that such entity :-
    - (aa) was involuntarily deregistered in terms of public Regulation;
    - (bb) brought the consumer credit industry into disrepute; or
    - (cc) acted with disregard for consumer rights generally.
- (4) A person applying for registration as a payment distribution agent must not have been convicted during the previous five (5) years, in the Republic or elsewhere, of:-
  - (a) theft, fraud, forgery, perjury or an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or comparable legislation of another jurisdiction; and
  - (b) has been sentenced to imprisonment without the option of a fine unless the person has received a grant of amnesty or free pardon for the offence.
- (5) A payment distribution-agent must have a minimum capital amount of five million (R5m) for investment in the establishment and operation of the payment distribution agency and proof of this amount must be provided in the form of a bank guaranteed cheque to the National Credit Regulator at the time of application.
- (6) A person applying for registration as a payment distribution agent must have sufficient insurance to compensate consumers and credit providers in the event of loss or damage:-
  - (a) The compensatory value as stipulated in sub-regulation 10A (6) shall be equivalent to the aggregate amount collected for distribution occasioned by the conduct of the payment distribution agent.

- (7) A person applying for registration as a payment distribution agent who conducts a debt counselling business must:-
- (a) demonstrate that the businesses of debt counselling and payment distribution will be operationally independent of each other and managed independently by different persons; and
  - (b) demonstrate that the payment distribution is not made in respect of consumers under debt review in his or her debt counselling business.

#### **Transitional period for a payment distribution agent already registered**

- (8) A payment distribution agent that is already registered must:-
- (a) commit to train his or her employees in line with the training courses or programmes approved by the National Credit Regulator or with an institution accredited by the National Credit Regulator; and
  - (b) comply to training programme of its employees within a period of six (6) months after he or she has been registered, failure which shall constitute a prohibited conduct in accordance with the Act.

#### **Duties and obligations of a payment distribution agent**

- (9) Payment distribution agent must:-
- (a) implement, maintain and utilise an electronic payment distribution system that offers the functionality determined by the National Credit Regulator in its conditions of registration and any guidelines that may be issued by the National Credit Regulator from time to time;
  - (b) comply with the reporting requirements to consumers, credit providers, debt counsellors and the National Credit Regulator in the manner and form determined by the National Credit Regulator in its conditions of registration and any guidelines that may be issued by the National Credit Regulator from time to time;

- (c) on a monthly basis provide a statement to the consumer reflecting the following information:-
- (i) date of receipt of payment;
  - (ii) amount of payment received;
  - (iii) names of the consumer's credit providers who received payments during the relevant month and the actual amounts paid;
  - (v) undistributed funds;
  - (vi) outstanding balances under the debt re-arrangement plan, court, or tribunal order as the case may be, reflecting a disclaimer to the effect that the outstanding balances may be adjusted from time to time after the debt counsellor has provided the payment distribution agent with updated transactions from credit providers including, interests;
  - (vii) fees of the payment distribution agent;
  - (viii) payments made to the debt counsellor; and
  - (ix) payments made to the credit providers.
- (d) provide a monthly statement referred to in sub-regulation 8(c), in a manner chosen by the consumer which may be in the form of an e-mail, short message service (sms), multi-media messaging service (mms), fax or written statement;
- (e) comply with any other requirements that may be imposed by the National Credit Regulator in its conditions of registration and any guidelines that may be issued by the National Credit Regulator from time to time;
- (f) deposit monies collected from consumers into a trust account opened at a registered bank and distribute the monies to the credit providers and debt counsellors;
- (g) distribute monies received within five (5) days of receipt, failure which reasons must be submitted to the National Credit Regulator.

- (h) open a separate trust account with a registered bank into which interest earned on monies collected from consumers is deposited. The National Credit Regulator must:-
  - (i) open a trust account into which all interest earned on monies held by the payment distribution agent is deposited;
  - (ii) transfer interest accrued from these monies to the trust account stipulated in sub-regulation 10A(9)(h)(i)r; and
  - (iii) develop a policy on the usage of trust account funds for approval by the Minister of Trade and Industry.”

