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GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

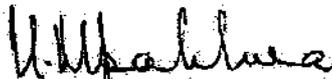
No. 789

28 August 2007

NATIONAL CREDIT ACT, 2005

Rules for the conduct of matters before the National Consumer Tribunal

In terms of section 171 of the National Credit Act, 2005 (Act No. 34 of 2005), I, Mandisi Mpahlwa, Minister of Trade and Industry, in consultation with the Chairperson of the National Consumer Tribunal, hereby make regulations for matters relating to the functions of the Tribunal and rules for the conduct of matters before the Tribunal, as set out in the Schedule hereto.



Mandisi Mpahlwa

Minister of Trade and Industry

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Part A

Interpretation and definitions

Definitions

1. In these rules any word or expression to which a meaning has been assigned in the Act bears the same meaning, and unless the context indicates otherwise-

"Applicant" means the person initiating proceedings before the Tribunal;

"Form NCR" means a form contained in the National Credit Regulations, 2006

"Form TI" means a Form contained in these rules

"file or filing" means, in relation to the Tribunal, to deliver in terms of rules 30 to 31

"party" to any matter includes an Applicant, Respondent, intervener, or any party joined in or substituted for another

"record" includes an electronic record and a voice recording;

"referral" includes, where applicable, all the documents and other records appended to a referral;

"registered mail" includes any type of mail with tracking capability;

"Registrar" means a person performing the functions of the Tribunal Registrar and includes any acting or assistant Registrar

"Sheriff" means a person appointed as a sheriff, acting sheriff or deputy sheriff in terms of the Sheriff's Act, 1986 (Act 90 of 1986)

PART B**ACCESS TO AND FUNCTIONS OF THE TRIBUNAL****Office hours and address of the Tribunal**

2. (1) The offices of the Tribunal are open to the public Monday to Friday, excluding public holidays, from 09:00 to 16:00.

(2) Any communication to the Tribunal may be:

- (a) Delivered by hand to:
The Chairperson
The National Consumer Tribunal
Ground Floor, Building B,
272 West Avenue
Lakeland Office Park
CENTURION, Pretoria
- (b) Addressed by registered mail to:
The Chairperson
The National Consumer Tribunal
Private Bag X 110
CENTURION
0046
- (c) Communicated by telephone to (012) 663 5615.
- (d) Transmitted by facsimile to (012) 663 5693.
- (e) Transmitted by electronic mail to registry@thenct.org.za.

Powers of the Tribunal

3. (1) The Tribunal may deal with a matter:

- (a) listed in Table 1 of these rules;
- (b) referred to the Tribunal in terms of s134(2)(c) of the Act;
- (c) originating as a complaint to the Regulator or arising from a complaint, and referred to the Tribunal in terms of s137(1), s140 or s141(1)(b) of the Act;
- (d) which, is referred to the Tribunal in terms of s137(3) of the Act;

(2) The Tribunal may:

- (a) grant interim relief in respect of a matter described in rule 3(1)(c);
- (b) confirm a consent agreement entered into between parties (s138);
- (c) consider applications related to an adjudication process—
 - (i) to intervene in proceedings in terms of rules 11 and 12;
 - (ii) to amend documents in terms of rule 15;
 - (iii) to change the forum at which a matter will be heard in terms of section 140(4) or 141(2)(a);
 - (iv) to condone non-compliance with the rules and proceedings of the Tribunal;
 - (v) for an order of substituted service in terms of rule 30;
 - (vi) to grant a default order in terms of rule 25; or
 - (vii) relating to other procedural matters;
- (d) in respect of its prior rulings, consider—
 - (i) matters on appeal in terms of s148(1);
 - (ii) an application in terms of s165 for the variation or rescission of a decision or order.
- (e) distribute a remittance in terms of s127(6); and
- (f) deal with any other matter in accordance with rule 10.

PART C APPLICATIONS

Proceedings before the Tribunal

4.(1) An Applicant must comply with the requirements set out in Table 2 of the rules for the type of application being made, in respect of :

- (a) the time within which the application must be made;
- (b) the form to be used;
- (c) documents and information required;
- (d) any application fee that is payable;
- (e) the parties requiring notification of the application; and
- (f) the documents that must be served on them.

