

Submission by COSATU on National Credit Amendment Bill 2018



Submitted to:

**Portfolio Committee on Trade and Industry
National Assembly
Republic of South Africa**

1. COSATU Welcomes the National Credit Amendment Bill

COSATU welcomes and appreciates the Portfolio Committee's bill and efforts to find ways to provide debt relief for the poor and highly indebted.

Whilst Parliament and government have made significant progress in tightening our credit, consumer and financial sector oversight legislation over the past 22 years and in particular since 2013, much more remains to be done.

The majority of South African working and middle class families are highly indebted. All too often consumers face abusive, exorbitant and exploitative charges by both the regulated and unregulated lenders.

Despite our many progressive laws, the reality on the ground is often far removed from these progressive laws due to non-enforcement by government departments.

COSATU strongly welcomes this progressive bill that will provide a desperately needed life line for thousands of highly impoverished and indebted workers and their families. We believe that it has been crafted in a way that is responsible, sustainable and constitutional as well as most importantly, humane.

COSATU calls for the urgent adoption and implementation of this bill. It is one of the most important bills to be considered by this Parliament. It is a legacy bill that will give hope to workers, lift the poor from desperation and stabilise the precarious debt crisis we are in.

COSATU is deeply alarmed, disappointed and shocked by the attacks on this progressive and humane bill by the Banking Association and some retailers. How much profit is enough to satisfy themselves? Surely they can reduce CEO salaries and help their drowning compatriots?

COSATU rejects BASA's legally dubious argument that this bill is unconstitutional as loans amount to property and a write off would thus be a loss of property. Banks do this as a matter of course by their own admission. Banks realise massive profits from their loans and thus cannot argue that they have not received fair and market related compensation!

COSATU will oppose any efforts by business to delay this excellent bill. It must be passed and implemented in 2018. To delay, means to kill the bill. We will not be party to such callousness.

COSATU is pleased that both the Departments of Trade and Industry and Treasury are supporting this bill. We are happy that Minister Gigaba has included its passing in government's 14 point plan of action to kick start the economy. This is the progressive leadership we expect from our government.

Whilst COSATU supports this bill we have proposals to further strengthen it as well as other related matters of concern with regards to the sector that may be included in this bill or a future bill.

2. Qualifying Criteria

2.1 Qualifying Groups

Whilst everyone would like debt relief, COSATU appreciates that this is not possible or practical. Any debt relief needs to target the most vulnerable, impoverished and exploited.

COSATU strongly welcomes the proposed qualifying categories of the unemployed, persons earning less than R7 500 per month, and households headed by children or women or including a person with disabilities. This is progressive and goes to the heart of the poorest of the poor.

However we would like clarity as to whether an applicant must meet all the criteria or if it's sufficient to be either unemployed or earning less than R7 500? If an applicant must meet all six criteria, then it may be very few who qualify. The narrow wording now may require applicants to meet too many criteria to qualify.

Proposal 1:

COSATU thus proposes that the wording be clarified or amended to reflect that the key basis is being unemployed or earning less than R7 500 per month and that further qualifying categories would include households headed by women or children as well as households with a person with a disability.

2.2 R7 500 threshold

COSATU strongly welcomes the R7 500 threshold as this relates to the minimal living wage. This is a fair criteria. It will also not impact too negatively upon the banking sector as less than 8% of their loans go to this income group.

However this progressive amount of R7 500 will quickly be eroded by inflation.

Proposal 2:

COSATU thus proposes that automatic annual inflation based increase be provided for all monetary amounts in the bill.

2.3 R50 000 Cap

COSATU is worried that the proposed loan cap is too low. It would for example exclude the majority of student loans. An average tuition for one year at university is R50 000. A degree can set a student with R150 000 debt.

Proposal 3:

COSATU is thus proposing that the R50 000 cap not be applicable for education loans.

2.4 Realisable Assets

COSATU welcomes the progressive protections provided for by the realisable assets provisions.

However we are very worried that the low figure of R10 000 for non-bed house hold assets is far too low. R10 000 may only cover a fridge and washing machine and thus exclude other essential household goods that families may own above that, e.g. an oven, a drying machine etc.

