

(8 January 2016 – to date)

[This is the **current** version and applies as from **8 January 2016**, i.e. the date of commencement of the Judicial Matters Amendment Act 24 of 2015 – to date]

PRESCRIBED RATE OF INTEREST ACT 55 OF 1975

(Gazette No. 4755, Notice No. 1203 dated 18 June 1975. Commencement date: 16 July 1976 [Proc. No. R126, Gazette No. 5215]

As amended by:

Prescribed Rate of Interest Amendment Act 7 of 1997 – Government Notice 560 in Government Gazette 17914 dated 11 April 1997. Commencement date: 11 April 1997.

National Credit Act 34 of 2005 – Government Notice 230 in Government Gazette 28619 dated 15 March 2006. Commencement date: 1 June 2006 [Proc. No. 22, Gazette No. 28824].

Judicial Matters Amendment Act 24 of 2015 – Government Notice 21 in Government Gazette 39587 dated 8 January 2016. Commencement date: 8 January 2016

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 judgment debts; and for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 12 June 1975.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:

ARRANGEMENT OF SECTIONS

1. Rate at which interest on debt is calculated in certain circumstances
2. Interest on a judgment debt
- 2A. Interest on unliquidated debts
3. Transitional provisions
4. Definitions
5. Short title and commencement

Prepared by:

1. Rate at which interest on debt is calculated in certain circumstances

- (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 contemplated in subsection (2)(a) 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)
 - (a) For the purposes of subsection (1), the rate of interest is the repurchase rate as determined from time to time by the South African Reserve Bank, plus 3,5 percent per annum.
 - (b) The Cabinet member responsible for the administration of justice must, whenever the repurchase rate is adjusted by the South African Reserve Bank, publish the amended rate of interest contemplated in paragraph (a) by notice in the *Gazette*.
 - (c) The interest rate contemplated in paragraph (b) is effective from the first day of the second month following the month in which the repurchase rate is determined by the South African Reserve Bank.
- (3) For purposes of this section—
 - (a) “**repurchase rate**” means the rate at which banks borrow rand from the South African Reserve Bank; and
 - (b) “**South African Reserve Bank**” means the central bank of the Republic regulated in terms of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).

(Section 1 substituted by section 3 of Act 24 of 2015 with effect from 8 January 2016)

2. Interest on a judgment debt

- (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

- (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 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.
 - (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.

(Section 2A inserted by section 1 of Act 7 of 1997)

(Section 2A(2)(a) amended by section 172(2), Schedule 2, of Act 34 of 2005)

3. Transitional provisions

- (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

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.

(Section 4 substituted by section 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*.