THE *NATIONAL CREDIT ACT* REGARDING SURETYSHIPS AND RECKLESS LENDING

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SUMMARY

In terms of the *National Credit Act* a credit provider may conclude a credit agreement with a consumer only after he has made a proper financial assessment and concludes that the consumer will be able to satisfy all of his obligations under all his credit agreements. However, a practice of not conducting this affordability assessment has evolved amongst certain credit providers where the credit agreement involved is a suretyship agreement. This article investigates whether or not a suretyship agreement is indeed a credit agreement in terms of the *National Credit Act*, and if a financial assessment should be conducted in the case of a suretyship agreement. The main aim of the article is to try to identify what the concept of a "credit guarantee", as defined in the Act, encompasses and ultimately if the common-law contract of suretyship falls under this definition. Our conclusion is that "credit guarantee" is as vague and problematic as many of the other definitions in the Act. If one reads the Act in its entirety (including the regulations to the Act), it seems unlikely that the legislature intended not to regulate common-law suretyships also.

KEYWORDS

National Credit Act; credit guarantees; suretyship; guarantees; reckless credit

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