Proposal 4:

COSATU thus proposes that the R10 000 house hold goods limit be increased to a far more realistic figure of R25 000.

2.5 Ministerial Intervention

COSATU welcomes and strongly supports the provisions empowering special Ministerial intervention in regions and economic sectors that have experienced economic calamity e.g. collapse and mass retrenchments or regions that have experienced a calamity e.g. natural disaster.

This is progressive and vital to avoid the types of economic disasters we have seen in mining areas or rural areas where large numbers work for mines or areas of Cape Town and rural KZN where thousands of clothing workers lost their jobs due to cheap imports or sugar farm workers losing jobs due to subsidised imports in KZN and Mpumalanga.

3. Debt Relief

COSATU appreciates and strongly supports the proposed measures and mechanisms for applicants to seek debt relief.

We support the possible areas of debt relief, e.g. review, suspension without further interest added, further suspension, interest rate reviews and possible write off.

These are very progressive, will go a long way to help the highly indebted and help tackle the problem of reckless and exploitative lending.

4. Penalties

COSATU supports and welcomes the bill's provisions to sanction reckless lenders. This is long overdue. We support the specific clauses providing for strict fines and prison sentences. This will help curb our massive rise in loan sharks.

Put simply, COSATU wants to see loan sharks put of business and into prison now.

We want to see the closing down of loan sharks. Government must wake up and simply enforce the law. It must go door to door and shut down these loan sharks robbing the poor.

At the same time, the banking sector must wake up. It must become accessible and affordable for the poor. It must stop turning the poor away and robbing them with unaffordable interest rate charges.

Further Areas Needing Attention in the Bill and Elsewhere:

5. Home, Car, Small Businesses and Small Farms' Loans

Specific intervention is needed with regards to consumers who default on their home, car and small business and farm loans.

Whilst not condoning consumers who maliciously neglect their loans, action is needed to help thousands of consumers who have continuously paid their home, car and small business loans for years but then fall into arrears due to retrenchments, family emergencies etc. Frequently their homes, cars, small businesses and farms are then repossessed. Often these consumers have already paid for the actual value of their property and are left with a small portion of the loan outstanding.

Banks are far too fast in repossessing and auctioning off these properties. This has a devastating impact upon these consumers and their families who are now left homeless or without transport or their means of earning an income.

Many of these properties are then sold for the balance of the loans outstanding and far less than their real value. All too often these have involved collusion between the bank officials, auctioneers and the persons buying the property at the auction. Shortly afterwards these properties are then resold for a profit.

Intervention is needed to stop these inhumane practices. The repossession of homes, businesses and farms should not simply be left to banks to decide. They should require the approval of a higher authority e.g. the National Consumer Tribunal. Consumers should be allowed to appeal to the NCT for an extension in the credit loan period, temporary suspension of payments if retrenched or a reduction in interest charges.

Families should not be left homeless or without access to transport etc. A humane solution is needed to protect families.

This is an area that the Standing Committee on Finance has expressed concern and asked government to develop urgent legislation to deal with it.

Proposal 5:

COSATU thus proposes that a specific section dealing with home, farm and vehicle loans be provided for in this bill or another bill as a matter of the utmost urgency.

5.1 Interest Rates

Banks base their lending rates upon the interest rate level set by the South African Reserve Bank.

Whilst the SARB is mandated to guard against inflation, ensure financial stability etc., it should also be engaged to assist consumers and the economy at large battling high levels of indebtedness.

Many of the SARB's actions, e.g. interest hikes, have managed to keep inflation under the 6% target level, but they have done so at the expense of consumers struggling to cope with increasing debt levels.

To add salt to the wounds, the main beneficiaries of these repeated interest rate hikes, have been the commercial banks who have seen the profit levels instantly jump with each hike.

Assisting consumers with affordable interest rate levels and avoiding unnecessary repeated interest rate hikes needs to be part of the SARB's mandate as well.

