



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

**Portfolio Committee on Trade and
Industry**

The National Credit Amendment Act No. 7 of 2019

10 September 2019

Parliament - CAPE TOWN



Purpose

The purpose of this presentation is to brief the Portfolio Committee on Trade and Industry on the implementation of the National Credit Amendment Act No. 7 of 2019, as incorporated into the principal Act, National Credit Act No. 34 of 2005.



Contents

- Background
- Regulations
- Funding
- NCR implementation plan
- NCT implementation plan

Background

- Purpose of the National Credit Act, 2005 is to promote and advance the social and economic welfare of South Africans; to promote a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market industry; and to protect consumers.
- The Act protected South Africa from the 2008 global financial meltdown.
- However, the Act does not address low income workers on debt review -
 - Existing natural person insolvency measures are not accessible to all consumers;
 - Insolvency/Sequestration requires benefit to credit providers;
 - Administration and Debt Review are not affordable for some consumers; and
 - Not providing suitable alternative measures subjects these consumers to unjustified and unfair discrimination on socio-economic grounds.

Background

- The National Assembly passed the Bill in 12 September 2018. The National Council of Provinces passed the Bill on 28 March 2019. The President signed the National Credit Amendment Act into Law on 13 August 2019.

Who qualifies?

- A person who-
 - is a **natural person** (or **joint estate**);
 - is a consumer under **unsecured** credit agreements / short term credit transactions / credit facilities only: Provided that the total of the principal debts under these agreements may not be more than R50,000;
 - during the 6 months preceding the application, has received an average income of no more than R 7,500 per month;
 - is over-indebted; and
 - is **not sequestrated** or subject to an **administration order**.

Background

- Adv. Trengove's legal opinion found that debt intervention measure contained in the amendment Act is substantially and procedurally fair and should pass constitutional muster.
- Research conducted on the unsecured loan market, part of the results analysed in the Financial Mail article recently, found:
 - Aggressive collection practices and extortionate pricing have ensured that even though about one-half of all unsecured lending consumers are in default, the lending industry remains highly profitable.
 - High-cost unsecured loans used for personal consumption by largely financially illiterate consumers have destroyed the chance of financial emancipation for many.
 - The all-in cost of credit is extremely negative by any measure, the researchers say. A person in need of a one-month loan is not likely to be able to pay an annualised yield of a particular amount without likely needing further loans, thus ensnaring them in a debt trap. What makes this especially indefensible is the interest charged on these loans.
 - Expensive loans used for consumption purposes create a transfer of wealth from the borrower to the lender and in SA's case, from the poor to the rich.
 - The whole situation is seen as a betrayal of the initial promise of using lending to empower people.

Regulations

- Section 171 of the NCA empowers **the Minister to make regulations** on:
 - The participation in a financial literacy programme.
 - The determination that the Magistrate and Tribunal member can make in respect of the maximum interest, fees and other charges (guidelines).
 - Prescribed forms and certificates [e.g. section 71(1A)].
 - Adjustment of the qualifying amounts for debt intervention-
 - the Minister may only adjust the amounts once per year and thereafter every 24 months;
 - in doing so, the Minister must consult stakeholders; table a report in the National Assembly summarising the consultations and provide the rationale for the proposed adjustment; and
 - the National Assembly (NA) may then approve the proposed adjusted amount.

Funding

- The Department is in the process of reviewing the budget for immediate implementation, working on reprioritisation.
- The implementation of the Amendment Act will follow a phased approach with the initial budget lower than projected.
- In the next 6 months processes will be underway to spend on ICT and other once-off set up costs.
- A budget request will be made to the National Treasury.
- The industry funded levy is proposed as an additional option to fund the debt intervention measure. This will not be unique to South Africa.