#### Insertion of Regulations 4(1)(a)(v)

The following Regulations are hereby inserted in the Regulations, after Regulation 4(1)(a)(iv) as follows:

- “(v) Form 46, if applying for registration as a payment distribution agent;
- (vi) Form 47, if applying for registration as an alternative dispute resolution agent.”

#### Insertion of Regulation 10B

Regulation 10 of the Regulations is hereby amended by the insertion of Regulation 10B as follows:-

#### “Alternative disputes resolution agent

#### Criteria for registration as an alternative dispute resolution agent

- (1) A person who applies for registration as an alternative dispute resolution agent in terms of section 134A of the Act must submit to the National Credit Regulator:-
  - (a) a completed application in Form 47;
  - (b) the applicable registration fee as set out in the schedule; and
  - (c) any additional information required in the application form.

- (2) An application for registration as an alternative dispute resolution agent must contain:-
- (a) an overview of an applicant's capabilities and background in providing alternative dispute resolution services including, a description of the applicant's track record in handling the clerical aspects of expedited alternative dispute resolution proceedings, if any;
  - (b) a list of names and qualifications of personnel providing alternative dispute resolution services, whom the applicant for alternative dispute resolution services proposes to include on its list of adjudicators;
  - (c) a description of the screening requirements the applicant for alternative dispute resolution services has used in selecting adjudicators to be included on its list; and
  - (d) an indication whether it intends to make exclusive use of adjudicators who are residents or citizens of the Republic of South Africa;
  - (e) a description of training and educational measures the applicant for alternative dispute resolution services proposes to employ for listed adjudicators with respect to credit related disputes;
  - (f) a commitment by the National Credit Regulator not to prevent or discourage any of its adjudicators from serving as adjudicators for other providers;
  - (g) a proposed schedule for the alternative dispute resolution services , its programme for administering disputes under these Regulations including, a statement regarding the administrative capacity to manage disputes on a monthly basis."
- (3) To be accredited as an alternative dispute resolution agent, an applicant must-
- (a) have a track record and a detailed plan for providing alternative dispute resolution services;
  - (b) propose a list of at least five (5) highly qualified neutral persons from the public and private sectors that are experts in consumer law, credit law, commercial law, cultural, religious and personal rights who have agreed to serve as adjudicators;
  - (c) show how it shall ensure that the listed adjudicators are trained concerning these Regulations;

- (d) state whether it intends to make exclusive use of adjudicators who are citizens or residents of the Republic of South Africa;
- (e) indicate a familiarity with international and foreign jurisdictions accredited dispute resolution mechanisms and processes and indicate its plan to provide an international benchmark for a process that is unique to the Republic of South Africa;
- (f) have a statement of any requested limitations on the number of disputes the alternative dispute resolution agent handles, either during a start-up period or on a permanent basis;
- (g) have a description of how the alternative dispute resolution agent proposes to administer disputes including, its interactions with parties to the dispute, the National Credit Regulator, and other approved providers; a description of how the alternative dispute resolution agent intends to publish decisions of adjudicators in disputes it administers and a commitment to provide the National Credit Regulator with copies of all decisions of adjudicators not published.
- (h) demonstrate in its plan that the National Credit Regulator understands these Regulations; and
- (i) show that both the alternative dispute resolution agent and its panel of adjudicators are representative of women, disabled and historically disadvantaged individuals where such representativeness is assessed in terms of the Codes of Good Practice for Broad Based Black Economic Empowerment, as such Codes may be amended from time to time.”

