



EMERGENCY LOAN GUIDELINE

Circular 05 of 2020

GUIDELINE ON WHAT CONSTITUTE THE REASONABLE PROOF OF THE EXISTENCE OF AN EMERGENCY, FOR PURPOSES OF AN EMERGENCY LOAN AS DEFINED IN SECTION 1 READ WITH SECTION 78 (2) AND REGULATION 23 OF THE NATIONAL CREDIT ACT 34 OF 2005 ("NCA").

1. Due to the national lockdown as a result of the Covid -19 pandemic, the National Credit Regulator ("NCR") acknowledges that consumers will require financial assistance, in the form of loans, in order to pull through from the effects of the pandemic.
2. The NCA contains various provisions that are aimed at assisting distressed consumers in cases of disaster or other unforeseen emergencies, and one such provision is the provisions relating to emergency loans.
3. The purpose of this circular, is to provide guidance to credit providers, on what constitute the reasonable proof of the existence of an emergency, for purposes of an emergency loan as defined in section 1 read with section 78 (2) and regulation 23 of the NCA.
4. An emergency loan is defined in section 1 of the NCA as:

"a credit agreement entered into by a consumer to finance costs arising from or associated with-

- a. death, illness or medical condition;*
- b. unexpected loss or interruption of income; or*
- c. catastrophic loss of or damage to home or property due to fire, theft, or natural disaster,*

affecting the consumer, a person who is dependent upon the consumer or a person for whom the consumer is financially responsible."

Disclaimer:

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5. In terms of section 78 of the NCA, the over-indebted and reckless provisions of the NCA do not apply to an emergency loan. In other words, credit providers do not have to conduct affordability assessment before the granting of an emergency loan.
6. Section 78 (2) of the NCA states that a credit provider must report all emergency loans granted, to the NCR in the prescribed manner and form.
7. The prescribed manner of reporting emergency loans to the NCR is as stated in regulation 23 of the NCA, which states that any credit extended in terms of an emergency loan must be reported to the NCR within 30 (thirty) business days of signature thereof or at the end of the month in which the agreement was concluded; and the prescribed form for reporting emergency loans is Form15.
8. Furthermore, section 78 (2) of the NCA obliges a credit provider to obtain and retain reasonable proof of the existence of the emergency as defined in section 1 of the NCA.
9. The reasonable and credible proof of the existence of the emergency for purposes of section 78 (2) of the NCA, may include, amongst others, the following:

Nature or cause of the emergency	Reasonable proof of the existence of the emergency to be obtained and retained
Emergency due to death.	<ol style="list-style-type: none"> 1. Death Certificate 2. Death Notice
Emergency due to illness or medical condition.	<ol style="list-style-type: none"> 1. Medical certificate 2. Letter from the Traditional Authority wherein the consumer, the person dependent on the consumer, or the person for whom the consumer is financially responsible, resides. 3. Declaration under oath by: <ul style="list-style-type: none"> • the consumer, or • the person dependent on the consumer, or • the person for whom the consumer is financially responsible, or • family member, or • friend of the consumer.

Emergency due to unexpected loss or interruption of income.	<ol style="list-style-type: none"> 1. Letter from the employer. 2. Payslip or bank statement that is not more than 1 month old. 3. Declaration under oath by: <ul style="list-style-type: none"> • the consumer, or • the person dependent on the consumer, or • the person for whom the consumer is financially responsible.
Emergency due to catastrophic loss of or damage to home or property due to fire, theft, or natural disaster.	<ol style="list-style-type: none"> 1. Letter from the Traditional Office wherein the consumer, the person dependent on the consumer, or the person for whom the consumer is financially responsible, resides. 2. Insurance claim number, where applicable, or 3. Declaration under oath by: <ul style="list-style-type: none"> • the consumer, or • the person dependent on the consumer, or • person for whom the consumer is financially responsible.

10. Where a consumer submits a declaration under oath as proof of the existence of the emergency, the declaration must clearly state the cause of the emergency, and where the cause of the emergency is the unexpected loss or interruption of income, the declaration under oath must also provide the details of the employer (for employed persons), or the details of the business (for self-employed persons).
11. For further information, please contact Theodore Smith, Supervisor: Credit Provider Compliance Department by email at tsmith@ncr.org.za, or Nthupang Magolego, at nmagolego@ncr.org.za.