

**NOTICE 763 OF 2004****DEPARTMENT OF TRADE AND INDUSTRY  
CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988**

I, Alexander Erwin, Minister of Trade and Industry, after having considered a report by the Consumer Affairs Committee in relation to an investigation of which notice was given in Notice 348 of 2002 published in *Government Gazette* No. 23223 of 15 March 2002, which report was published in Notice 762 in *Government Gazette* No. 26321 of 3 May 2004, and being of the opinion that an unfair business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12 (1) (b) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.

**A ERWIN  
MINISTER OF TRADE AND INDUSTRY**

**SCHEDULE**

In this notice, unless the context indicates otherwise -

"the parties" means Comprehensive Financial Services Newcastle CC t/a FlexiPay CC, FlexiPay CC, Jan Hendrik van Zyl, William George Alexander Scholtz, Lynette Denise Hitchinson, Frans Willem Andries van Zyl and Christopher Ivan Hitchinson,

"unfair business practice" means the business practice whereby the parties, directly or indirectly;

- (i) receive any money or valuable consideration for the performance of any service they agree to perform for a consumer where the consumer might have a problem with a financial institution/creditor with the view to renegotiate an agreement between the consumer and the financial institution/creditor or obtain a settlement on behalf of the consumer before such service is fully performed where "service fully performed" means that the parties have fulfilled all the services offered to the consumer, and the financial institution/creditor has agreed to or rejected any claim or request for a renegotiated agreement or settlement in writing. The financial institution/creditor must agree to or reject the claim/request within 90 days after receiving the claim/request, failing which service is presumed to have been fully performed and/or
- (ii) advise consumers to stop payment to financial

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institutions/creditors but excluding instances where it is as a result of an agreement with the financial institution/creditor and/or

- (iii) receive any money or valuable consideration for the performance of any service which could be deemed to be debt mediation "debt mediation" includes offering assistance to debtors, renegotiation of debts, substitution of creditors, debt distribution and debt refinancing where these activities have the common aim, or purported aim, of improving the position of debtors and/or
  - (iv) profess an authority to adjudge and ensure compliance with legislation.
- (b) in terms of 12(1)(c) of the Act directs Jan Hendrik van Zyl, William George Alexander Scholtz, Lynette Denise Hitchinson, Frans Willem Andries van Zyl, Christopher Ivan Hitchinson to refrain from applying the unfair business practice.
1. The unfair business practice is hereby declared unlawful in respect of the parties.
  2. This notice shall come into operation upon the date of publication hereof.
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