(2) If an application relates to a matter contemplated in rule 3(2)(c) that is not specifically provided for in Table 2, the Applicant must:

- (a) apply by way of Notice of Motion in Form TL.r4;
- (b) append a supporting affidavit setting out the facts on which the application is based;
- (c) serve the Notice and affidavit on the Respondent and other parties to the matter; and
- (d) file the application documents and proof of service with the Registrar.

(3) If the Applicant is a company or other corporate entity, the officer signing the application must append a copy of the board resolution or other proof of authority to act on behalf of that company or entity.

Fees

5. (1) If a fee is payable in respect of a matter:
 - a) it must be deposited in cash or transferred by way of electronic funds transfer into the Tribunal's designated bank account before the application is submitted; and
 - b) a copy of the deposit slip or a print-out of the transfer record must be included in the application documents as proof of service.
- c) The Tribunal's designated account can be requested from the Registrar in a manner provided for in sub-rule 2(2).

Notification of parties and service of application documents

6. (a) The Applicant must notify the persons mentioned in column g of Table 2 by serving on them the documents required under column h of that Table.
- (b) The application documents must include a proof of service for every person requiring notification.
- (c) Notification and service must comply with rule 30.

Filing an application

7.(1) Once notification of an application has been served in terms of rule 6, the application must be filed with the Registrar.

- (2) An application is filed by delivery of the relevant Form and all the documents listed in column e of Table 2, if applicable, or as required elsewhere in these rules, to the Registrar.
- (3) Applications to the Tribunal must be addressed to the Registrar and:
- (a) delivered to the physical address;
 - (b) sent by registered mail to the postal address ;
 - (c) sent by fax; or
 - (d) sent by e-mail.
- (4) In response to an application, the Registrar must –
- (a) allocate a unique reference number to the matter;
 - (b) send the Applicant and the parties on whom the application was served an acknowledgment of receipt within 3 business days of receipt.
- (5) The filing of an application must comply with the general rules for delivery of documents in terms of these rules.

Incomplete applications

8. If an application does not satisfy the requirements of the rules–

- (a) the Registrar may within the time mentioned in rule 7(4)(b), notify the Applicant and the other parties of the defect; and
- (b) the Applicant may within a time permitted by the Registrar–
 - (i) complete the application; and
 - (ii) if required to do so, serve additional documents or information on the parties.

Deemed applications

9.(1) If the Tribunal grants leave in terms of s137(1)(d) of the Act for a complaint submitted to the National Credit Regulator to be brought directly before the Tribunal the Complainant—

- (a) in the referred matter will become the Applicant to the Tribunal; and
- (b) must proceed in accordance with the rules applicable to the type of application made, provided that no application fee is payable.

(2) If:

- (a) a Respondent to a matter, that has been referred to alternative dispute resolution in terms of s134(1)(b)(ii) of the Act objects in writing to the referral;
- (b) the objection was noted within 10 business days of the referral; and
- (c) the matter could give rise to an application listed in Table 1,,
- (d) the matter will be deemed to be an application to the Tribunal.

(3) On receiving notification in terms of rule 9(2)(b), the person who referred the matter to alternative dispute resolution may apply to the Tribunal according to the rules governing such an application.

Applications in respect of matters not provided for in the rules

10.(1) A person wishing to bring before the Tribunal a matter which is not listed in rule 3, or otherwise provided for in these rules, must first apply to the High Court for a declaratory order confirming the Tribunal's jurisdiction —

- (a) to deal with the matter;
- (b) to grant the order to be sought from the Tribunal.

(2) The Tribunal must be served with a notice of an application under rule 10(1).

(3) If the High Court issues the declaratory order, the Registrar must notify the Applicant of—

- (a) the appropriate Form to be used and the manner in which the matter may be brought before the Tribunal;
- (b) the fee payable;
- (c) the parties to be notified; and
- (d) documents to be served.

Interventions by notice

11.(1) The National Credit Regulator may intervene before the Tribunal in any matter referred in terms of s137(4) of the Act.

(2) An intervention in terms of rule 11(1) must be

- (a)** by way of a notice of intervention in Form TI.r11,
- (b)** served on the Applicant and every other party on whom the application was served; and
- (c)** filed with the Tribunal.

(3) The notice of intervention of the National Credit Regulator must include a description of the—

- (a)** nature of the interest of the National Credit Regulator in the proceedings; and
- (b)** aspect on which the National Credit Regulator will make representations.