Way Forward

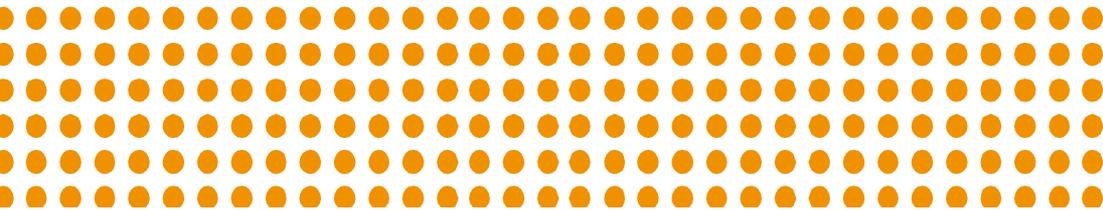
- The proclamation by the President projected for January 2021. The implementation of the Amendment Act is estimated to be a phased approach starting from 15 to 24 months.
 - Implementation to be from January 2021. The remaining processes to be ready by November 2021.
 - It will incorporate the industry readiness as well as the readiness of the NCR and the NCT.
- The final regulations will be completed in 8 months-May 2020.
- **the dti**, NCR and NCT has established Task teams to address ICT, implementation, Regulations and Finance roll out. Initial processes ready to commence. Project plans being developed.
- Other experts and stakeholders from industry will form part of the implementation plan at various stages.

National Credit Regulator

PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

THE NATIONAL CREDIT AMENDMENT ACT

DEBT INTERVENTION IMPLEMENTATION PLAN



10 SEPTEMBER 2019



National Credit Regulator

Delegation's details

Ms Nomsa Motshegare - Chief Executive Officer

Mr Lesiba Mashapa- Company Secretary

Ms Anne-Carien Du Plooy- Acting Manager: Debt Intervention, Investigations and Enforcement

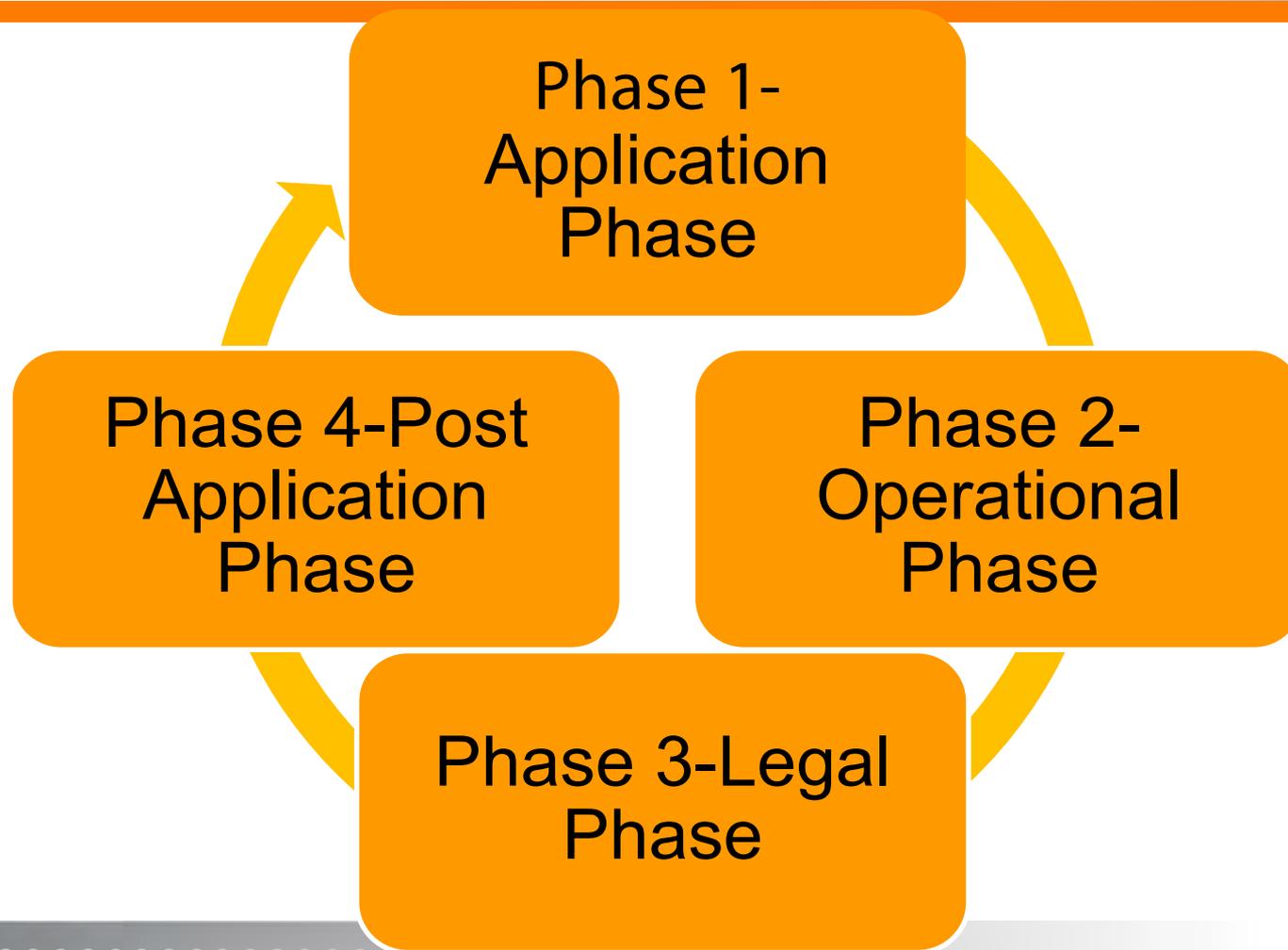
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Target Group Estimation

