

Request for written comments-reckless lending fee category

CIRCULAR 06 OF 2018

In September 2018, the National Credit Regulator (NCR) through circular no.5 of 2018, issued a notice of its intention to withdraw the reckless lending fee category from the Debt Counselling Fee Guideline. This notice has been published in the Government Gazette for public comments and the credit industry is invited to submit written comments to dcinfo@ncr.org.za by **31 October 2018**.

Below is a table of the proposed amended restructuring fee category from the Debt Counselling Fee Guideline:

RESTRUCTURING FEE CATEGORY TO BE AMENDED			
Step	Services	Amount (excl. VAT)	By when it should be paid
Restructuring fee	(a) Acceptance process as per Form 17.2(b);	For a single application (one consumer):	Payable in Month 1 and only after the drafting and submission of the restructuring proposals.
	(b) Restructuring proposal preparation;	(a) the fee is either equal to the distributable amount** or a maximum fee of R 8 000, whichever amount is the lesser.	
	(c) Loading the plan on the debt counsellor's PDA*** profile;		For a joint application (more than one consumer and usually married in community of property):
	(d) Negotiating with credit providers;	Should a Debt Counsellor fail to submit proposals to Credit Providers or refer the matter to the NCT **** or a Magistrate Court within 60 business days from date of the debt counselling application, the Debt Counsellor has to refund 100% of the restructuring fee paid by the consumer (excluding the application and administration fee).	
	(e) Submitting the final restructuring proposal;		
	(f) Supplying debt counselling documents to an attorney to draft a court application;	(a) the fee is either equal to the distributable amount or a maximum fee of R 9 000, whichever amount is the lesser.	Should there be more funds remaining from the consumer's distributable amount** after payment of the restructuring fee, the debt counsellor should where feasible encourage the consumer(s) to make payments to credit providers within the same month.
	(g) Updating the DHS*;		

Step	Services	Amount (excl. VAT)	By when it should be paid
	(h) Transferring of the consumer(s);		
	(i) Instruction to an attorney to draft a Court application / collation and filing of NCT**** application;		
	(j) Withdrawal by consumer(s) (Form 17.W process);		
	(k) Conducting the reckless lending allegation (as per section 86(6) (b) of the Act;		
	(l) Notifying the consumer(s) and credit provider(s) of the outcome of the assessment; and		
	(m) Supplying reckless lending documents to an attorney to draft the affidavit on the assessment outcome.		

GLOSSARY

***DHS** means the Debt Help System;

****Distributable amount** means the amount payable to the credit providers as per the initial debt re-arrangement plan;

*****PDA** means a Payment Distribution Agent registered with the National Credit Regulator I terms of Section 44A of the National Credit Act 34 of 2005 as amended(" the Act"); and

******NCT** means the National Consumer Tribunal as established in terms of the Act.

FOR MORE INFORMATION

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