Interventions by application

12. (1) An intervention other than in terms of rule 11(1) must be—

- (a)** by application on Form TI.r12:
- (b)** served on the Applicant and every other party on whom the application was served; and
- (c)** filed with the Registrar.

(2) The application to intervene must include a concise statement of the nature of the interest of the Applicant in the proceedings and the aspect on which the Applicant will make representations.

(3) The presiding member in the principal matter may at his or her discretion—

- (a)** grant the application to intervene without a hearing;
- (b)** hear the application concurrently with the principal matter; or
- (c)** hear the application before the principal matter.

Opposing an application or referral

13. (1) Any person required by these rules to be notified of an application or referral to the Tribunal may oppose the application or referral by serving an answering affidavit on:

- (a)** the Applicant; and

- (b) every other person on whom the application was served.
- (2) An answering affidavit to an application or referral other than an application for interim relief must be served on the parties and filed with the Registrar within 15 business days of the date of the application.
- (3) An answering affidavit to an application for interim relief must be served on the parties and filed with the Registrar within 10 business days of the application date, or within a shorter period, if directed by the Registrar by notice in writing.
- (4) The answering affidavit must set out in numbered paragraphs—
- (a) a concise statement of the grounds on which the matter is opposed;
 - (b) facts or allegations contained in the application or referral that the Respondent admits;
 - (c) facts or allegations contained in the application or referral that the Respondent denies and the grounds for such denial; and
 - (d) the material facts or points of law on which the Respondent relies.
- (5) Any fact or allegation in the application or referral not specifically denied or admitted in an answering affidavit, will be deemed to have been admitted.
- (6) Within 3 business days of serving an answering affidavit in terms of rule 13(1), the Respondent must file with the Registrar:
- (a) a cover sheet describing the matter and stating its Tribunal Reference Number;
 - (b) a copy of the answering affidavit; and
 - (c) proof of service in accordance with rule 30(3) for the persons mentioned in rules 13(1)(a) and (b).

Reply by Applicant

14.(1) The Applicant may within 10 business days of being served with an answering affidavit, lodge a replying affidavit to any new issues raised in the answering affidavit, other than a point of law.

- (2) A replying affidavit must set out in numbered paragraphs—
- (a) an admission or denial of each new ground or material fact raised in the answering affidavit; and
 - (b) the position of the Applicant on any point of law raised in the answering affidavit.

(3) The Applicant must –

- (a) serve the replying affidavit on the Respondent and on every other person who had to be notified of the application; and
- (b) file the replying affidavit with the Registrar, together with –
 - (i) a cover sheet describing the matter and stating its Tribunal Reference Number; and
 - (ii) proof of service in accordance with rule 30(3) for the persons mentioned in rule 14(3)(a).

(4) If the Applicant does not file a replying affidavit, the Applicant will be deemed to have denied each new issue raised in the answering affidavit and each allegation of fact relevant to each of those issues.

Amendment of documents

15. (1) An Applicant or Respondent may at any time prior to the conclusion of the hearing of the matter, apply by way of Form TLr15 for an order authorising an amendment of the application or response.

(2) A party affected by an amendment may respond within a time allowed by the Tribunal.

Joinder or substitution of parties

16. (1) A presiding member may combine any number of persons, either jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their rights to relief depend on the determination of substantially the same questions of law or fact.

(2) A party to proceedings, on giving notice to the other parties, may apply to the presiding member for an order to substitute a person for a current party.

(3) A joinder or substitution in terms of these rules will not affect the validity of any prior proceedings in the matter.

PART D HEARINGS

Allocation of matters and pre-hearing procedures

17. (1) Within 5 business days from the date on which an application was found to comply with all formal requirements, the Chairperson must—

- (a) if it is a matter to be considered by a single member, allocate the matter to a member of the Tribunal who shall be the presiding member; or
- (b) if it is a matter to be considered by a panel, allocate the matter to a panel of the Tribunal and appoint one of the panel members as the presiding member.

(3) Prior to a hearing, the presiding member may confer with the parties to the matter.

(4) A pre-hearing conference—

- (a) may be in person, by telephone, via video-conferencing or other means of telecommunication;
- (b) need not follow any formal procedures;
- (c) may be adjourned and re-convened; and
- (d) is not open to the public.

