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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL NOTICE

NOTICE 3368 OF 2003

DEPARTMENT OF TRADE AND INDUSTRY

USURY ACT, 1968 (ACT 73 OF 1968)

I, Alexander Erwin, Minister of Trade and Industry, hereby give notice that I intend to publish the following notice in the Government Gazette for comment. Interested parties are hereby invited to comment on the proposed notice. Comments must be forwarded to and reach the address that appears at the end of the proposed notice within 3 weeks of the publication of this notice.

NOTICE IN TERMS OF SECTION 15A OF THE USURY ACT, 1968 ACT NO 73 OF 1968

In terms of section 15A of the Usury Act, 1968 I, Alexander Erwin, Minister of Trade and Industry, hereby intend to exempt the category of money lending transactions referred to in the Schedule from the provisions of section 5 (1) a of the Act, read with the definitions of "principal debt" of the said Act and of "loan guarantee premium" and "loan guarantee policy" in the Schedule to the said Act and paragraph 3 of the said Schedule.

SCHEDULE

1. Definitions

In this schedule any word to which a meaning has been ascribed in the Usury Act, 1968, shall have the meaning ascribed to it in the Act, and

1.1 "category of money lending transaction" means a money lending transaction where -

(a) the money loan referred to is a housing loan secured by a mortgage bond over immovable property

- (b) the housing loan is guaranteed by a "loan guarantee policy" as contemplated in the Schedule to the Act which provides, amongst others, cover against the borrower defaulting as a direct result of an incurable disease

1.2 "the Act" means the Usury Act, 1968 (Act 73 of 1968)

2. Extent of the Exemption

The category of the money lending transaction is exempted only to the extent that –

- (a) for the purposes of recovering any amount owed to the lender by a borrower suffering from an incurable disease, such loan guarantee policy need not require a sale in execution or public auction of the borrower's property. Provided that the borrower notifies the lender and the insurer of his health condition and undertakes to participate in a facilitated treatment programme as well as appropriate education and life skills programmes where these are offered or made available.

- (b) in respect of money lending transactions concluded as at the date of this exemption –

- (i) provisions of section 3 (1) read with item 3 (a) of the Schedule do not apply only to the extent that a loan guarantee policy, which provides cover against defaulting as a direct result of an incurable disease, is added to the instrument of debt at any other given time.
- (ii) loan guarantee premiums related to the loan guarantee policy mentioned in (i) above may be paid after the registration of the mortgage bond in the Deeds Registry.

3. Conditions

3.1 the category of money lending transaction is exempted on condition that the lender and the borrower shall at all times comply with the other provisions of the Act

Comments may be forwarded to:

The Director
Licensing and Inspections
Private Bag X84
Pretoria
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For Attention: Mr Jeremiah Mela
Tel: (012) 3101096
Fax: (012) 3200579

A ERWIN
MINISTER OF TRADE AND INDUSTRY