- ❑ According to the 80/20 report, 1.5 million consumers will be eligible for Debt Intervention (DI).
- ❑ The Genesis report indicated that:
 - The target group consists of 359,276 consumers.
- ❑ The NCR worked on a conservative middle ground of 750,000 -
 - this is half of what the 80/20 report has stated; and
 - +390,000.00 more than the Genesis report.

Summary of Debt Intervention (Di) Process



Phase 1- Application Phase (platforms for submission of applications)

- ❑ Applications forms for Debt Intervention (DI) will be available in all 11 languages.
- ❑ The following platforms will be available to consumers for submission of application for DI:
 - A cell phone application (app) will be developed.
 - Provision will be made for online applications on the NCR's website.
 - The NCR intends to set up a call centre through which DI enquiries and applications will be attended to.
 - DI administration officers will be available to accept applications from walk-ins.
 - Mobile unit (for rural areas).
 - Make use of provincial Consumer Protection Offices.

Phase 1 and 2 (Day 1- 33)

Application Phase

- During this stage consumers will lodge an application for debt intervention with the NCR.
- All required and/or supporting documentation and information will be collected.
- A high level assessment will be conducted in order to establish whether consumers meet the minimum criteria of income of not more than R7,500.00 and unsecured debt of not more than R50,000.00.

Operational Phase

- At this stage the NCR will be conducting assessments to determine over-indebtedness, prescribed debt and reckless lending.
- We will further establish which debt intervention measure is applicable to the applicant consumer.
- This stage will further be the stage in which negotiations with Credit Providers are conducted for consumers who will be getting their debts restructured.
- Consumers who were subject to a suspension order will be referred back to this stage (from phase 4) once the time periods expired and the application is due for review.

Phase 3 and 4 (Day 34 -60)