(5) At a pre-hearing conference, the presiding member may—

- (a) give directions for the clarification or simplification of issues;
- (b) obtain admissions of facts or documents;
- (c) set the time within which any evidence must be obtained or preparations for the hearing must be complete;
- (d) determine the treatment of confidential information;
- (e) determine procedures to be followed at a hearing;
- (f) determine the date, time and place of a hearing; or
- (g) attend to any other matter that might assist with the proceedings or to resolve the matter.

(6) If the presiding member considers that it would be practical to resolve any point of law before proceeding with a pre-hearing conference, the member may —

- (a) direct the Registrar to set down that point of law for a hearing by the Tribunal; and

- (b) may adjourn or postpone the conference pending the outcome of the hearing.

(7) In any matter which originated as a complaint to the National Credit Regulator, and was referred to the Tribunal in terms of s137(1), s140 or s141(1)(b), the presiding member may direct the National Credit Regulator to investigate or further investigate the matter or to procure specified evidence.

(8) At the conclusion of pre-hearing procedures, the presiding member must –

- (a) issue a notice recording any agreements or rulings relating to the matter dealt with;
- (b) publish the notice to the parties and file it with the Registrar; and
- (c) direct that the Registrar to set the matter down for the time and place specified in rule 17(5)(f).

Set down and postponements

18. (1) The Registrar must issue a notice of set-down to the parties in a matter that is set down for hearing.

(2) A party to the proceedings may apply for a postponement and, if permitted by the presiding member, the Registrar may notify the other parties of the postponement by issuing a supervening notice of set-down.

Withdrawal of matters

19. (1) An Applicant, before an application has been decided, may withdraw all or part of the application by–

- (a) serving a notice of withdrawal in Form T1.r19 on the other parties; and
- (b) filing with the Registrar a copy of the notice of withdrawal with proof of service.

(2) A notice of withdrawal may include a consent to pay costs, or the other party may apply to the Tribunal for an order for costs.

Consent orders

20. (1) The Tribunal may confirm a resolution or agreement as a consent order –

- (a) on application by the facilitator of that resolution or agreement; and
- (b) without hearing any evidence.

(2) Upon the receipt of an application for a consent order, the Chairperson must allocate the matter for adjudication.

(3) If the Tribunal refuses to make the consent order applied for, or requires any changes that a party is unwilling to accept, the Registrar must serve on each party to the agreement or resolution–

- (a) a notice that the application has been refused; and
- (b) a copy of the agreement or resolution in its original form, in respect of which the application was refused.

Hearings

21. (1) A hearing must be informal and follow procedures determined by the presiding member in terms of rule 17(5)(e) at any time during a hearing.

(2) The Tribunal will be the judge of the admissibility of any evidence adduced and of its probative value.

(3) The hearings of the Tribunal are open to the public unless otherwise determined by the Presiding Member

(4) In a hearing for interim relief, only evidence by affidavit will be admitted, subject to sub-rule (2).

(5) If the Tribunal requires a witness to give evidence at proceedings, the presiding member may have a subpoena issued, specifying any document or item the witness will be required to produce.

(6) A subpoena must be served by the Sheriff in a manner authorised by Rule 4 of the High Court Rules.

(7) A witness must take an oath or affirm the undertaking contained in Table 3.

(8) The Tribunal may order that a witness–

- (a) be paid in accordance with the tariff of allowances published by the Minister responsible for Justice by notice in the Gazette in terms section 42 of the Supreme Court Act, 1959 (Act No. 59 of 1959);
- (b) be paid a portion of the amount permitted under paragraph(a); or
- (c) not be paid.

(9) A party requiring the services of an interpreter must notify the Registrar at least 10 business days prior to the date for which the matter has been set down.

(10) An interpreter—

- (a) will be procured at the expense of the Tribunal;
- (b) must be a person admitted as a sworn translator of the High Court; or
- (c) must take an oath or affirm the undertaking contained in Table 3, with a signed copy to form part of the record of the proceedings.

(11) The presiding member may condone any technical irregularities in the conduct of proceedings.

Settlement conference

22. At any time prior to making a final order in relation to a matter, the member or panel, as the case may be, may order an adjournment of the proceedings to allow an opportunity for the parties to reach agreement on an issue.

Record of hearing

23. (1) The Registrar must compile a record of the proceedings in respect of any matter that has come before the Tribunal, comprising of:

- (a) the application documents;
- (b) notices;
- (c) the presiding member's record of pre-hearing procedures;
- (c) any interlocutory orders made by the Tribunal;
- (d) all documentary evidence;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) a written record of the Tribunal's final decision with reasons.

