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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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No. 10929

STATE PRESIDENT'S OFFICE

No. 2100. 23 September 1987

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 62 of 1987: Usury Amendment Act, 1987.

KANTOOR VAN DIE STAATSPRESIDENT

No. 2100. 23 September 1987

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 62 van 1987: Woekerwysigingswet, 1987.

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GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

__________ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Usury Act, 1968, so as to define the expression "ledger fee" more fully; to make other provision regarding the determination of maximum finance charge rates; to emend the provisions regarding the disclosure of finance charges and annual finance charge rate; and to limit the application of the said Act in respect of a leasing transaction which expires and where the book value of the movable property leased in terms of such transaction, is nil; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 9 September 1987.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 73 of 1968, as amended by section 1 of Act 76 of 1970, section 1 of Act 62 of 1974, section 1 of Act 90 of 1980 and section 1 of Act 42 of 1986.

1. Section 1 of the Usury Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph *(b)* of the definition of "ledger fee" of the following paragraph:

"*(b)* a banking institution contemplated in paragraph *(a)* (or its wholly-owned subsidiary) for the **[initial]** issue and use of a credit card in terms of a credit card scheme operated by such banking institution or wholly-owned subsidiary as manager of such scheme;".

Amendment of section 2 of Act 73 of 1968, as substituted by section 2 of Act 90 of 1980 and amended by section 2 of Act 42 of 1986.

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

"(1) *(a)* No moneylender shall in connection with any money lending transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister.

(b) Different percentages may be determined under paragraph *(a)* for money lending transactions where the total amount of money lent by a moneylender to a borrower within any period of three months, including disbursements made by him within the said period and recoverable as part of the principal debt, is different.

(2) *(a)* No credit grantor shall in connection with any credit transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister.

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

________ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Woekerwet, 1968, ten einde die uitdrukking "grootboekgelde" meer volledig te omskryf; ander voorsiening te maak met betrekking tot die bepaling van maksimum finansieringskostekoerse; die bepalings betreffende die bekendmaking van finansieringskoste en finansieringskostekoers per jaar te verbeter; en die toepassing van genoemde Wet te beperk ten opsigte van 'n huurtransaksie wat verstryk en waar die boekwaarde van die roerende goed ingevolge daardie transaksie verhuur, nul is; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 9 September 1987.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 73 van 1968, soos gewysig deur artikel 1 van Wet 76 van 1970, artikel 1 van Wet 62 van 1974, artikel 1 van Wet 90 van 1980 en artikel 1 van Wet 42 van 1986.

1. Artikel 1 van die Woekerwet, 1968 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf *(b)* van die omskrywing van "grootboekgelde" deur die volgende paragraaf te vervang:

"*(b)* 'n bankinstelling bedoel in paragraaf *(a)* (of sy volfiliaal) vir die **[aanvanklike]** uitreiking en gebruik van 'n kredietkaart ingevolge 'n kredietkaartskema wat deur so 'n bankinstelling of volfiliaal as bestuurder van sodanige skema bedryf word;".

Wysiging van artikel 2 van Wet 73 van 1968, soos vervang deur artikel 2 van Wet 90 van 1980 en gewysig deur artikel 2 van Wet 42 van 1986.

2. Artikel 2 van die Hoofwet word hierby gewysig—

(a) deur subartikels (1), (2) en (3) deur onderskeidelik die volgende subartikels te vervang:

"(1) *(a)* 'n Gelduitlener beding, eis of ontvang nie finansieringskoste in verband met 'n geldleningstransaksie nie teen 'n finansieringskostekoers per jaar van meer as die persentasie deur die Registrateur by kennisgewing in die *Staatskoerant* ooreenkomstig die voorskrifte van die Minister bepaal.

(b) Verskillende persentasies kan kragtens paragraaf *(a)* bepaal word vir geldleningstransaksies waar die totale bedrag geld wat deur 'n gelduitlener binne 'n tydperk van drie maande aan 'n geldopnemer geleen is, met inbegrip van uitgawes wat binne bedoelde tydperk deur hom uitbetaal is, en as deel van die hoofskuld verhaalbaar is, verskillend is.

(2) *(a)* 'n Kredietgewer beding, eis of ontvang nie finansieringskoste in verband met 'n kredniettransaksie nie teen 'n finansieringskostekoers per jaar van meer as die persentasie deur die Registrateur by kennisgewing in die *Staatskoerant* ooreenkomstig die voorskrifte van die Minister bepaal.

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(b) Different percentages may be determined under paragraph *(a)* for credit transactions of different money values of the principal debt.

(3) *(a)* No lessor shall in connection with any leasing transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister.

(b) Different percentages may be determined under paragraph *(a)* for leasing transactions of different money values of the principal debt."; and

(b) by the addition of the following subsection:

"(13) A notice referred to in subsections (1), (2) and (3) may be withdrawn or amended at any time.".

Amendment of section 3 of Act 73 of 1968, as amended by section 3 of Act 76 of 1970, section 3 of Act 62 of 1974, section 4 of Act 90 of 1980 and section 4 of Act 42 of 1986.

3. Section 3 of the principal Act is hereby amended—

(a) by the substitution for paragraphs *(d)* and *(e)* of subsection (1) of the following paragraphs, respectively:

"*(d)* the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph *(e)*;

(e) the **[finance charges expressed as an]** annual finance charge rate; and";

(b) by the substitution for paragraphs *(e)* and *(f)* of subsection (2) of the following paragraphs, respectively:

"*(e)* the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph *(f)*;

(f) the **[finance charges expressed as an]** annual finance charge rate; and"; and

(c) by the substitution for paragraphs *(g)* and *(h)* of subsection (2A) of the following paragraphs, respectively:

"*(g)* the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph *(h)*;

(h) the **[finance charges expressed as an]** annual finance charge rate;".

