

National Credit Regulator's application for a declaratory order on the interpretation of debt review provisions in the National Credit Act set down for hearing on the 2nd – 5th March 2009 at the Pretoria High Court

For Immediate Release

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1. The National Credit Regulator (NCR) launched an application early last year in the Pretoria High Court for a declaratory order on the interpretation of debt review provisions in the National Credit Act. This application is going to be heard on the 2nd – 5th March 2009.
2. The NCR decided to bring this application after receiving numerous complaints and, after investigation, discovered that the vast majority of debt restructuring proceedings in Magistrate's Courts all over South Africa were not being finalised because of differing views surrounding the proper interpretation of the debt review provisions in the National Credit Act. This had, and continues to have, a major impact on debtors in desperate need for relief by way of debt rearrangement orders as well as on credit providers whose debts are not being serviced.
3. Debt review is a novel mechanism, established in terms of Sections 86 & 87 of the National Credit Act for debtors who are over-indebted, or who are experiencing difficulty in meeting their repayment obligations and who, through the assistance of a debt counsellor, can negotiate with their credit providers, and if necessary, approach the Magistrate's Court for an order rearranging their obligations.
4. The NCR is of the view that the debt review proceedings should be as inexpensive, expeditious and informal as possible, given that debtors in need of debt re-arrangement are hardly in a position to go through expensive and time consuming court procedures, nor is it likely that such debtors can afford legal representation.
5. The NCR's application has been opposed by the four major banks, the Credit Providers Association of South Africa, the Furniture Traders Association of South Africa, Onecor (Pty) Ltd as well as one Mr. Juselius, a debt counsellor.

6. The NCR, in keeping with its objectives in terms of the National Credit Act, is seeking clarification, by way of a declaratory order, on the proper approach to be adopted in debt review proceedings. This included clarification on the powers, functions and the role of Magistrates in debt review proceedings as provided for in the National Credit Act. The NCR is confident that all parties involved in debt review proceedings would benefit from the clarification sought by the NCR as all parties will better understand the nature of such proceedings and the role played by the parties thereto including the role played by Magistrates presiding over debt review hearings.

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