#### **Amendment of Regulation 4 of the Regulations**

Regulation 4 is hereby amended by addition of the following sub-regulation:

- (4) The National Credit Regulator must not register an applicant as a payment distribution agent if the information available at the time of considering the application indicates that the applicant was, but not limited to:-
  - (a) found guilty in criminal proceedings or liable in civil proceedings by a court of law or breach of fiduciary duty, taking into account the seriousness of the

conduct, surrounding circumstances, explanations offered, the relevance of the offence or liability to the role applied for such as:

- (i) whether the person has been the subject of any adverse finding or any settlement in civil proceedings related to financial or business management;
  - (ii) misconduct or fraud; or
  - (iii) license or registration certificate issued by a regulatory authority has been suspended, withdrawn or cancelled.
- (b) Without formal qualifications, experience and competencies as prescribed in the Regulations.”

### **Amendment of Regulation 11 of the Regulations**

Regulation 11 is hereby substituted as follows:

“A debt counselor must not collect and distribute monies on behalf of consumers.”

### CHAPTER3

Chapter 3 of the Regulations is hereby amended by the insertion of Regulation 23A in the Regulations as follows:-

#### **“CRITERIA TO CONDUCT AFFORDABILITY ASSESSMENT**

#### **APPLICATION**

- (1) These Regulations apply to:-
  - (a) current, prospective and joint consumers;
  - (b) all credit providers; and
  - (c) all credit agreements to which this Act applies, subject to Regulation 2.
  
- (2) These Regulations do not apply to a credit agreement in respect of which the consumer is a juristic person and do not apply to:-
  - (a) a developmental credit agreement;
  - (b) a school loan or a student loan;
  - (c) a public interest credit agreement;
  - (d) a pawn transaction;
  - (e) an incidental credit agreement;
  - (f) an emergency loan;
  - (g) a temporary increase in the credit limit under a credit facility;
  - (h) a unilateral credit limit increase in terms of sections 119(1)(c);119(4); and 119(5) of the Act under a credit facility;
  - (i) a pre-existing credit agreement in terms of Schedule 3 Item 4(2) of the Act;
  - (j) any change to a credit agreement and/or any deferral or waiver of an amount under an existing credit agreement in accordance with section 95 of the Act;and

- (k) mortgage credit agreements that qualify for the Finance Linked Subsidy Programs developed by the Department of Human Settlements and credit advanced for housing that falls within the threshold set from time to time.

#### **Existing financial means and prospects**

- (3) A credit provider must take practicable steps to assess the consumer or joint consumer's discretionary income to determine whether the consumer has the financial means and prospects to pay the proposed credit instalments.
- (4) A credit provider must take practicable steps to validate gross income, in relation to:-
  - (a) consumers that receive a salary from an employer:
    - (i) latest three(3) payslips; or
    - (ii) latest bank statements showing latest three(3) salary deposits;
  - (b) consumers that do not receive a salary as contemplated in (a) above by requiring:
    - (i) latest three(3) documented proof of income; or
    - (ii) latest three(3) months bank statements;
  - (c) consumers that are self-employed, informally employed or employed in a way through which they do not receive a payslip or proof of income as contemplated in (a) or (b) above by requiring:
    - (i) latest three (3) months bank statements; or
    - (ii) latest financial statements.
- (5) Where the consumer's monthly gross income shows material variance, the average gross income over the period of not less than three (3) pay periods preceding the credit application must be utilised.
- (6) The consumer must accurately disclose to the credit provider all financial obligations to enable the credit provider to conduct the affordability assessment.
- (7) The consumer must provide authentic documentation to the credit provider to enable the credit provider to conduct the affordability assessment.

**Existing financial obligations**

- (8) A credit provider must make a calculation of the consumer's existing financial means, prospects and obligations as envisaged in sections 78(3) and 81(2)(a)(iii) of the Act.
- (9) The credit provider must utilise the minimum expense norms table below, broken down by monthly gross income when calculating the existing financial obligations of consumers.
- (10) The methodology in the table requires for:
- (a) credit providers to ascertain gross income;
  - (b) statutory deductions and minimum living expenses to be deducted to arrive at a net income, which must be allocated for payment of debt instalments; and
  - (c) when existing debt obligations are taken into account, the credit provider must calculate discretionary income to enable the consumer to satisfy any new debt.