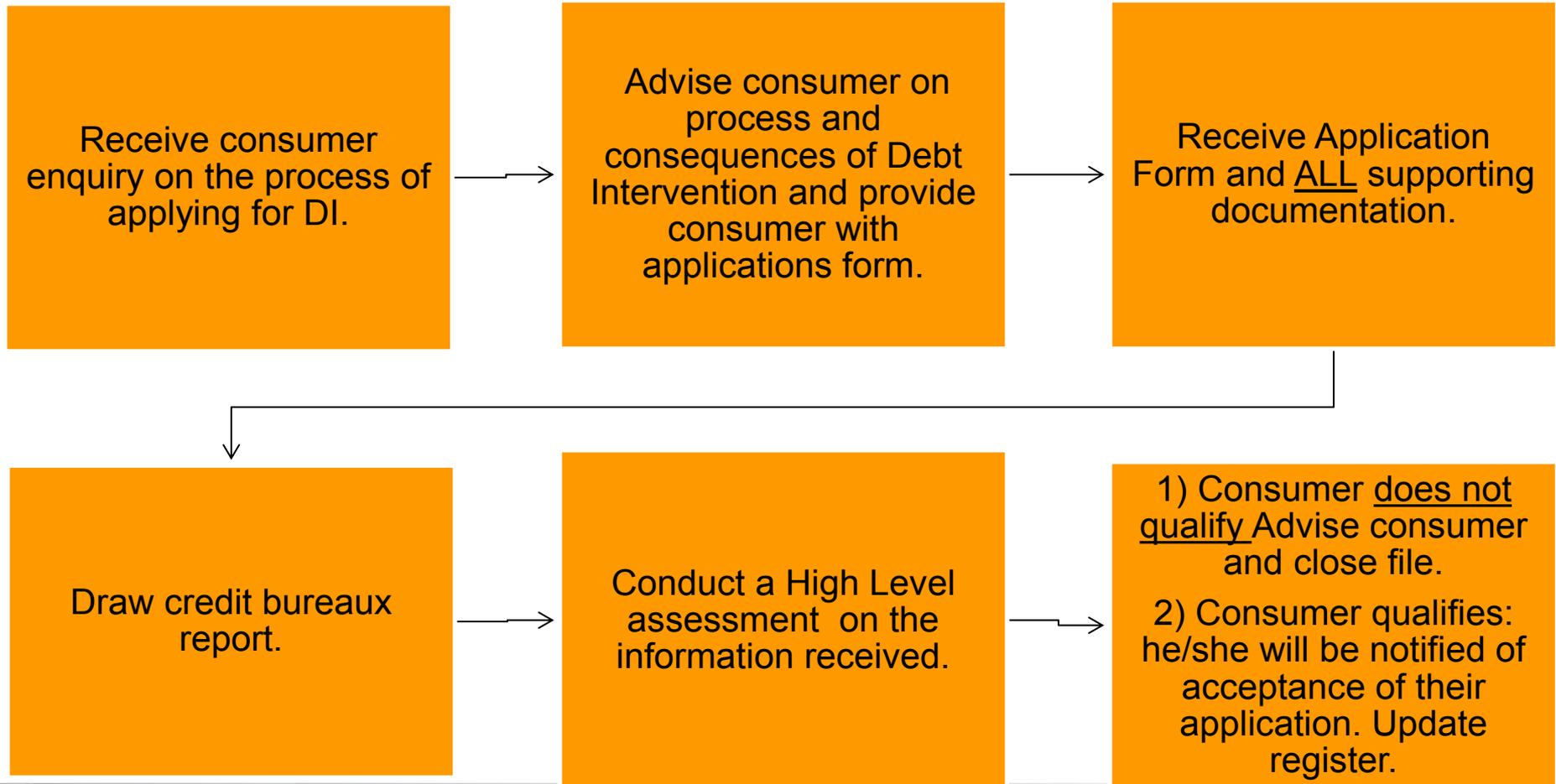
Legal Phase

- At this stage the following will be attended to:
 - The drafting of referrals to the National Consumer Tribunal.
 - Service and filing of applications (to all effected parties).
 - All attendances at the National Consumer Tribunal.
 - Drafting of any further pleadings necessary in the process.
 - Arguing the matter if need be.
 - Obtaining the order from the National Consumer Tribunal.

