



THE SOUTH AFRICAN MEDICAL ASSOCIATION

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THE NATIONAL CREDIT ACT **Relevant Provisions for Medical Practices**

Introduction

The National Credit Act comes into effect on 1 June 2007. In terms of this Act, certain provisions will have a direct impact on medical practices. This summary will show what provisions are relevant to medical practices and what practitioners need to do to be compliant with the Act.

Incidental Credit Givers

Medical practices enter into what is called an “incidental credit agreement” with their patients. This type of agreement is defined in the Act as *“an agreement irrespective of its form, in terms of which an account was tendered for goods or services that have been provided to a consumer...and either or both of the following conditions apply: (a) a fee, charge or interest became payable when payment of an amount charged in terms of that account was not made on or before a determined period or date...”*

The Incidental Credit Agreement

In terms of the Act, the incidental credit agreement is deemed to come into existence on the date that is 20 business days (effectively a month) after the supplier of goods or services that are subject to the account first charges a late payment fee or interest in respect of that account. In other words no interest is charged for the first 20 business days

Registration as Credit Provider

As medical practices operate as incidental credit givers, there is no requirement to register as a credit provider. The Minister may at some point in the future require that registration occur, but this will be done by issuing a notice to that effect.

Charging of Interest

1. The interest that can be charged must be expressed in percentage terms as an annual rate which rate must not exceed the applicable maximum prescribed rate as determined by the Minister. The aggregate interest may also not exceed the unpaid balance of the principal debt under the credit agreement as at the time the default occurs. The interests rate for incidental credit agreements is 2% per month.
2. Default administration charges can be charged provided they do not exceed the applicable maximum for the category of credit agreement concerned. These charges may further only be imposed if the consumer has defaulted on a payment obligation under the credit agreement and if proper notice has been given (see Debt Enforcement below)
3. Collection charges which may not exceed the maximum for the category of credit agreement and provided that proper notice has been given (see Debt Enforcement below).



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In respect of an unpaid amount, recovery of a fee, charge or interest can only occur if the credit provider has disclosed, and the consumer has accepted, the amount of such fee, charge or interest, or the basis on which it may become payable, on or before the date on which the relevant goods or services were supplied.

Statement of Account

Once interest is being charged on an account, a statement of account must be offered to be furnished to the consumer and must meet the following requirements if the consumer requests such a statement of account:

- Issued monthly
- Opening balance shown in each successive statement of account
- No charge can be levied for issuing the statement of account
- The statement must include the following detail:
 - The current balance of the consumer's account
 - Any amounts credited or debited during a period specified in the request
 - Any amounts currently overdue and when each such amount became due
 - Any amount currently payable and the date it became due
- The statement requested must be delivered orally, in person or by telephone or in writing (including sms, fax, email, or other form of electronic communication) within 10 business days if the requested period is one year or less from the request and 20 days if the requested period is greater than one year prior to the request.
- A credit provider is not required to provide a further written statement if it has done so within three months before the request or if the information requested more than three years after the account was closed.

Debt Enforcement

The practitioner may not commence any legal proceedings against a consumer to enforce the agreement before first providing a written notice to the consumer drawing that consumer's attention to the default. Once the notice has been given to the consumer and the consumer either ignores the notice or rejects any proposals for settlement that may be contained in that notice and after 10 business days have elapsed, proceedings can be started.

Consent Form

In order to be compliant with the requirement of advising the consumer of the terms of the interest that will be charged, we urge all members to make use of the agreement/consent form which has been drafted by SAMA.

Conclusion

The above summary is not exhaustive. If in any doubt on any aspect of the above kindly ascertain the correct position before acting.