Proposal 6:

The Portfolio Committee should engage with SARB to raise these concerns and see how they can be addressed within SARB's mandate, policies and practises as a matter of urgency without undermining their efforts to correctly keep inflation low and under control.

Proposal 7:

Lending interest rate caps must be reviewed and lowered. Banks should not be allowed to charge higher rates for the poor and vulnerable and lower rates for the rich.

It's simply immoral.

5.2 Conflict of Interest

Commercial banks need to play their role. They need to be more accessible towards consumers. Frequently they make it impossible for poor consumers to access credit and hence the flight towards loan sharks who do not have such stringent credit requirements.

To make matters worse First Rand Bank owns Direct Axis. They are further sub-categories of companies between Direct Axis, Sanlam etc. Consumers who fail to meet FNB's criteria at low interest rates are then forced to go to Direct Axis where they qualify at a much interest rate.

This is simple exploitation and profiteering at the expense of the poor. It should be outlawed.

Proposal 8:

Such conflicts of interest and exploitative shell lending should be made illegal.

Banks need to be seen to be patriotic. Banks make obscene levels of profit of the backs of highly indebted consumers. Yet these same banks have retrenched 1000s of poorly paid workers over the past few years. They have increasingly outsourced key banking functions, e.g. call centres, at the expense of workers' wages and job security.

At the same time the CEOs of our banks are paid exorbitant salaries, same as high as R30 million per annum. Banks must end these retrenchments, outsourcing and excessive profiteering. Bank managers must reduce the massive wage gaps in the banking sector.

5.3 Retrenchments

Parliament and society have heard a great deal from banks on how progressive and patriotic they are. This is fantastic news.

Yet these same banks are retrenching and outsourcing workers on a daily basis whilst the wage gap between CEOs and bank tellers grows at a grotesque level. They are closing less profitable branches in rural areas. They are ignoring townships and village when allocating branches and ATMs.

Proposal 9:

The Portfolio Committee must summons the banks to ask them for their plans to expand their foot print in rural and informal areas, townships and villages.

Proposal 10:

Banks must commit to Parliament in writing that they will stop all retrenchments and outsourcing with immediate effect and reduce their massive wage gap.

5.4 State Bank

The state needs to act with speed with regards to its long awaited and promised state bank. The post bank would be an ideal vehicle for government to provide affordable credit to the poor. This would help consumers with manageable credit levels and be a lifeline for the post office. It could further generate funds for infrastructure and developmental purposes.

5.5 Consumer Education

Many consumers, court officials, human resource practitioners and banking staff are not aware of the recent progressive changes to our credit and consumer legislation.

Frequently consumers lack sufficient knowledge to give meaningful consent to lending agreements or court judgments.

Courts remain inaccessible and intimidating for most working class consumers.

Consumers are frequently not provided with legal representation or assistance when appearing before court. They are often intimidated, ill informed and misled with regards to their rights.

Consumers are often misled with regards to applications for debt consolidation leading to being placed under debt administration.

Court officials and human resource practitioners are often still unaware of what the law allows with regards to garnishee orders. More work will need to be done with the pending Courts and Debt Collectors Amendment Bills.

6. Conclusion

COSATU appreciates the Portfolio Committee's efforts to assist the most highly indebted and to in particular pursue badly needed debt relief.

COSATU welcomes the various progressive provisions in the bill to help the poorest of the poor.

Parliament should pass this bill as a matter of the highest urgency. Government must then act with speed to implement it.

COSATU supports the bill's progressive criteria for application, realisable property, Ministerial intervention, debt relief and penalties. These will assist thousands of workers and their families.

COSATU calls upon the Portfolio Committee to include its proposals to further strengthen it e.g. qualifying criteria, student debt and house hold furniture limits.

Further attention is needed with regards to home, farm and vehicle loans.

Further action is needed with regards to interest rate levels, conflicts of interest, cracking down on loan sharks, stopping retrenchments and outsourcing, consumer education and creating a state bank.

COSATU would like to thank the committee for the chance to share its thoughts and suggestions on this important matter. We hope that our contributions will assist the committee in its important work.

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