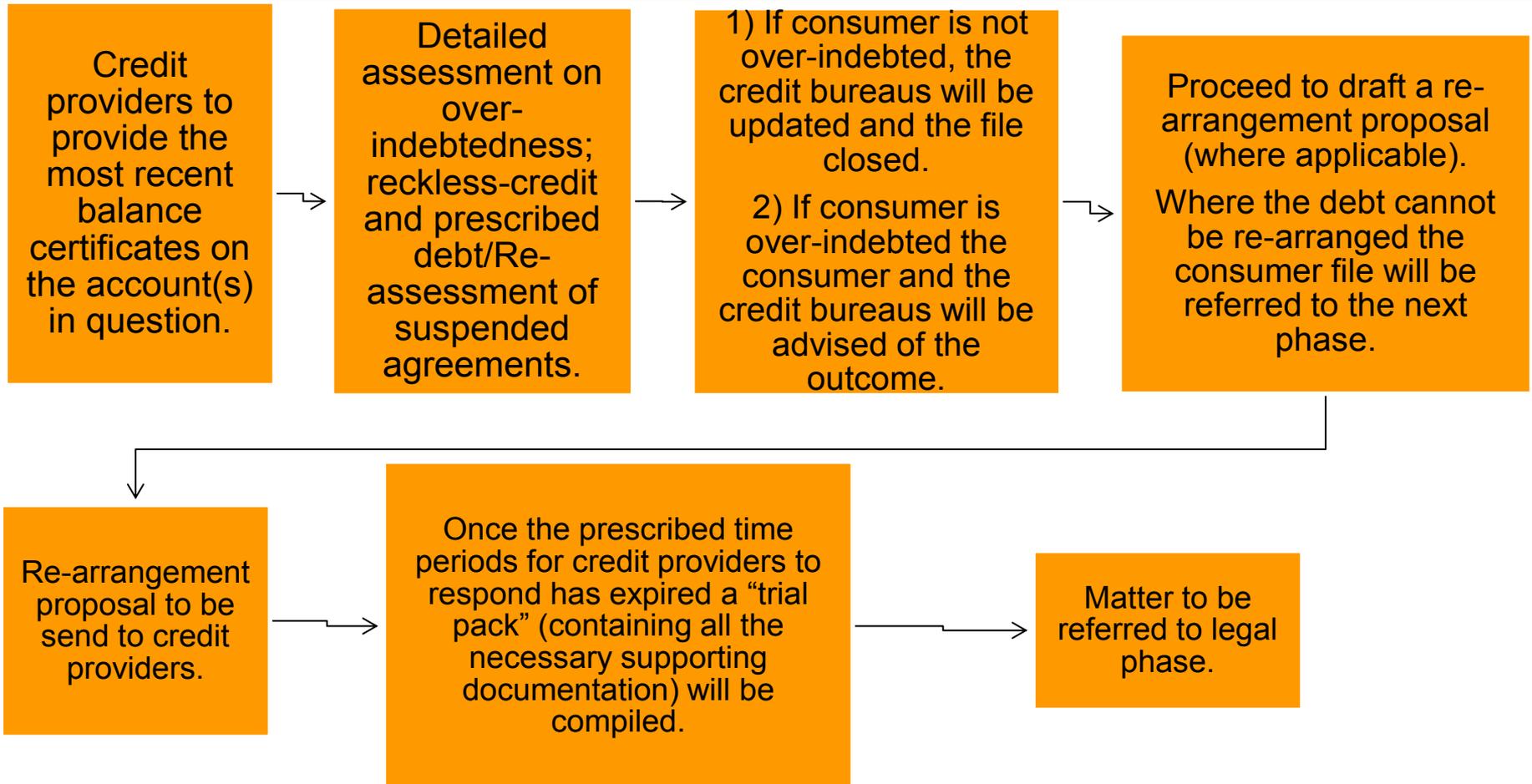
Post Application Phase

- This phase of the process will be responsible for:
 - Updating all affected parties.
 - Ensuring that consumers are referred back to the operational stage once the time period for the Debt Intervention order (suspension) has expired and the application for Debt Intervention is up for review.

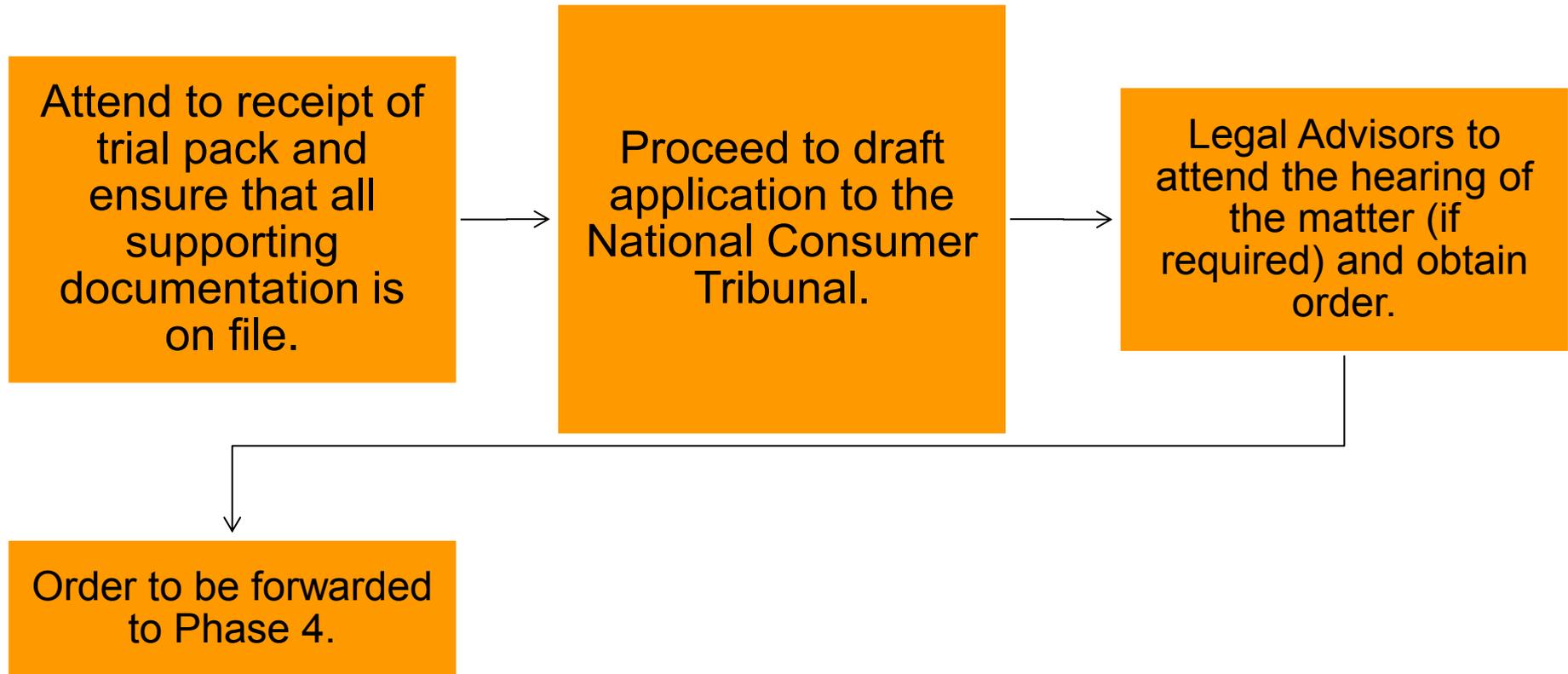
Phase 1- Application Phase (continued)