Matters struck-off

24. The presiding member—

- (a) may strike a matter off the roll if the Applicant is not present at the hearing;
- (b) may re-enrol the matter only if the Applicant files an affidavit which explains the failure to attend the hearing to the satisfaction of the presiding member.

Orders and awards of the Tribunal

25. (1) The Tribunal may make the orders contemplated in section 150 of the Act.

(2) An Applicant may apply for a default order against a party, if no response to the application was filed within the time stated in the application.

(3) The Tribunal may make an order in terms of sub-rule (2)

- (a) after it has considered or heard any necessary evidence; and
- (b) if it is satisfied that the application documents were adequately served.

(4) The Tribunal may award costs in the circumstances contemplated in section 147 of the Act, in the following terms—

- (a) the fees of a single representative may be allowed between party and party;
- (b) the costs between party and party must be taxed by the Registrar according to the tariff agreed between the parties or otherwise according to the tariff applicable in the High Court;
- (c) the Registrar may tax a bill of costs for services actually rendered in connection with proceedings, and call for any book, document paper or account that in the opinion of the Registrar is necessary to properly determine any matter relating to the taxation.

(5) The Registrar must not proceed to tax any bill of costs unless the party liable to pay the bill—

- (a) is the party requesting the taxation;
- (b) failed to appear and was not represented at the hearing;
- (c) consented in writing to the taxation taking place in absentia; or
- (d) received due notice as to the time and place of the taxation and of the party's right to be present.

(6) The Registrar may delegate any of the responsibilities imposed under sub-rules (4) and (5) to a suitably qualified person in the employ of the Tribunal to conduct the taxation of bills of costs.

(7) The Tribunal may award punitive costs against any party who is found to have made a frivolous or vexatious application to the Tribunal.

(8) The taxation of costs is subject to the review of the High Court on application.

Appeals

26. (1) An appeal lodged against a ruling of a single member of the Consumer Tribunal must be referred by the Chairperson to an appeal panel consisting of three of the panel;
- (2) The Notice of Appeal must-
- (a) be lodged with the Registrar within 20 days of the ruling;
 - (b) set out concisely the grounds of appeal;
 - (c) be accompanied by a record of the ruling ; and
 - (d) attach any relevant documentation.
- (3) The appellant must deliver a copy of the Notice of Appeal and relevant documentation to the respondent within 2 days of lodging such documents with the Registrar.
- (4) The respondent may file with the Registrar a replying affidavit within 15 days of receipt of the Notice of Appeal and deliver a copy of such notice to the Appellant.
- (5) The appellant must prepare:
- (a) 4 copies of the record of the hearing appealed against; and
 - (b) 4 copies of the of the appeal documentation, and index and paginate such documents in a separate bundles..
- (6) The bundles contemplated in sub-regulation (5) must be delivered to the Registrar within 5 days of the filing of the respondent's replying affidavit or in the absence of a reply within 5 days of the lapse of the period provided for in sub-rule (4);
- (7) The respondent may, within 5 days supplement the bundles in the event of any relevant documents being omitted.
- (8) Upon the filing of a Notice of Appeal, the Registrar must –
- (a) in consultation with the Chairperson, set down a date and time for the hearing of the appeal;
 - (b) deliver a notice of set down on every party to the matter appealed against.
- (9) The parties and their legal representatives may appear at the appeal hearing;
- (10) A party that wishes to submit heads of argument must deliver within 48 hours of the hearing, 4 copies of the heads of argument to the Registrar and a copy to the other party.

Decision of the Appeal Panel

27. (1) The appeal panel may refer any matter to a panel appointed by the Chairperson for re-consideration or for such action as the appeal panel may decide.
- (2) The appeal panel may not be confined to the record of the proceedings before a single member and may:
- (a) call for additional documentation and representations from the parties on any matter relevant to the complaint; or
 - (b) procure expert evidence and further research.
- (3) The appeal panel, in collaboration with the Chairperson, may take any steps as are reasonable necessary for the just and effective determination of the appeal.