**Table1: Minimum Expense Norms**

| <b>Minimum</b> | <b>Maximum</b> | <b>Minimum<br/>monthly<br/>Fixed<br/>Factor</b> | <b>Monthly Fixed<br/>Factor = % of<br/>Income Above<br/>Band minimum</b> |
|----------------|----------------|---|--|
| R0.00          | R800.00        | R0.00   | 100%   |
| R800.01        | R6,250.00      | R800.00   | 6.75%  |
| R6,250.01      | R25,000.00     | R1,167.88                                       | 9.00%  |
| R25,000.01     | R50,000.00     | R2,855.38                                       | 8.20%  |
| R50,000.01     | Unlimited      | R4,905.38                                       | 6.75%  |

- (11) The credit provider may however on an exceptional basis, where justified, accept the consumer's declared minimum expenses which are lower than those set out in table 1 provided the questionnaire set out in the Schedule, as issued from time to time, is completed by the consumer or joint consumers.
- (12) When conducting the affordability assessment, the credit provider must:-
- (a) calculate the consumer's discretionary income;
  - (b) take into account all monthly debt repayment obligations in terms of credit agreements as reflected on the consumer's credit profile held by a registered credit bureau; and
  - (c) take into account maintenance obligations and other necessary expenses.

#### **Debt re-payment history as a Consumer under Credit Agreements**

- (13) A credit provider must take into account the consumer's debt repayment history as a consumer under credit agreements, as envisaged in section 81(2)(a) and must ensure that this requirement is performed:-
- (a) within seven(7)business days immediately prior to the initial approval of credit or the increasing of an existing credit limit; and
  - (b) within fourteen (14) business days with regards to mortgages.

#### **Avoiding double counting in calculating the Discretionary Income**

- (14) Where a credit agreement is entered into on a substitutionary basis in order to settle off one or more existing credit agreement, a credit provider must:-
- (a) record that the credit being applied for is to replace other existing credit agreement/s; and
  - (b) take practicable steps to ensure that such credit is properly used for such purposes.

**Disclosure of the credit cost multiple and the total cost of credit**

(15) A credit provider must:-

- (a) disclose to the consumer the credit cost multiple and total cost of credit in the pre-agreement statement and quotation;
- (b) ensure that the credit cost multiple disclosures for credit facilities is based on one year of full utilisation up to the credit limit proposed;
- (c) ensure that the attention of the prospective consumer is drawn to the credit cost multiple and that the cost of credit as disclosed, is understood by the prospective consumer;
- (d) disclose a total cost of credit which includes but not limited to, the following items:-
  - (i) the principal debt;
  - (ii) interest;
  - (iii) initiation fee, if any;
  - (iv) service fee aggregated to the life of a loan; and
  - (v) credit insurance aggregated to the life of a loan, as set out in section 106 of the Act.

**Outcome of Affordability Assessment**

- (16) A consumer who is aggrieved by the outcome of affordability assessment may at any time lodge a complaint in terms of section 134 or 136 with the credit provider for dispute resolution.
- (17) The credit provider must attempt to resolve the complaint within fourteen (14) business days after receiving notification of the complaint from the ombud in terms of section 134.
- (18) If the grievance is not addressed by the credit provider within the period referred to in sub-regulation 10A (15) above, the consumer can approach the National Credit Regulator.
- (19) The National Credit Regulator must resolve the complaint within seven (7) business days.

- (20) If the National Credit Regulator issues a notice of non-referral in response to a complaint, the consumer may refer the matter directly to the National Consumer Tribunal, subject to its rules of procedure.”

