

PRESCRIBED RATE OF INTEREST ACT 55 OF 1975

[ASSENTED TO 12 JUNE 1975]

[DATE OF COMMENCEMENT: 16 JULY 1976]

(Afrikaans text signed by the State President)

as amended by

Prescribed Rate of Interest Amendment Act 7 of 1997

National Credit Act 34 of 2005

ACT

To provide for the calculation of interest on a debt, in certain circumstances, at a prescribed rate; for the payment of interest on certain judgement debts; and for matters connected therewith.

Cases

1 Interest on a debt to be calculated at a prescribed rate in certain circumstances

Cases

(1) If a debt bears interest and the rate at which the interest is to be calculated is not governed by any other law or by an agreement or a trade custom or in any other manner, such interest shall be calculated at the rate prescribed under subsection (2) as at the time when such interest begins to run, unless a court of law, on the ground of special circumstances relating to that debt, orders otherwise.

(2) The Minister of Justice may from time to time prescribe a rate of interest^{i*} for the purposes of subsection (1) by notice in the *Gazette*.

(3) No rate of interest shall be prescribed under subsection (2) except after consultation with the Minister of Finance.

2 Interest on a judgment debt

Cases

(1) Every judgment debt which, but for the provisions of this subsection, would not bear any interest after the date of the judgment or order by virtue of which it is due, shall bear interest from the day on which such judgment debt is payable, unless that judgment or order provides otherwise.

(2) Any interest payable in terms of subsection (1) may be recovered as if it formed part of the judgment debt on which it is due.

(3) In this section 'judgment debt' means a sum of money due in terms of a judgment or an order, including an order as to costs, of a court of law, and includes any part of such a sum of money, but does not include any interest not forming part of the principal sum of a judgment debt.

2A Interest on unliquidated debts

Cases

(1) Subject to the provisions of this section the amount of every unliquidated debt as determined by a court of law, or an arbitrator or an arbitration tribunal or by agreement between the creditor and the debtor, shall bear interest as contemplated in section 1.

(2) (a) Subject to any other agreement between the parties and the provisions of the National Credit Act, 2005 (Act 34 of 2005) the interest contemplated in subsection (1) shall run from the date on which payment of the debt is claimed by the service on the debtor of a demand or summons, whichever date is the earlier.

[Para. (a) amended by s. 172 (2) of Act 34 of 2005.]

(b) In the case of arbitration proceedings and subject to any other agreement between the parties, interest shall run from the date on which the creditor takes steps to commence arbitration proceedings, or any of the dates contemplated in paragraph (a), whichever date is the earlier.

(3) The interest on that part of a debt which consists of the present value of a loss which will occur in the future shall not commence to run until the date upon which the quantum of that part is determined by judgment, arbitration or agreement and any such part determined by arbitration or agreement shall for the purposes of this Act be deemed to be a judgment debt.

(4) Where a debtor offers to settle a debt by making a payment into court or a tender and the creditor accepts the payment or tender, or a court of law awards an amount not exceeding such payment or tender, the running of interest shall be interrupted from the date of the payment into court or the tender until the date of the said acceptance or award.

(5) Notwithstanding the provisions of this Act but subject to any other law or an agreement between the parties, a court of law, or an arbitrator or an arbitration tribunal may make such order as appears just in respect of the payment of interest on an unliquidated debt, the rate at which interest shall accrue and the date from which interest shall run.

(6) The provisions of section 2 (2) shall apply *mutatis mutandis* to interest recoverable under this section.

[S. 2A inserted by s. 1 of Act 7 of 1997.]

3 Transitional provisions

Cases

(1) In the application of subsection (1) of section 1 to interest which had begun to run before any rate of interest was prescribed under subsection (2) of that section, the rate of interest prescribed in the first notice published in the *Gazette* under the last-mentioned subsection shall be deemed to have been prescribed thereunder at the time when such interest began to run.

(2) Section 2 shall not apply to a judgment debt as defined therein which became payable before the commencement of this Act.

4 Definitions

Cases

In this Act, unless the context indicates otherwise-

- (i) **'court of law'** means a court having jurisdiction in respect of the matter in question;
- (ii) **'demand'** means a written demand setting out the creditor's claim in such a manner as to enable the debtor reasonably to assess the quantum thereof.

[S. 4 substituted by s. 2 of Act 7 of 1997.]

5 Short title and commencement

This Act shall be called the Prescribed Rate of Interest Act, 1975, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

ⁱGN R1814 determines the prescribed rate of interest at 15,5% per annum in GG 15143 of 1 October 1993.