

GUIDELINE ON THE APPLICATION OF THE CREDIT LIFE INSURANCE REGULATIONS

1. INTRODUCTION

Section 16 (1) (b) of the National Credit Act 34 of 2005 ("the Act"), empowers the National Credit Regulator ("NCR") to provide guidance to credit market and industry by issuing explanatory notices on the interpretation of the Act.

2. PURPOSE OF THIS GUIDELINE

The purpose of this guideline is to provide guidance to the credit market on the interpretation and application of the Credit Life Insurance Regulations of 2017.

3. THE LEGAL PROVISIONS

3.1. Section 106 (1) of the Act states that:

"A credit provider may require a consumer to maintain during the term of their credit agreement-
(a) credit life insurance not exceeding, at any time during the life of the credit agreement, the total of the consumer's outstanding obligations to the credit provider in terms of their agreement."

3.2. Section 106 (2) of the Act states that:"a credit provider must not offer or demand that the consumer purchase or maintain insurance that is-

(a) unreasonable; or

(b) at an unreasonable cost to the consumer, having regard to the actual risk and liabilities involved in the credit agreement."

3.3. Section 106 (4) of the Act states that:

"If the credit provider proposes to the consumer the purchase of a particular policy of credit insurance as contemplated in subsection (1) or (3)-

(a) the consumer must be given, and be informed of, the right to waive that proposed policy and substitute a policy of the consumer's own choice, subject to subsection (6)".

3.4. The Credit Life Regulations apply to credit providers, and they provide for, amongst others, the maximum prescribed cost of credit life insurance (Regulation 3), exclusions and limitations of cover (Regulation 4), benefits in addition to the minimum benefits (Regulation 5), as well as substitution of credit life insurance policy (Regulation 7).

4. THE APPLICATION OF CREDIT LIFE INSURANCE REGULATIONS WHERE THE CREDIT PROVIDER HAS REQUIRED A CONSUMER TO MAINTAIN A CREDIT LIFE INSURANCE POLICY

4.1. Where a credit provider has required a consumer, through a condition in a credit agreement, to maintain a credit life insurance policy, and the consumer exercises the right to waive the proposed policy and to substitute a policy of the consumer's choice, the credit provider must accept the consumer's substitute policy if it complies with regulations 3 and 4 of the Credit Life Insurance Regulations. The credit provider must further inform the consumer in writing about the provisions of regulations 3 (3), 3 (4) and 3 (5) of the Credit Life Insurance Regulations.

4.2. Where a consumer exercises the right in terms of Section 106(4)(a) to substitute a credit life insurance policy of the consumer's choice at any time after the credit agreement is entered into, the credit provider must accept such substitution, provided that the new policy provides at least the benefits referred to in Regulation 3. The credit provider must further inform the consumer in writing about the provisions of Regulations 3 (3), 3 (4) and 3 (5) of the Credit Life Insurance Regulations.

4.3. Where a credit provider has required a consumer, through a condition in a credit agreement, to maintain a credit life insurance policy, and the consumer purchases the proposed policy from the credit provider, the credit provider must ensure that the credit life insurance policy complies with all the provisions of the Credit Life Insurance Regulations.

5. EFFECTIVE DATE

This Guideline is effective immediately.

FOR MORE INFORMATION, QUESTIONS OR CLARITY RELATING TO THIS GUIDELINE:

Please address all queries to the **Executive Legal Unit** at **ExecutiveLegalUnit@ncr.org.za**

Disclaimer:

While the NCR has taken reasonable care to ensure the factual accuracy of this Guideline, it cannot guarantee such accuracy, especially with regards to future events. Accordingly, NCR does not accept any liability for damages incurred by any party as a result of decisions or actions taken pursuant to this Guideline.