Phase 2- Operational Phase (continued)

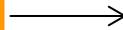


Phase 3-Legal Phase (continued)

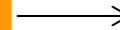


Phase 4-Post Application Phase (continued)

Updating all
affected parties.



Update Payment
Distribution Agent on
the restructuring order
(if applicable).



Should a consumer apply
for rehabilitation the
consumer file will be
referred to the legal
phase to attend to the
necessary.

State of readiness and timeframes for implementation

| | |
|--|--|
| Procurement of suitable premises | + - 8 months from date of advertisement/tender |
| Entering into MOU's for Financial Literacy training and developing material | + - 12 months |
| Appoint a system developer | + - 3 months |
| Debt Help System enhancement (Register as required in terms of the Bill) | + - 6 months from date of system developer being appointed |
| Appointing service provider to assist with development of systems | + - 3 months from date of system developer being appointed |
| New system being developed (to generate proposals etc.) | + - 15 months from service provider being appointed |
| Online application system to be developed to accommodate online applications | + - 6 months from date of system developer being appointed |
| Cell phone app to be developed | + - 6 months from date of system developer being appointed |
| Intellectual technology procurement and installation | + - 15 months from premises being procured |
| Human Resources | As and when required |

Infrastructure needs

- Facilities:
 - *Once off costs-*
 - Generator;
 - Security system;
 - Office furniture;
 - Procuring bigger premises;
 - Procuring cleaning services;
 - Procuring Security services;
 - Building fittings and office partitioning.

- Human Resource requirements as indicated earlier in presentation.

Infrastructure needs (continued)

- ❑ IT infrastructure:
 - System development -
 - DebtHelp System enhancement;
 - System for proposal generation;
 - Call Centre system;
 - Online application forms;
 - Cell phone application (app.);
 - Electronic register as required by the Act.
 - Procuring of IT equipment i.e. telephonic handsets, computers, server cabinet; firewall, switches, servers.
- ❑ Financial literacy training:
 - Memorandum of Understanding (MOUs) to be entered into;
 - Training programme;
 - Training material.
- ❑ **Budget required: R127 000 000,00**

Financial Literacy Training

- ❑ Creation of training material -
 - the NCR will consider available material, including the material used by the industry which will be improved to accommodate the targeted consumer, this will include the translation thereof into all official languages.

- ❑ Appointment of suitably qualified trainers -
 - the Provincial Consumer Protection Offices and/or Setas to be approached to determine their capacity to assist with training of consumers.

Method of Financial Literacy Counselling [section 86A(5)(a)]

Training approach to be adopted:

- ❑ For online applicant - online training video to be developed.
- ❑ For Cell phone app applicant - online training video to be developed.
- ❑ Applications received via call centre - telephonic counselling will be provided.
- ❑ All other applicants - Face-to-face counselling through the NCR's resources. To engage with provincial consumer protection offices and Setas to determine their capacity to assist.

Method of Financial Literacy Training [section 87A(2)(b)(ii)]

Literacy training approach to be adopted:

- ❑ By virtue of its definition this form of literacy training is a more in-depth and longer training programme to be attended by consumers.
- ❑ Applicant who is unable to attend face to face training:
 - Online training programme to be developed, followed by an assessment to be conducted afterwards.
- ❑ Consumers able to attend face to face training:
 - This group of consumers will be trained by the NCR in conjunction with Seta and the Provincial Consumer Protection Offices and the enhanced resources of the NCR.

