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Microlending

QUICKLAW GUIDE





Microlending

What is microlending?

- > Microlending can be described as an agreement between a borrower and the lending company, (Microlender/Cash loan).
- > When applying for a Micro loan, the borrower has the right to information pertaining to their loan(s) i.e. the capital amount borrowed, interest payable, number and amount of installments, any additional charges such as penalty charges, credit life insurance, date of first installment and date of last payment.
- > It is the right of the borrower to ask for an explanation of information/terms/documents or anything they do not understand regarding the loan. A borrower should not sign unless such a loan application/agreement until he/she understands the terms and conditions of the agreement.

The Department of Microlending at NBFIRA is charged with the implementation of provisions of the Microlending Regulations and the NBFIRA Act defined as Financial Services Law under NBFIRA Act. Its functions include, licensing, off-site monitoring, on-site inspections, enforcements, and complaints handling.

What are objects of the NBFIRA Act?

To regulate and supervise Non-Bank Financial Institutions for the purpose of contributing towards financial stability.

Who may conduct the business of microlending?

- > Any person may conduct the business of a microlender if he or she is registered as a microlender in terms of the Act and is licensed to operate as such.
- > Any person who carries on a business as a microlender other than in accordance with the licensed commits an offence and on conviction is liable to a fine not exceeding P2500 for each day on which the offence occurs or continues to occur or to imprisonment for a period not exceeding 5 years, or to both.

The rights of a borrower

The borrower has the right to information pertaining to their loans for example:

1. The capital amount borrowed
2. The interest payable
3. The number and amount of installments
4. Any additional charges such as penalties, credit insurance, date of first installment and date of last payment.
5. The borrower has a right to ask for an explanation of information/terms/documents or anything they do not understand regarding the loan.

What conduct are Microlenders specifically prohibited from engaging in?

Microlenders are prohibited from:

1. Require disclosure of the borrowers personal identification number (PIN) used for a bank card:
and or
 2. Take possession of a borrower's bank card, national identity card (Omag) or any other official document.
- Any continued retention of these documents or contravention of this section of the regulations shall attract civil penalties as prescribed in the NBFIRA Act.
3. They shall not engage in conduct that is or is likely to mislead or deceive any person. An example of this is falsely representing that a financial service is of a particular standard, quality, value or grade
 4. A microlender who engages in unfair practices, as determined by the Regulatory Authority, and given via notice in the Gazette, shall be liable to a civil penalty not exceeding P20 000 to be imposed by the Regulatory Authority.

When and how can borrowers lodge their complaints?

- > Complaints should be lodged with NBFIRA only after the customer has attempted to resolve the matter with the cash loan/pawn shop and the attempts have failed.
- > Complainants are encouraged to submit their complaints in written form to the cash loan/pawn shop as well as to NBFIRA. This may be in either English or Setswana.
- > The complainant must give the following information when lodging a complaint:
 1. Full name, Surname and ID number
 2. Contact Details
 3. Description of complaint
 4. Supporting evidence if there is any

Glossary of terms:

MICROLENDER means a person who advances loans to persons, where the loans do not exceed the prescribed amount, but does not include a person licensed in terms of the Banking Act or the Building Societies Act.

LICENSE means a license issued in terms of the Act or a registration or other permission issued in terms of another financial services law.

How can LegalWise assist you?

Should you require an explanation of your rights on this topic, please contact your nearest Branch.