**CHAPTER 4****Credit Information****Amendment of Regulation 17 of the Regulations**

Regulation 17 is hereby deleted and replaced with new Regulation 17 as below:

**Retention periods for credit bureau information**

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

| <b>Categories of Consumer Credit Information</b>         | <b>Description</b>  | <b>Maximum Period</b> |
|--|---|-----------------------|
| 1. Details and results of complaints lodged by consumers | Number and nature of complaints lodged and whether a complaint was rejected. No information may be displayed on complaints that were upheld     | 6 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 | 1 year                |
| 3. Payment Profile                                       | Factual information pertaining to the payment profile of the consumer   | 5 years               |

|   |   |  |
|---|---|--|
| 4. Adverse classifications of enforcement action                    | Classification related to enforcement action taken by a credit provider | 1 year or within the period prescribed in section 71A  |
| 5. Adverse classifications of consumer behaviour                    | Subjective classifications of consumer behaviour                        | 1 year or within the period prescribed in section 71A  |
| 6. Debt Restructuring   | As per section 86 of the Act, an order given by the Court or Tribunal   | Within the period prescribed in section 71(1) of the Act or until a clearance certificate is issued  |
| 7. Civil court judgments  | Civil court judgments including default judgments                       | The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider in terms of section 86 of the Magistrates Courts Act 32 of 1944 or within the period prescribed in section 71A of the Act |
| 8. Maintenance judgments in terms of the Maintenance Act 99 of 1998 | As per the court judgment   | until the judgment is rescinded by a court   |
| 9. Sequestration order  | As per court order  | 5years or until rehabilitation order is granted  |
| 10. Rehabilitation order  | As per court order  | 5 years  |
| 11. Administration Order  | As per the court order  | 5 years or until order is rescinded by court   |

**Amendment of Regulation 18 of the Regulations**

Regulation 18 is hereby amended, and replaced with:

Regulation 18(4)(c) “considering a candidate for employment in a position that requires honesty in dealing with cash or finances.”

**Amendment of Regulation 19 of the Regulations**

Regulation 19 of the Regulations is hereby amended by addition of the following Sub-Regulations:

- “(6) No source of information as set out in section 70(2) of the Act and Regulation 18(7) may submit adverse or other information to a credit bureau in respect of a debt that has prescribed in terms of the Prescription Act 68 of 1998.
- (7) No source of information shall submit consumer credit information comprising adverse information to a credit bureau, unless the required minimum monthly or such other instalment payments have not been paid for a minimum period of at least three (3) consecutive billing cycles.
- (8) No source of information shall submit consumer credit information comprising adverse information to a credit bureau without giving the consumer the notice contemplated in Regulation 19(4).
- (9) No source of information shall submit consumer credit information comprising adverse information if any arrears owing on an account are settled within the period of the notice contemplated in Regulation 19(4) or if the consumer has disputed liability for the outstanding amounts, within the period contemplated in Regulation 20(2).

- (10) Upon settlement of the amount in arrears which forms the subject matter of the adverse information, the source of data must in its next data of submission to the credit bureaus, advise such credit bureaus that the arrear amounts have been settled, the credit bureau must update the consumer's credit records within seven(7) days of being notified as such.
- (11) Upon the settlement of the capital amount of a judgment debt and administration order, the source of data must advise the credit bureaus that the judgment or order has been settled within the period prescribed in section 71(A) of the Act and the credit bureaus must update the consumer's credit record within seven(7) days of being notified.
- (12) A consumer credit record may not be accessed by an employment agency, recruitment consultant, staffing company or employer unless they certify that any and all requests for consumer credit records relate to positions requiring honesty in dealing with cash or finances and the job descriptions of such positions are clearly outlined.
- (13) A credit provider must submit credit information to the credit bureaus in the manner and form prescribed by the National Credit Regulator through conditions of registration and any guidelines that may be issued by the National Credit Regulator from time to time.”