Rules relating to court orders and court notices

28. (1) A court which in terms of section 130(4)(d), serves an order or delivers a notice to the Tribunal must, in either case,
- (a) identify the parties to the court proceeding;
 - (b) identify the credit agreement concerned;
 - (c) specify the date on which application was made to the court;
 - (d) cite the matter as it is cited before that court;
 - (e) cite the Tribunal Reference Number of the matter;
- (2) In respect of an order, state how the matter before the Tribunal affects the issues to be determined by the court;
- (3) In respect of a notice, state how the court depends on the outcome of the matter before the Tribunal in order to conclude its own matter.
- (4) An order or notification under rule 28 must be served or delivered in accordance with the general rules relating to the service or delivery of documents provided for in rule 30.
- (5) Within 5 business days of receipt of an order under section 130 the Registrar must send a notice of adjournment to the Applicant and any other parties to the matter before the Tribunal.

Certificate of prohibited or required conduct

29. (1) An application for a notice in terms of section 164(3)(b) of the Act must –

- (a) be made in the form of Tl.164(3)(b);
 - (b) refer to the matter in which the finding was made;
- (2) The Chairperson must issue a section 164(3)(b) notice if –
- a. the applicant has satisfied the requirements of this rule; and
 - b. the conduct was found by the Tribunal to be prohibited or required in terms of the Act.
- (3) A section 164(3)(b) notice must –
- (a) be issued in the form of TO.164(3);
 - (b) be signed by the Chairperson;
 - (c) name the claimant;
 - (d) describe in detail the conduct which was found to be a prohibited or required conduct in terms of the Act;
 - (e) state the specific section of the Act in terms of which the conduct was found to constitute prohibited or required conduct ;; and
- c. set out the basis on which the finding was made.

PART E GENERAL RULES

Service and proof of service of documents

30. (1) A document may be served on a party by –

- (a) delivering it to the party; or
- (b) sending it by registered mail to the party's last known address.

(2) Parties may expedite service by sending notices and documents by fax or e-mail, provided that this is followed within 3 business days with service in accordance with rule 30(1)(a).

(3) Proof of service in terms of:

- (a) rule 30(1)(a), must be by –
 - (i) a signed acknowledgment of receipt by the party, a representative of the party, or a person who is 16 years or older residing or employed at premises occupied or utilised by the party; or
 - (ii) an affidavit by the person who served the document if the person to whom it was delivered refused to sign for it;

- (b) rule 30(1)(b), must be the postal agent's receipt with the tracking code of the document;
- (c) rule 30(2), must be a copy of the transmission report, to be followed subsequently with proof in terms of rules 30(3)(a) or (b).

(4) If the Tribunal cannot serve a document or notice in accordance with these rules, it may apply to the High Court for an order of substituted service.

(5) If any party other than the Tribunal cannot serve a document or notice in accordance with these rules, it may apply to the Tribunal in Form TLr30 for an order of substituted service.

Delivery of documents

31. (1) Subject to these rules, a document or notice that is not required by the rules to be served on a person, may be delivered to that person –

- (a) at a physical address;
- (b) by registered mail;
- (c) by fax; or
- (d) by e-mail.

(2) Documents sent by fax or e-mail must include all of the following information on a cover page or cover message:

- (a) the name, address and telephone number of the sender;
- (b) the name of the person to whom it is addressed;
- (c) the date and time of transmission;
- (d) the total number of pages sent;
- (e) the name and telephone number of the person to contact if transmission is flawed; and
- (f) the manner in which and person to whom an acknowledgment of receipt should be sent.

(3) If the rules require that a certified copy of a document be filed with the Tribunal, that document must be filed in hard copy format, either by delivery to the physical address of the Tribunal or by registered mail to the physical or postal address of the Tribunal

(4) If a document is delivered to the Tribunal later than the closing time specified in rule 2(1), the next business day will be recorded as the date of filing of that document.

Confidential information

- 32. (1)** Confidential information includes any information containing or consisting of –
- (a) trade secrets;
 - (b) financial, commercial, scientific or technical information, if disclosure of the information is likely to cause harm to the commercial or financial interests of a person; or
 - (c) information supplied in confidence by a person, if the disclosure of the information could reasonably be expected to–
 - (i) put that person at a disadvantage in contractual or other negotiations; or
 - (ii) prejudice that person in commercial competition.
- (2)** Any confidential information forming part of an application, response or other written submission to the Tribunal must be contained in a separate annexure and clearly marked 'confidential'.
- (3)** Information marked as confidential may be excluded from documents required to be served on parties under Table 2.

