



Consumer Note 4

Bank Charges





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 (NCA) where they are applicable to the complaints we receive. The Act however contains many other sections and details 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

In line with the practice of other financial ombudsman organisations internationally, we do not have jurisdiction over complaints about a bank's general interest rate policy or fees and charges policy.

We can only deal with a complaint regarding bank charges where the bank has charged you more than its set fee or it has charged you a fee in excess of a limit set down by law.

National Credit Act

All the fees and interest rates charged on most credit-related accounts (credit cards, mortgage bonds, overdrafts, vehicle finance, personal loans etc) are regulated by the National Credit Act which sets the maximum amounts the banks can charge. There are certain credit-related accounts that fall outside the scope of the Act and are therefore not subject to maximum fees or interest rates – for example where the bank customer is a company or close corporation (juristic person) with a turnover exceeding R1M per year. The Act generally only applies to fees on agreements concluded after 1 June 2007.

If the National Credit Act is applicable to the account in question, the bank is required to give 5 business days' notice in writing advising of the increase in a charge or fee (Section 104). The written notice can be sent by normal post, e-mail or fax (Section 65). The Act does not require that the bank prove that you received the notice. The banks generally send out notices by normal post. The notice can also be contained in an account statement sent to you.

Where the interest rate on an agreement has changed (variable interest rate agreements) the bank must provide written notice to you of the change within 30



business days after the change takes place on your agreement [section 104 (3)]. This mostly occurs where the base lending rate has changed (“repo” rate for example).

Disputes regarding fees, charges and interest rates

The various maximum fees, charges and interest rates are mentioned throughout the Act. We unfortunately cannot provide you with legal advice and check your account statements for you in this regard. To see what the maximum charges are, obtain a copy of the Act and the regulations from the Department of Trade and Industry or the National Credit Regulator. Should you dispute a specific charge that is not in accordance with the Act you can contact us.

Our experience with bank charges is that the bank sets its charges electronically on its computer systems in accordance with its internal policy and the National Credit Act where applicable. While it is possible that administrative errors may occur, this is generally unlikely. Disputes are more likely to occur where a customer alleges that certain fees and interest rates were specifically agreed on for a specific transaction or period of time. This can happen where a customer alleges that the bank agreed that it will not charge a fee for a specific transaction, will charge a reduced interest rate on an account for a period of time etc. In such cases it is generally very difficult to determine what was agreed between the parties based on verbal allegations. We recommend that bank customers insist on a written agreement where specific non-standard fees and interest rates are negotiated.

General

On all other fees and charges the banks generally advise their customers of increases in bank charges by various means. Letters can be sent to customers, notices placed on normal monthly bank statements, notices placed on its websites and on ATMs and in bank branches etc.

Banks charge a large variety of fees for just about every type of transaction you conclude with the bank. It is in your best interests to obtain the bank’s list of charges and determine the least expensive ways to conduct your banking. The banks can advise you on this and there are also numerous internet resources which can assist you in reducing your banking costs. Banks sometimes offer certain fee packages to a group of customers – for example pensioners over the age of 65. The banks do not automatically add these packages to accounts that appear to qualify. They must be applied for by the account holder. It is in your best interests to take note of any offers the banks makes in this regard and apply if you believe you qualify.



Competition Commission

The Competition Commission lodged an inquiry into bank charges in 2006. The full report was released to the public in December 2008. You can access the report via the Competition Commission website - <http://www.compcom.co.za/banking/>.

The Commission only investigated non-credit related charges such as debit order fees, ATM charges etc. The report made several general recommendations (not rulings or orders) to the banking industry.

There are no laws setting down maximums for banking fees and charges that fall outside the scope of the National Credit Act. Cash deposit fees, debit order penalty fees, ATM fees etc. are therefore not regulated in any way.

Common fees and charges set down by the National Credit Act

Some of the most common fees and charges set down by the National Credit Act are attached below (as published in the Government Gazette on 6 November 2015). The new regulations came into effect on 6 May 2016.

“Maximum prescribed interest and initiation fees

4.2 (1) The following maximum rates of interest will apply:

Table A: Maximum Prescribed Interest Rates

<u>Sub-sector</u>	<u>Maximum Prescribed Interest Rate</u>
Mortgage agreements	RR + 12% per year
Credit facilities	RR + 14% per year
Unsecured credit transactions	RR + 21% per year
<u>Developmental credit agreements</u>	
For the development of a small business	RR + 27% per year
For low income housing (unsecured)	RR + 27% per year
Short term credit transactions	5% per month on the first loan and 3% per month on subsequent loans within a calendar year
Other credit agreements	RR + 17% per year
Incidental credit agreements	2% per month

Where,

- (a) RR indicates the reference rate, being the ruling SA Reserve Bank Repurchase Rate,



- (b) The interest rate on short term credit transactions and incidental credit agreements must be disclosed as a monthly interest rate, in such disclosure as is required by the Act and these regulations.
- (2) The following maximum limits will apply to initiation fees:

Table B: Maximum Initiation Fee

<u>Sub-sector</u>	<u>Maximum Initiation Fee</u>
Mortgage agreements	(a) R1,100 per credit agreement, plus, 10% of the amount of the agreement in excess of R10,000 (b) But never to exceed R5,250.
Credit facilities	(a) R165 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R1,050
Unsecured credit transactions	(a) R165 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R1,050
<u>Developmental credit agreements</u>	
For the development of a small business	(a) R275 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R2,600
For low income housing (unsecured)	(a) R550 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R2,600
Short term credit transactions	(a) R165 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R1,050
Other credit agreements	(a) R165 per credit agreement, plus, 10% of the amount of the agreement in excess of R1,000 (b) But never to exceed R1,050
Incidental credit agreements	Nil



Maximum service fees

4.4 The maximum monthly service fee, prescribed in term of section 105(1) of the Act, is R60.

- (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 Ombudsman for Banking Services

Reviewed January 2018