## CHAPTER 5

### **“Requirements and standards for training for registrants**

- (1) Payment distribution agent must be trained in the following areas:
  - (a) risk management and fraud prevention;
  - (b) the National Credit Act;
  - (c) financial management;
  - (d) accounting;
  - (e) business management;
  - (f) customer service;
  - (g) governance and compliance; and
  - (h) computer literacy.
- (2) Credit providers must be trained in the following areas:
  - (a) National Credit Act;
  - (b) governance and compliance;
  - (c) customer service;
  - (d) risk management;
  - (e) computer literacy;
  - (f) financial management;
  - (g) business management; and
  - (h) economics.
- (3) Debt counselors must be trained on the National Credit Act and on the basic principles of the following areas:
  - (a) financial management;
  - (b) business management;
  - (c) customer service;
  - (d) debt counseling;
  - (e) economics;
  - (f) governance and compliance;

- (g) accounting; and
- (h) bookkeeping.”

(4) Alternative Dispute Resolution Agent must be trained on the National Credit Act, Consumer Protection Act and on the basic principles of the following areas:

- (a) Alternative dispute resolution
- (b) financial management;
- (c) business management;
- (d) governance and compliance
- (e) customer service.”

## Chapter 6

### “Non-compliance in terms these Regulations

- (1) These Regulations are binding to the extent of their application; non-adherence with these Regulations will be dealt with in terms of the remedies and procedures under the National Credit Act.”

## **SCHEDULE**

### **FEES**

Schedule 2 of the Regulations is amended by addition of the following:

#### **“PAYMENT DISTRIBUTION FEES**

Payment distribution fees applicable:

The fees which a payment distribution agent may recover in respect of payment distribution services rendered are as follows:

- A fee of R5.00 for each payment of between R100.00 and R200.00 distributed in respect of each credit agreement included in the consumer’s debt re-arrangement plan;
- A fee of R10.00 for each payment between R201.00 and R500.00 distributed in respect of each credit agreement included in the consumer’s debt re-arrangement plan;
- A fee of R15.00 for each payment exceeding R500.00 distributed in respect of each credit agreement included in the consumer’s debt re-arrangement plan; and
- A fee of R3.00 is payable for any additional monthly statement requested by the consumer.

These amounts are inclusive of value added tax (VAT).”

## ALTERNATIVE DISPUTE RESOLUTION FEES

### “Fees prescribed in terms of section 51”

The fees which a payment distribution agent must pay for application, registration and renewal are as follows:

- A non-refundable application fee of R500.00 payable upon submission of the application form;
- Initial registration fee of R100 000.00;
- Branch fee of R250.00 per location or premises; and
- Registration renewal fee of R100 000.00 payable annually by the date of anniversary of the registration

The fees which alternative dispute resolution agent must pay for application, registration and renewal are as follows:

- A non-refundable application fee of R500.00 payable upon submission of the application form;
- Initial registration fee of R20 000.00;
- Branch fee of R250.00 per location or premises; and
- Registration renewal fee of R20 000.00 payable annually by the date of anniversary of the registration

These amounts are inclusive of value added tax (VAT).

**ANNEXURE “A”****FORMS****“DECLARATION OF CONSUMER’S NECESSARY EXPENSE  
QUESTIONNAIRE****Instructions:**

- i. This questionnaire must be completed in instances where a consumer discloses minimum living expenses that are below those defined in the Regulations.
- ii. In case of joint applications only one questionnaire must be completed that considers the details of all applicants.

**Consumer Declaration:**

1. The consumer/s completing this questionnaire is hereby reminded that in terms of section 81(1) of the National Credit Act when applying for a credit agreement, and while that credit agreement is being considered by the credit provider, the prospective consumer must fully and truthfully answer any requests for information made by the credit provider as part of the assessment. Misrepresentation of facts will be dealt with in terms of the applicable law.

**Section 1: Applicant Details**

| Description                          |  |
|--------------------------------------|--|
| Credit provider’s trading name:      |  |
| Credit provider’s NCRCP number:      |  |
| Date of application for credit:      |  |
| <b>Transaction number</b>            |  |
| Principle debt of credit transaction |  |
| Credit applicant/s first name        |  |
| Credit applicant/s family name       |  |

|   |  |
|---|--|
| Credit applicant/s identity/passport number |  |
| Consumer signature                          |  |

## Section 2: Necessary Expenses

### Declared monthly expenses by the consumer

(Please fill in for the relevant income band. In the case of joint applications the joint annual gross income of all applicants must be used.)