Representation of parties

- 33. (1)** A party to a matter may act in person or appoint a representative.
- (2)** A person appointed as representative must notify the Registrar and the other parties to the matter by providing them with the following particulars –
- (a) name;
 - (b) postal address and address for service of documents;
 - (c) telephone and fax numbers;
 - (d) e-mail address;
 - (e) Tribunal Reference Number of the matter; and
 - (f) name of the person represented.
- (3)** A party who terminates a representative's authority to act in a matter must notify the Registrar and the other parties, and–
- (a) if that party will from thereon act in person, provide the details as listed in rules 33(2)(b) to 33(2)(e).
 - (b) if another representative has been appointed, provide details as listed in rule 33(2).

(4) On receipt of a notice under rule 33(2) or rule 33(3), the address given in that notice will become the party's address for all notification and service required in that matter.

(5) A party does not need to be represented by a legal representative before the Tribunal.

Condonation of late filing and non-compliance with rules

34. (1) A party may apply to the Tribunal in Form Tl.r34 for an order to:

- (a) condone late filing of a document or application;
- (b) extend or reduce the time allowed for filing or serving;
- (c) condone the non-payment of a fee; or
- (d) condone any other departure from the rules or procedures.

(2) The Tribunal may grant the order on good cause shown.

Payments and remittances

35. (1) The payment of fees specified in Table 2, or fines imposed by the Tribunal under section 151 of the Act or of remittances in terms of section 127(6) of the Act must be by cash deposit or electronic transfer into the designated bank account of the Tribunal specified in rule 5.

(2) A payment must be identified with a payment reference chosen by the payer.

(3) A copy of the deposit slip or a printout of the transfer record must be appended to any document in which proof of payment is required.

(4) Subsequent to the payment of a fine, but no later than 3 business days after the payment-

- (a) a copy of the deposit record
- (b) must be delivered to the Tribunal.

Access to Tribunal records

36. (1) Tribunal records may be inspected by arrangement with the Registrar.

(2) A person may, by arrangement with the Tribunal, obtain a copy of a transcript of a hearing of the Tribunal upon payment of the required fee in terms of sub-rule(4).

(3) The Chairperson may:

- (a) determine whether or not the information is confidential; and
- (b) if the Chairperson finds that the information is confidential, he or she may make any appropriate order concerning access to that information.

(4) The Registrar may charge a fee of:

- (a) R2.00 per A4 page for copies of Tribunal documents; and
- (b) R45.00 for the Registrar's certification of the correctness of copies of documents.

Powers of the Chairperson to deviate from certain rules

37. (1) The Chairperson may on good cause shown, and in keeping with the requirements of justice, expediency and the objects of the Act:

- (a) direct that the Registrar
 - (i) accept documents:
 - (aa) at a different location to that in rule 2(2);
 - (bb) outside of the hours specified in rule 2(1);
 - (ii) waive any fee:
 - (aa) payable by a consumer in respect of an application;
 - (bb) payable in an application to limit obligations in respect of frivolous, vexatious or wholly unreasonable requests;
- (b) direct that any time permitted for lodgement of an answering affidavit to an application, a replying affidavit or any other action in response to an application or referral, be shortened or extended;
- (c) direct that a matter be heard by telephone or video conferencing.

(2) The Chairperson may delegate any of these powers to a presiding member.

Forms

38. (1) Forms prescribed forms for purposes of these rules are set out in schedule 1 to the Rules

(2) If a prescribed form of words or expression is used in conjunction with other information in a document the document must be designed in such a manner that the prescribed form or words or expression are:

- (a) clearly distinguishable from the other information in that document; and
- (b) at least as prominent, in respect of size and legibility as the other information in that document.

- (3) If a prescribed form is used in conjunction with another prescribed form , each must clearly be distinguishable from the other.
- (4) If a form is prescribed by these rules-
- (a) It is sufficient if a person required to prepare such document does so in a form that satisfies all the substantive requirements as to content and design of the prescribed form; and
 - (b) Any deviation from the prescribed form does not invalidate the document unless the deviation-
 - (i) fail to satisfy the requirements set out in paragraph (a);
 - (ii) negatively affects the substance of the document; or
 - (iii) is deceptive or misleading.

Short title

39. These Regulations are called the **Regulations for matters relating to the functions of the Tribunal and Rules for the conduct of matters before the National Consumer Tribunal, 2007.**

**Prescribed Forms in the Conduct of Matters before
the National Consumer Tribunal**

June 2007