Expenses Per Department (Year 1)

| Department | |
|--|-----------------------------|
| HUMAN RESOURCES | R 45 031 895 |
| FACILITIES | R 7 451 400 |
| CONSUMER EDUCATION | R 29 532 000 |
| OFFICE STATIONARY | R 780 000 |
| INFORMATION TECHNOLOGY | R 6 693 880 |
| LEGAL FEES | R 6 000 000 |
| STAKEHOLDER ENGAGEMENT | R 30 000 |
| GENERAL | R 4 800 000 |
| <i>Start-up costs (once off costs)</i> | |
| INFORMATION TECHNOLOGY | R 24 324 300 |
| FACILITIES | R 2 263 000 |
| <u>TOTAL EXPENSES:</u> | <u>R 126 906 475</u> |

Three (3) Year Financial Projections

| | Year 1 | | Year 2 | | Year 3 | |
|-------------------------------|--------|-------------|--------|-------------|--------|-------------|
| Department | | | | | | |
| HUMAN RESOURCES | R | 45 031 895 | R | 47 623 387 | R | 50 712 936 |
| FACILITIES | R | 7 451 400 | R | 8 176 140 | R | 8 973 354 |
| CONSUMER EDUCATION | R | 29 532 000 | R | 31 596 000 | R | 33 074 400 |
| OFFICE STATIONARY | R | 780 000 | R | 858 000 | R | 943 800 |
| INFORMATION TECHNOLOGY | R | 6 693 880 | R | 8 132 468 | R | 8 394 915 |
| LEGAL FEES | R | 6 000 000 | R | 6 600 000 | R | 7 260 000 |
| STAKEHOLDER ENGAGEMENT | R | 30 000 | R | 33 000 | R | 36 300 |
| GENERAL | R | 4 800 000 | R | 5 280 000 | R | 5 808 000 |
| Start-up costs | | | | | | |
| INFORMATION TECHNOLOGY | R | 24 324 300 | | 0 | | 0 |
| FACILITIES | R | 2 263 000 | | 0 | | 0 |
| TOTAL EXPENSES: | R | 126 906 475 | R | 108 298 996 | R | 115 203 706 |

Proposed Funding Resources

- ❑ 20% of required funding will be obtained from:
 - Registrants' fees to be increased- proposal to be presented to **the dti**.
 - The interest earned from Payment Distribution Agents (PDAs) fees (It is important to note that this amount fluctuates).
 - Levy- By applying a small industry-wide levy on every credit transaction (e.g. R1 per transaction).

- ❑ 80% will comprise of an allocation from **the dti**.

THANK YOU!

PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY
THE PROPOSED IMPLEMENTATION ROAD MAP OF THE
NATIONAL CREDIT AMENDMENT ACT NO. 7 of 2019



Target group estimation



- ❑ The National Credit Regulator (NCR) latest estimate, as outlined during joint CCRD meeting held on 3 September 2019 indicates that there would be approximately 750 000 consumers who would qualify for Debt Intervention.
- ❑ In line with this, we have made an assumption that the NCT would be processing up to 250 000 applications per annum over a 3 year period after the promulgation of the National Credit Amendment Act No. 7 of 2019 and Regulations.
- ❑ We have determined a 3 year cycle to process these applications on the basis that the Amendment Act provides for the Minister of Trade and Industry to review the mechanics of the Debt Intervention measure after 36 months of the implementation of the Amendment Act.



Number of Tribunal Members

- ❑ The Tribunal estimates that at least 250 000 applications will be received in the first year from the date of implementation readiness.
- ❑ Based on these case numbers, the Tribunal would require **33** additional Part-time Tribunal Members.
- ❑ Further assumptions are that each Tribunal member would adjudicate on a minimum of 32 cases per day and working 20 days per month.
- ❑ Based on the abovementioned, the adjudication budget required would be R51.87m for the first year. (This assumes, each Tribunal member is paid R6,550 per day.)
- ❑ There is an additional amount of R16.3m estimated for processing opposed applications which require a hearing by a Tribunal member.



