



# LAW LETTER

*Supplement*

*November 2007*

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# home loans

## vs The National Credit Act

*Buying a home is exciting, but unless you have won the Lotto or you are a Rockefeller, you will probably be applying for a home loan to finance the purchase.*

Before July 2007, all you needed to do was arrive at the bank with your pay-slip and the bank calculated your bond capacity based on 30% of your take-home salary. Nice and simple. Nice and simple, that is, until you were asked to sign reams of incomprehensible documents. The documents included, for all you knew, an irrevocable undertaking to donate both of your kidneys to the bank in the event of default.

Things are a little different since the arrival of the National Credit Act. Now you have to prove both your income *and* your expenses. The banks are concerned about how much you can really afford because if a creditor recklessly extends credit, the courts will not assist a creditor in recovering its money (By the way, have you ever known a bank to behave recklessly?).



by Redvers Lee  
Property Division

Banks and other creditors are also obliged to disclose every expense charged in connection with the credit, as well as the full amount of the interest which will be payable over the period of the loan. "Twelve percent interest per annum" suddenly looks very different when you find out that, on a loan of R100 000.00, you will pay back R264 240.00 over 20 years!

The National Credit Act will certainly make the home loan application process more onerous. Either way, the Act for all its faults represents an important aspect of consumer protection.



*Home is the place where, when you have to go there, they have to take you in. Robert Frost*



# the cruel sea

*Beachfront properties are horribly expensive and for good reason too - a cool verandah, a supply of cocktails and an endless sea view borders on criminal indulgence. The new Integrated Coastal Management Bill has, however, shaken the security of these beachfront havens.*



by Lindy le Roux  
Property Division

The Bill provides for welcome measures for the conservation of our coastline, but also deals with the issue of the ownership of "coastal public property". Coastal public property is the land falling between the low water mark and the high water mark, barring exceptional floods or storms. The Bill follows the thinking of the soon-to-repealed 1935 Seashore Act in providing that coastal public property is owned by the public and is held in trust by the State. The Bill takes the matter further, however, by providing a mechanism by which beachfront billionaires may lose ownership of property which is reclaimed by the sea. The Bill states that if the high water mark extends into your beachfront property, other than as a result of exceptional or abnormal flooding and if this position remains for 3 years, the land concerned becomes coastal public property. Beachfront

owners will receive no compensation for their loss unless the extension of the high water mark was caused by an organ of state.

The recent high storm seas experienced along the KwaZulu-Natal coast raised the concerns of beachfront owners, but any resultant movement of the high water mark in this case seems, thankfully, to have been as a result of "exceptional or abnormal flooding".

The Coastal Management Bill also seeks to ensure that beaches are accessible to the public. Coastal municipalities will be obliged to designate and expropriate servitudes over privately-owned "coastal access land" adjacent to coastal public property, so as to ensure public access to beaches.

*She sells seashells by the seashore.  
The shells she sells are surely seashells.  
So if she sells shells on the seashore,  
I'm sure she sells seashore shells.  
A popular (?) tongue twister*



## From the Chairman's desk

*Work is much more fun than fun.*  
Sir Noel Coward

Year-end is always a time for reflection - reflection on one's goals, personal growth, family and friends. I will studiously avoid waxing too philosophical, but allow me the indulgence of a look over the shoulder at the rapidly-passing year, my first as chairman of Venn Nemeth & Hart.

There are strong indications that the firm is coming into its own as a regional and national player. Amongst others, this year we acted for a client in listing a company on the Alt-X, the Alternative Exchange of the JSE. We were also appointed by the Development Bank of South Africa to provide content to the Local Government Resource Centre, a web-based resource for municipal practitioners. This is the second phase of a project that we initiated with the Bank in 2004.

We have also received official endorsement of our empowerment efforts over the years. As mentioned in this Law Letter Supplement, this endorsement came in the form of a triple-A rating from Empowerdex.

We have taken time to give back to our communities. We have continued our involvement with Feedback, a non-profit organization which redistributes excess food to needy communities. While the launching of the KwaZulu-Natal chapter of the David Rattray Foundation in partnership with the accounting and auditing firm, Colenbrander Inc., provided some glamour to the year. The Foundation is aimed at promoting

reconciliation through historical and political lectures and through fund raising for upliftment projects.

We unthinkingly describe ourselves as "the Venn Nemeth & Hart family" because this is the best metaphor for the relationships within our firm. Our interactions are characterized by laughter and genuine care, providing the foundation for a great law firm. But my end-of-year reflections turn inevitably to you, our clients. Venn Nemeth & Hart is a dynamic and challenging place to work because we have *great* clients. Thank you for trusting us with your affairs and for making our work richly interesting and rewarding. To echo the words of Noel Coward, you have made our work "much more fun than fun". The directors and staff wish you the best for the remainder of this year and for the New Year ahead.



## Venn Nemeth & Hart scores big with BEE

*The advantage of doing one's praising for oneself is that one can lay it on so thick and in exactly the right places.*  
Samuel Butler

Venn Nemeth & Hart was recently awarded a triple-A rating by Empowerdex, the well-known black economic empowerment verification agency.



A triple-A rating is the highest possible Empowerdex score and means that Venn Nemeth &

Hart is recognised as a Level 2 Contributor for the purposes of the Department of Trade and Industry's Codes of Good Practice on Black Economic Empowerment. The implication for our clients is that every rand spent on legal services from Venn Nemeth & Hart may be treated as R1.25 spent on an empowered entity when calculating the preferential procurement component of your BEE score.

Government has not yet accredited any of the empowerment verification agencies, but Empowerdex is well-respected in the market and will almost certainly be accredited in due course.

We are delighted to receive official recognition of a transformation process that began in the 1970s with the appointment of our first black candidate attorney. (The candidate attorney concerned is now a judge of the Constitutional Court, the highest legal forum in our country). We have often benefited from this transformation process - the many black candidate attorneys trained over the years include a director in our Property Department and our present chairman - but it is very pleasing to have Empowerdex endorse our ongoing efforts.

Good ratings aside, Venn Nemeth & Hart will continue to contribute to empowerment through internal transformation and a positive involvement in the empowerment of our society.

Please contact Vourn Lombard (033 355 3158 or [vourn@vnh.co.za](mailto:vourn@vnh.co.za)) if you require a copy of our scorecard.

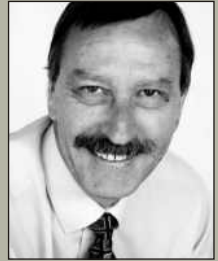
## BSI and the Alt-X factor

Venn Nemeth & Hart is proud to have acted as attorneys for Battershill Steel Industries in its recent listing on the Alt-X. The Alt-X is a division of the Johannesburg Stock Exchange and is intended for small and medium-sized companies destined for great things.

BSI was founded in 1985 and, under the leadership of William Battershill, has rapidly grown to become a significant player in the steel industry, with operations in South Africa, Zambia and the Democratic Republic of Congo. Prior to the listing we assisted the BSI Group with a major restructuring exercise. This included the acquisition by BSI (SA) Ltd of all minority shareholder interests in its various subsidiary companies.

The company will have a market capitalisation of around R1 billion, making it one of the largest entities listed on the Alt-X. The offer, incidentally, was massively over-subscribed.

Venn Nemeth & Hart wishes Battershill Steel Industries great success as a listed company.



by John Wallace

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