



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

Selling price • Verkoopprijs  
(GST excluded/AVB uitgesluit)  
Local **60c** Plaaslik  
Other countries 95c Buitelands  
Post free • Posvry

Vol. 288

CAPE TOWN, 14 JUNE 1989

KAAPSTAD, 14 JUNIE 1989

No. 11943

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1204.

14 June 1989

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

No. 91 of 1989: Usury Amendment Act, 1989.

No. 1204.

14 Junie 1989

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

No. 91 van 1989: Woekerwysigingswet, 1989.

Act No. 91, 1989

USURY AMENDMENT ACT, 1989

## 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 effect a certain correction in the English text; to regulate anew the disclosure of an alteration of the finance charge rate where a variable finance charge rate has been agreed upon at the conclusion of a contract; to provide for the further recovery of certain moneys not permitted by section 5 of the Act; and to grant to the Minister the power to exempt certain money lending transactions from the application of the Act; and to provide for matters connected therewith.

*(English text signed by the State President.)  
(Assented to 1 June 1989.)*

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

**Amendment of section 2B of Act 73 of 1968, as inserted by section 3 of Act 100 of 1988**

1. Section 2B of the Usury Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (3) of the following subsection: 5

“(3) If a moneylender, credit grantor or lessor and a borrower, credit receiver or lessee **[has]** have at the conclusion of a money lending transaction, credit transaction or leasing transaction agreed upon a variable finance charge rate, the moneylender, credit grantor or lessor may not **[subject to the provisions of section 3 (10)]** for any period during the duration of the transaction concerned 10 stipulate for, demand or receive finance charges at an annual finance charge rate exceeding the relevant rate determined for that period in terms of section 2 (1), (2) or (3) in respect of the transaction concerned.”.

**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, section 4 of Act 42 of 1986, 15 section 3 of Act 62 of 1987 and section 4 of Act 100 of 1988**

2. Section 3 of the principal Act is hereby amended by the deletion of subsection (10) with effect from 28 February 1989.

## Act No. 91, 1989

## USURY AMENDMENT ACT, 1989

**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 and section 4 of Act 62 of 1987**

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

- “(b) in the case of a money loan secured wholly or partly by a mortgage bond over immovable property and if the moneylender is authorized thereto in terms of an agreement between himself and the borrower—
- (i) any amount actually disbursed by the moneylender after the conclusion of the transaction concerned in respect of the maintenance and repair of and renewal premiums on a fire insurance policy over the said immovable property;
  - (ii) any amount owing by the borrower to the moneylender at the tariff prescribed from time to time by the Minister for the valuation of the said immovable property where an inspection was actually carried out for the purposes of the granting of the loan concerned;”.

**Validation of certain amount recovered by moneylender**

4. Any amount recovered by a moneylender from a borrower before the date of commencement of section 5 (1) (b) (ii) of the principal Act, as inserted by this Act, and which could have been so recovered by the moneylender under the said section 5 (1) (b) (ii) on the said date of commencement, shall be deemed to have been recovered under that section.

**Amendment of section 10 of Act 73 of 1968, as substituted by section 13 of Act 90 of 1980 and amended by section 7 of Act 100 of 1988**

5. Section 10 of the principal Act is hereby amended by the addition of the following subsection:

- “(6) If agreement has been reached upon a variable finance charge rate in terms of section 2B (3) and no notice in writing of any alteration of such rate and the date upon which that alteration shall commence has in advance been delivered or sent through the post by a moneylender, credit grantor or lessor to a borrower, credit receiver or lessee, the moneylender, credit grantor or lessor shall at the first reasonable opportunity but not later than three months after the date upon which the alteration of the finance charge rate has commenced, deliver or send through the post to the borrower, credit receiver or lessee a written notice of such alteration and the date upon which that alteration has commenced.”.

**Amendment of section 15A of Act 73 of 1968, as inserted by section 8 of Act 100 of 1988**

6. The following section is hereby substituted for section 15A of the principal Act:

**“Exemptions by Minister**

15A. The Minister may from time to time by notice in the *Gazette* exempt the categories of money lending transactions, credit transactions or leasing transactions which he may deem fit, from any of or all the provisions of this Act on such conditions and to such extent as he may deem fit, and may at any time in like manner revoke or amend any such exemption.”.

**Short title and commencement**

7. (1) This Act shall be called the Usury Amendment Act, 1989.

(2) Sections 3 and 4 shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.