Proposed Administrative Support Staff

- Eight (8) Case Officers
- Three (3) Administrative Officer
- Three (3) ICT Staff members
- Three (3) Human Resource Co-ordinators/Facilities

Infrastructure needs

The Tribunal would require an investment into:

- 1. Additional office space** - as more staff will be appointed. Seventeen (17) additional employees. An additional 500 square meters of office space, plus other related expenses (R1.6 million) will be required.
- 2. Computer equipment and software** - this would relate to computers for the staff and Part-Time Tribunal Members and servers and software licencing costs for the Case Management System (R5.4million).
- 3. Furniture and fittings, leasehold improvements and office equipment** (R1.5 million).

Overall Additional budget per year

| Activity | Year 1 | Year 2 | Year 3 |
|---|-------------------|-------------------|-------------------|
| Employee costs | 6 112 758 | 7 411 530 | 7 892 811 |
| Fees for adjudication - | 51 813 775 | 54 661 555 | 57 361 308 |
| Fees for adjudication- Opposed matters | 16 375 000 | 17 275 000 | 18 225 000 |
| Operating leases and leasehold costs | 1 640 150 | 1 760 754 | 1 889 945 |
| Training | 180 000 | 190 080 | 200 534 |
| Consultants and special services | 390 000 | 411 840 | 434 491 |
| Travel and accommodation | 1 392 400 | 1 531 640 | 1 684 804 |
| Administration | 1 006 783 | 1 079 551 | 1 135 872 |
| Communications | 120 000 | 132 000 | 145 200 |
| Capital Expenditure (excluding IT) | 1 480 000 | 60 000 | 60 000 |
| Capital Expenditure IT | 4 970 000 | 1 030 000 | 1 500 000 |
| Total | 85 480 866 | 85 543 950 | 90 529 967 |



Sources of funding

- ❑ The Tribunal's current main source of funding is a grant from ***the dti***. This grant comprises 90% of the Tribunal's revenue budget.
- ❑ The NCT does not have the latitude of obtaining any additional funding other than from government as it operates as an independent administrative court.
- ❑ Funding would be required from ***the dti*** to meet the case load arising from the implementation of the new Amendment Act.



NCT Debt Intervention Processes

- ❑ The NCT's receives an assessed application for Debt Relief from the NCT and acknowledges same.
- ❑ The NCT registers the application and allocates it to the Tribunal for adjudication.
- ❑ If the consumer qualifies for debt relief in terms of the Act, and there is consent between the consumer and the Credit Provider, then Tribunal member issues a order to the NCR for the suspension of the debt.
- ❑ If the Tribunal member determines that the consumer does not have sufficient income, and where there is an existing suspension of the Credit Agreement order issued in terms of section 87A(2)(b)(i), the Tribunal member issues a temporary order, with a Return date to the NCR and the Credit Provider in terms of section 86A(9)(b).



NCT Debt Intervention Processes

- ❑ The NCT's receives an application for the extension of the suspension of the Debt in terms of section 87A(5)(b)(ii).
- ❑ The NCT grants an order of the extension of the suspension in terms of section 87A(5)(c) and issues this to the NCR.
- ❑ In respect of Opposed Applications, the NCT conducts a hearing from which a ruling will be issued and submitted to the NCR.
- ❑ The design of the ICT interface between the NCR and the NCT to manage the Debt Intervention processes to be implemented.
- ❑ The installation and commissioning of the new ICT infrastructure.
- ❑ Recruitment of the 32 Tribunal Members and the 17 employees.
- ❑ Establishment and preparation of new Office Space.
- ❑ User adoption and Change management in order to implement the New Process.

Procurement

The Tribunal will be required to procure:

1. Additional office space;
2. Office equipment;
3. Furniture and fittings;
4. Computer Equipment; and
5. Computer Software.

Proposed NCT Task Team for the implementation of the Amendment Act

- ❑ The NCT's representatives that have been identified to be involved in the Debt Intervention Process are:
 - ❑ Registrar – Regulation and Case management;
 - ❑ Chief Financial Officer – Finances;
 - ❑ Chief Information Officer – ICT; and
 - ❑ Tribunal Member – Adjudication.

Immediate actions for the next Six Months and beyond

- ❑ The NCT/NCR to commence the design of processes and systems for the implementation of the Amendment Act.
- ❑ The NCT/NCR to determine a Project Plan of Activities and Timelines for the design and implementation of processes and systems.
- ❑ It is envisaged that all people, processes and systems will be implemented and ready for operation by December 2020.



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THANK YOU