Amendment of section 5 of Act 73 of 1968, as substituted by section 8 of Act 90 of 1980 and amended by section 6 of Act 42 of 1986.

4. Section 5 of the principal Act is hereby amended by the substitution for paragraph *(c)* of subsection (1) of the following paragraph:

"*(c)* finance charges on the principal debt and, if applicable, in terms of section 2A (1) *(a)* and on the amount referred to in paragraph *(b)* at an annual finance charge rate not exceeding the relevant rate **[prescribed]** determined by or in terms of section 2 (1), (2) or (3) or contemplated in section 2A (1) in respect of the money lending transaction or credit transaction or leasing transaction;".

Amendment of section 6K of Act 73 of 1968, as inserted by section 10 of Act 90 of 1980 and amended by section 7 of Act 42 of 1986.

5. Section 6K of the principal Act is hereby amended by the insertion of the following subsection after subsection (3):

"(3A) *(a)* The provisions of subsections (1) and (3) shall not apply in respect of a leasing transaction which expires and in respect of which the book value of the movable property leased in terms of such transaction, is nil.

(b) If, on expiry of the leasing transaction referred to in paragraph *(a)*, the movable property in question is leased by the former lessor to the former lessee in terms of a new leasing transaction, the provisions of this Act shall not apply to such new transaction.".

Short title and commencement.

6. This Act shall be called the Usury Amendment Act, 1987, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

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(b) Verskillende persentasies kan kragtens paragraaf *(a)* bepaal word vir krediettransaksies van verskillende geldwaardes van die hoofskuld.

(3) *(a)* 'n Verhuurder beding, eis of ontvang nie finansieringskoste in verband met 'n huurtransaksie nie teen 'n finansieringskostekoers per jaar van meer as die persentasie deur die Registrateur by kennisgewing in die *Staatskoerant* ooreenkomstig die voorskrifte van die Minister bepaal.

(b) Verskillende persentasies kan kragtens paragraaf *(a)* bepaal word vir huurtransaksies van verskillende geldwaardes van die hoofskuld."; en

(b) deur die volgende subartikel by te voeg:

"(13) 'n Kennisgewing bedoel in subartikels (1), (2) en (3), kan te eniger tyd ingetrek of gewysig word.".

Wysiging van artikel 3 van Wet 73 van 1968, soos gewysig deur artikel 3 van Wet 76 van 1970, artikel 3 van Wet 62 van 1974, artikel 4 van Wet 90 van 1980 en artikel 4 van Wet 42 van 1986.

3. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur paragrawe *(d)* en *(e)* van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:

"*(d)* die bedrag in rand en sente van die finansieringskoste bereken teen die finansieringskostekoers per jaar in paragraaf *(e)* vermeld;

(e) die **[finansieringskoste uitgedruk as 'n]** finansieringskostekoers per jaar; en";

(b) deur paragrawe *(e)* en *(f)* van subartikel (2) deur onderskeidelik die volgende paragrawe te vervang:

"*(e)* die bedrag in rand en sente van die finansieringskoste bereken teen die finansieringskostekoers per jaar in paragraaf *(f)* vermeld;

(f) die **[finansieringskoste uitgedruk as 'n]** finansieringskostekoers per jaar; en"; en

(c) deur paragrawe *(g)* en *(h)* van subartikel (2A) deur onderskeidelik die volgende paragrawe te vervang:

"*(g)* die bedrag in rand en sente van die finansieringskoste bereken teen die finansieringskostekoers per jaar in paragraaf *(h)* vermeld;

(h) die **[finansieringskoste uitgedruk as 'n]** finansieringskostekoers per jaar;".

Wysiging van artikel 5 van Wet 73 van 1968, soos vervang deur artikel 8 van Wet 90 van 1980 en gewysig deur artikel 6 van Wet 42 van 1986.

4. Artikel 5 van die Hoofwet word hierby gewysig deur paragraaf *(c)* van subartikel (1) deur die volgende paragraaf te vervang:

"*(c)* finansieringskoste op die hoofskuld en, indien toepaslik, ingevolge artikel 2A (1) *(a)* en op die bedrag in paragraaf *(b)* bedoel teen 'n finansieringskostekoers per jaar wat nie hoër is nie as die toepaslike koers wat ten opsigte van die geldleningstransaksie of krediettransaksie of huurtransaksie deur of ingevolge artikel 2 (1), (2) of (3) **[voorgeskryf]** bepaal is, of in artikel 2A (1) beoog word;".

Wysiging van artikel 6K van Wet 73 van 1968, soos ingevoeg deur artikel 10 van Wet 90 van 1980 en gewysig deur artikel 7 van Wet 42 van 1986.

5. Artikel 6K van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

"(3A) *(a)* Die bepalings van subartikels (1) en (3) is nie van toepassing nie ten opsigte van 'n huurtransaksie wat verstryk en ten opsigte waarvan die boekwaarde van die roerende goed ingevolge daardie transaksie verhuur, nul is.

(b) Indien, by die verstryking van 'n huurtransaksie in paragraaf *(a)* bedoel, die betrokke roerende goed deur die voormalige verhuurder aan die voormalige huurder ingevolge 'n nuwe huurtransaksie verhuur word, is die bepalings van hierdie Wet nie op sodanige nuwe transaksie van toepassing nie.".

Kort titel en inwerkingtreding.

6. Hierdie Wet heet die Woekerwysigingswet, 1987, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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