



Consumer information note 7
Consumer information note 7

Home loan monthly service fees

Distribution: Media
Public

18 September 2009

Please note that the information provided does not constitute expert legal or financial advice. You should consult a professional legal or financial adviser for expert advice.

We have only mentioned sections of the National Credit Act where they are applicable to the complaints we receive. The Act however contains many other sections and detail that may not have been mentioned. There may be other legislation that is also applicable. For more information and detail on other legislation and the act you should consult a legal professional.

The purpose of the document is to provide you with practical information based on our experience. Each case we investigate is however assessed on its own merits.

Background

We have been receiving numerous complaints regarding the increase in monthly service fees on bond accounts.

Home loan agreements entered into after 1 June 2007

If you were granted a home loan after 1 June 2007 it is probable that your agreement with the bank is regulated by the National Credit Act 34 of 2005 (NCA).

The Act states the following regarding monthly service fees:

Maximum service fees

4.4 The maximum monthly service fee, prescribed in term of section 105(1) of the Act, is R50.

- (1) Where an annual service fee is levied, the applicable limit is
 - (a) The monthly limit on the service fee, multiplied by 12, and*
 - (b) Where the period for which the fee is levied is less than 12 months, the monthly service fee multiplied by the number of months in such a period.**
- (2) If a service fee is payable on a transaction basis, or on a combination of periodic and transaction bases, the total of such fees may not exceed the monthly or annual limit.*

The bank is therefore permitted to charge a maximum amount of R50 per month in service fees (excluding VAT).

This fee structure may also apply to home loan agreements entered into before 1 June 2007 - where a further bond or advance was granted on the same account or where the repayment term was extended on application after 1 June 2007.

Home loans entered into before 1 June 2007

Prior to the NCA most home loans were regulated by the Usury Act 73 of 1968. This act prescribed a maximum monthly service fee of R5.00 per month (excluding VAT) for loans below R500 000.00. The Usury act was repealed by the NCA in 2007.

It appears that some banks have decided to increase their monthly service fees on these loans. When we investigated the matter it appeared there was considerable legal debate on whether or not the banks were entitled to increase the monthly service fees on these accounts.

As the law on this aspect was not certain we decided to refer the dispute to the National Credit Regulator (NCR) and the National Consumer Tribunal to resolve. The issue was referred to the NCR in July 2009.

We are therefore unable to resolve these disputes. We trust that the NCR will take the matter further and issue a general media statement should a decision be made.

Ombudsman for Banking Services