



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Consumer And Corporate Regulation Division

**PRESENTATION TO PORTFOLIO COMMITTEE ON THE NATIONAL
CREDIT AMENDMENT BILL, 2017 DEALING WITH DEBT
INTERVENTIONS**

2 FEBRUARY 2018



PRESENTER

Mr. MacDonald Netshitenzhe

Acting Deputy Director General (DDG): Consumer and Corporate Regulations Division

Prof Joseph Maseko.

Executive Chairperson: National Consumer Tribunal

Ms Nomsa Motshegare

CEO-National Credit Regulator

INTRODUCTION

- The Department of Trade and Industry (**the dti**), the National Credit Regulator (NCR), the National Consumer Tribunal (NCT) welcomes the opportunity to comment on the National Credit Amendment Bill, Committee Bill dealing with Debt interventions.
- **the dti**, NCR and NCT are of the view that this Bill should be supported rather than inhibited noting the need and impact it is to have on the financially distressed consumers.

PREAMBLE

- We recommend that the Bill be referred for constitutional certification so as to alleviate all constitutional uncertainties.
- We recommend that the process of rule nisi be included when considering debt intervention applications with all interested parties having the opportunity to make submissions on the return date, thus complying with the audi alteram partem rule.
- We recommend that the credit providers be allowed to make submissions to the NCR during the application evaluation stage
- We recommend that the drafters from the relevant agencies of **the dti** to convene a task team- to make technical inputs into the crafting the Bill in order to align them to the policy position.

AMENDMENT TO SECTION 3

- Section 3, agree with the clause, with circumstances to be taken into account to qualify for debt intervention to both consumers who are over-indebted and/or in financial distress.
- Financial distress to be defined as described in s86 (7) (b)

AMENDMENTS TO SECTION 82

- Section 82A (1)- We agree with the clause- duty on credit providers to report suspected cases of reckless lending.
- Section 82A(3)- we support the section.
- Section 83(A) – insert a clause on cancellation of debt- in order to amend the principal Act.

AMENDMENT TO SECTION 88

- Section 88A relating to the definition of a debt intervention applicant is supported.
- Consider a definition of debt intervention.
- Section 88B- in favor of keeping internal within the NCR.
- CEO to appoint suitably qualified employees of the NCR as debt intervention officers to evaluate all applications for debt intervention. NCR capacity and infrastructure to be enhanced.
- Section 88B (4) (c)- NCR to refer to the NCT with recommendation- within a prescribed period.
- S- 88B (4) (b) If the NCR concludes that a consumer does not qualify for debt intervention, the NCR can refer that consumer to other relevant authorities.

AMENDMENT TO SECTION 88

- Sect 88C (1)- We wholly support the section (single member).
- Sect 88C (2) (c) (i) and (ii)- the provisions are supported subject to the determination mentioned in sub-paragraph (i) and (ii) being made by the NCR and not the NCT.
- It is recommend that any appeals against a single members judgement should be made to a full panel of three members.
- Sect 88C (3) (b)- refer to the NCR which will later refer to the NCT- before the 12 months.
- Sect 88C (5) – we support the section, and firstly we recommend the establishment of a specialized institution focusing on consumer education. Secondly we also recommend that financial literacy education be added into the basic education curricula at schools.

AMENDMENT TO SECTION 88

- Sect 88D (1) (b)-we propose the deletion of the section to align with the proposed section 88B (4) (b) – consumers are no longer under the proposed section 88B (4) (b) being referred to debt counselling.
- Sect 88D (1) (c)- we support the clause, however the conditions to be complied with should not be prescriptive and rigid in nature. The consumer should be in a position to make input into the conditions so as to enhance compliance.
- Sect 88D (7) –is supported.
- Sect 88E (1) to (6) -we support rehabilitation in general- but propose that the manner and timeframes be prescribed in regulations, thus deleting subsections (2) to (6). Subsection 7- reference to the Minister should be replaced with the CEO (NCR)

AMENDMENT TO SECTION 106

- Sect 106 (1A)- support the section- change the terminology to say the credit provider must require the consumer to enter and maintain...



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CONCLUSION

- **the dti**, NCR, NCT support the Bill in its entirety, issues of drafting and Socio-Economic Impact Assessment studies will be enhanced through the public comment.



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THANK YOU