**Table A: Necessary Expense Norms Terms**

|                      | Monthly Necessary Expenses  |   |
|----------------------|---|---|
|                      | Applicable monthly necessary expenses<br><br>(Calculated by the credit provider as per Table I above) | Consumer declared expenses<br><br>(As per consumer declaration) |
| Gross Monthly Income |   |   |
| R                    | R   | R   |

**Section 3: Consumer Declaration****3A Monthly Expenses****3.1 Accommodation expense****Amount**

- ☐ Own home: provide address  
☐ Living with family: insert name/s and contact details  
☐ Living with friends: insert name/s and contact details  
☐ Other (please explain)

**Monthly**

R

**3.2 Transport expense**

- ☐ Live close to work/school/college: give address  
☐ Transported by family: insert name/s and contact details

**Amount**

- ☐ Own transport:  
☐ Transported by friends: insert name/s and contact details  
☐ Other (please explain)

**Monthly**

R

**3.3 Food expense**

- ☐ Provided by employer: insert name

**Amount**

- ☐ Provided by family: insert name/s and contact details  
☐ Provided by friends: insert name/s and contact details  
☐ Other (please explain)

**Monthly**

R

**3.4 Education expense****Amount**

- ☐ Provided by family: insert name/s and contact details  
☐ Provided by friends: insert name/s and contact details  
☐ Not studying at the moment

**Monthly**

R

- ☐ No school going children  
☐ Other (please explain)

### 3.5 Medical expense

- ☐ Provided by employer: insert name/s and contact details

**Monthly**

**Amount**

- ☐ Provided by family: insert name/s and contact details  
☐ Provided by friends: insert name/s and contact details  
☐ Own medical expense  
☐  
☐ Other (please explain)

R

### 3.6 Water and electricity

**Monthly**

**Amount**

- ☐ Water and Electricity:  
☐ Other (please explain)

R

### 3.7 Maintenance expense

**Monthly**

**Amount**

- ☐ Living with family: insert name and contact details  
☐ Payment provided by court order  
☐ Other (please explain)

R

**NATIONAL CREDIT REGULATOR****FORM: 46 APPLICATION FORM FOR REGISTRATION AS A PAYMENT  
DISTRIBUTION AGENT IN TERMS OF SECTION 45 OF THE  
NATIONAL CREDIT ACT 34 OF 2005, AS AMENDED****General information**

The applicant must submit the completed application form together with the required documentation and application fee to the National Credit Regulator.

**PART 1 APPLICANT'S INFORMATION**

1. Name of applicant
2. Trading name of applicant
3. Legal status
  - 3.1 private company
  - 3.2 public company
  - 3.3 close corporation
  - 3.4 co-operative
4. Companies and Intellectual Property Commission (CIPC)/other official registration number
5. Date of commencement of trading
6. Financial year-end
7. Income tax registration number
8. Vat registration number
9. Which, if any, other regulated activity does the applicant engage in?
  - 9.1 Banking
  - 9.2 Insurance
  - 9.3 Debt collectors
  - 9.4 Financial advisory
  - 9.5 Other (specify)
10. Contact detail of the applicant
  - Physical address

Postal address

Telephone

Fax number

E-mail address (if applicable)

11. Name of auditor/independent reviewer/compiler

Telephone number

Fax number

E-mail address

Practice number

Name of professional body registered with (if applicable)

12. Name of attorney

Telephone number

Fax number

E-mail address

Practice number

Name of professional body registered with

13. Compliance

- Does the applicant comply with protection of personal information (POPI)?
- Does the applicant comply with the payment system in South Africa?

