

Media statement released by the National Credit Regulator pursuant to the judgment which was handed down by the Honourable Justice Ben du Plessis in the north Gauteng high court, Pretoria on 21 August 2009

For Immediate Release

August 2009

The National Credit Regulator ("NCR"), in keeping with its objectives in terms of the National Credit Act, 34 of 2005 ("NCA"), launched an application early last year in the Pretoria High Court seeking clarification, by the 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 as provided for in the NCA. The NCR had requested the High Court to declare, amongst others, that the procedure to be followed was an administrative one as opposed to a judicial one and consequently, the Magistrate's Court Act and its Rules were inapplicable. Furthermore, the NCR requested an Order to be made to the effect that whilst a consumer is in default, further interest and other charges could not be levied against the consumer once the total charges equalled the amount of the unpaid balance. The NCR also contended that there was no monetary limit to the jurisdiction of the Magistrate's Court to entertain debt review proceedings.

Judgment was handed down today by the Honourable Justice Ben Du Plessis of the North Gauteng High Court in Pretoria wherein clarification of the issues raised was obtained. In essence, the Court found, amongst others, that the Magistrates Court Rules were applicable to debt review proceedings. It also found that further interest and other charges could not be levied against the consumer once the total charges equalled the amount of the unpaid balance. The Court also ruled that the Magistrate's Court was not limited by any monetary jurisdiction when considering debt review proceedings.

The judgment is 48 pages long and the NCR is currently studying it to consider the way forward.

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