

REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

USURY AMENDMENT BILL

(As read a First Time)

(Introduced by the Minister of Finance)

EXPLANATORY NOTE:

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

BILL

To **amend the Usury Act, 1968 so as to provide for the limitation of finance charges in respect of microlending transactions; and to provide for incidental matters.**

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 73 of 1968, as amended by Act No. 76 of 1970, Act No. 62 of 1974, Act No. 42 of 1986, Act No. 62 of 1987, Act No. 90 of 1980, Act No. 100 of 1988 and Act No. 3 of 2001

1. Section 1 of the Usury Act, 1968 (in this Act referred to as the "principal Act") is amended -

- (a) by the substitution for the definition of "**finance charges**" of the following definition:

"**finance charges**" -

- (a) **[means]** in relation to a money lending transaction or a credit transaction or a leasing transaction, means the total of any valuable consideration, which a borrower or credit receiver or lessee has given or is owing, whether as part of the principal debt or otherwise, directly or indirectly, to a moneylender or credit grantor or lessor or to or on behalf of any intermediary between himself and a moneylender or credit grantor or lessor [in terms of a money lending transaction or a credit transaction or a leasing transaction] and includes, in the case of an agreement in terms of which goods are sold under a condition of repurchase of such goods at a higher price, the difference between the higher price at which the goods are repurchased and the lower price at which the goods are sold, but does not include -

- (a) a ledger fee;
- (b) any amount referred to in section 5(1)(b);
- (c) the costs referred to in section 5(1)(e) or (f);
- (d) the costs of repair and maintenance of the movable property leased in terms of a leasing transaction;
- (e) any valuable consideration specifically included in the principal debt by this Act;
- (f) any underwriting fee;
- (g) any amount or costs referred to in section 5A(1)(a) or (c); and

(b) in relation to a microlending transaction, means finance charges as defined in section 1 of the Microlending Act;; and

(b) by the insertion after the definition of “**manager**” of the following definitions:

“**microlender**” means a microlender as defined in section 1 of the Microlending Act;

“**Microlending Act**” means the Microlending Act, 2017 (Act No. of 2017);

“**microlending transaction**” means a microlending transaction as defined in section 1 of the Microlending Act;”.

Amendment of section 2 of Act No. 73 of 1968, as amended by Act No. 76 of 1970, Act No. 62 of 1974, Act No. 42 of 1986, Act No. 62 of 1987, Act No. 90 of 1980, Act No. 100 of 1988 and Act No. 91 of 1989

2. Section 2 of the principal Act is amended by the insertion after section 2B of the following section:

“2C Maximum finance charge rates which may be charged in connection with a microlending transaction

No microlender shall in connection with any microlending transaction stipulate for, demand or receive finance charges at a rate greater than the percentage determined, by the Registrar by notice in the *Gazette*, in accordance with the directions of the Minister.”.

Short title and commencement

3. This Act is called the Usury Amendment Act, 2017 and comes into operation on a date determined by the Minister by notice in the *Gazette*.