**PART 2 EDUCATION & EXPERIENCE**

**1. EDUCATION**

Qualification

Year achieved

Institution that issued the qualification (attach certified copies of certificates)

**2. EXPERIENCE**

Name of employer / self-employed

Date of employment

Position held

Responsibilities

Contact details

### **PART 3 QUESTION, CONCERNS AND COMPLAINTS**

1. Do you have a policy in place to handle questions, concerns and complaints?
2. Does this policy outline your commitment to handle questions, concerns and complaints as well as your internal systems and procedures for resolving questions, concerns and complaints?
3. Do these internal systems and procedures ensure that questions, concerns and complaints from consumers or credit providers are treated in a timely, efficient and courteous manner?
4. Do you have sufficient human resources to handle questions, concerns, and complaints from consumers and credit providers?
5. Is your human personnel adequately trained to handle questions, concerns, and complaints?
6. Are you prepared to train professional employees in accordance with these Regulations?
7. Are your facilities accessible to consumers and credit providers?

### **PART 4 DECLARATION BY APPLICANT**

1. The applicant hereby permits the National Credit Regulator or any person authorised by the National Credit Regulator, as set out in section 50(2)(a) to enter any place at or from which the applicant conducts the registered activities during normal business hours, to conduct reasonable enquiries for compliance purposes, including any act contemplated in sections 156(1)(d) to (h) of the Act.
2. The applicant confirms that the information contained in this application is accurate and complete.

**NATIONAL CREDIT REGULATOR****FORM: 47 APPLICATION FORM FOR REGISTRATION AS AN ALTERNATIVE  
DISPUTE RESOLUTION AGENT IN TERMS OF SECTION 134 A OF  
THE NATIONAL CREDIT ACT 34 OF 2005, AS AMENDED****General information**

The applicant must submit the completed application form together with the required documentation and application fee to the National Credit Regulator.

**PART 1 APPLICANT'S INFORMATION**

14. Name of applicant
15. Trading name of applicant
16. Legal status
  - 3.5 private company
  - 3.6 public company
  - 3.7 close corporation
  - 3.8 co-operative
17. Companies and Intellectual Property Commission (CIPC)/other official registration number
18. Date of commencement of trading
19. Financial year-end
20. Income tax registration number
21. Vat registration number
22. Which, if any, other regulated activity does the applicant engage in?

Specify:

23. Contact detail of the applicant
  - Physical address
  - Postal address
  - Telephone
  - Fax number
  - E-mail address (if applicable)

24. Name of auditor/independent reviewer/compiler  
Telephone number  
Fax number  
E-mail address  
Practice number  
Name of professional body registered with (if applicable)
25. Name of attorney  
Telephone number  
Fax number  
E-mail address  
Practice number  
Name of professional body registered with
26. Compliance
- Does the applicant comply with protection of personal information (POPI)?
  - Does the applicant comply with the payment system in South Africa?

### **PART 3 QUESTION, CONCERNS AND COMPLAINTS**

8. Do you have a policy in place to handle questions, concerns and complaints?
9. Does this policy outline your commitment to handle questions, concerns and complaints as well as your internal systems and procedures for resolving questions, concerns and complaints?
10. Do these internal systems and procedures ensure that questions, concerns and complaints from consumers or credit providers are treated in a timely, efficient and courteous manner?
11. Do you have sufficient human resources to handle questions, concerns, and complaints from consumers and credit providers?
12. Is your human personnel adequately trained to handle questions, concerns, and complaints?
13. Are you prepared to train professional employees in accordance with these Regulations?

14. Are your facilities accessible to consumers and credit providers?

#### **PART 4 DECLARATION BY APPLICANT**

3. The applicant hereby permits the National Credit Regulator or any person authorised by the National Credit Regulator, as set out in section 50(2)(a) to enter any place at or from which the applicant conducts the registered activities during normal business hours, to conduct reasonable enquiries for compliance purposes, including any act contemplated in sections 156(1)(d) to (h) of the Act.
4. The applicant confirms that the information contained in this application is accurate and complete.