



The National Credit Act and the National Credit Regulator



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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

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National Credit Act

Act No. 34 of 2005

The purposes of this Act are to promote and advance the social and economic welfare of South Africans, promote a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry, and to protect consumers.

ASSENTED to by the President on 10 March 2006

Date of commencement: 1 June 2006

The Act establishes a National Credit Regulator to carry out education, registration of industry participants, refer cases to the National Consumer Tribunal for appropriate sanctions, promote informal resolution of disputes, investigate complaints and enforce the Act.

Objectives of the National Credit Act

- To promote a fair and non-discriminatory marketplace for access to consumer credit and for that purpose to provide for the general regulation of consumer credit and improved standards of consumer information;
- To promote black economic empowerment and ownership within the consumer credit industry;
- To prohibit certain unfair credit and credit-marketing practices;
- To promote responsible credit granting and use, and for that purpose to prohibit reckless credit granting;
- To provide for debt re-organisation in cases of over-indebtedness;
- To regulate credit bureau information;
- To provide for registration of credit bureau, credit providers and debt counselling services;
- To establish national norms and standards relating to consumer credit;
- To promote a consistent enforcement framework relating to consumer credit.
- To establish the National Credit Regulator and the National Consumer Tribunal;
- To repeal the Usury Act, 1968, and the Credit Agreements Act, 1980; and to provide for related incidental matters.

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Key features of the National Credit Act

- Language in credit agreements must be plain and understandable;
- Quotations must be given on all credit agreements, and are binding for 5 business days;
- Advertising and marketing must contain prescribed information on the cost of credit;
- Credit sales at a person's home or work are strictly limited;
- Reasons must be provided if a credit application is declined;
- Automatic increases in credit limits are regulated;
- Reckless lending is prohibited;
- Interest and fees are regulated on all agreements, including micro loans;
- Credit Bureaus are regulated and consumers have the right to a free credit bureau record once a year;
- Debt counselling is introduced to enable restructuring of debts for over-indebted consumers.

What is the role of the National Credit Regulator?

The National Credit Regulator has to:

- Research the credit market and monitor access to credit and the cost of credit to identify factors that may undermine access to credit, competitiveness and consumer protection;
- Receive and investigate complaints and ensure that consumer rights are protected, and
- Enforce the Act and take action against contravening institutions.

What is the National Consumer Tribunal?

The Tribunal is a separate institution that is independent of the National Credit Regulator. The Tribunal consists of a Chairperson and at least 10 other members.

The Tribunal hears cases on non-compliance with the Act and may impose the following sanctions in terms of Section 150 e.g. suspends or cancels the registrant's registration, requires repayment to the consumer of any excess amount charged, issues fines and provides redress to consumers etc.

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Household Monthly Budget

Income			
	Expected	Actual	Difference
Salary			
Spouse Salary			
Bonus			
Interest			
Investing Income			
Total			
Expenses			
Rent/Home loan			
Insurance			
Fuel/Service			
Bank Charges			
Groceries			
Clothing			
Childcare			
Electricity			
Entertainment			
Loans			
Savings			
Medical/Dental			
Telephone			
Total			

How to contact The National Credit Regulator ?

- **Toll share:** 0860 627 627 or 0860 NCR NCR
- **Registration issues:** (011) 554 2600
- **E-mail: for enquiries** info@ncr.org.za or **for General Complaints** complaints@ncr.org.za or **for Debt Counseling Complaints** dcco complaints@ncr.org.za or **to Request a Workshop** workshops@ncr.org.za
- **Website:** www.ncr.org.za

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How do consumers get assistance?

Consumers can approach the National Credit Regulator for advice or assistance on any credit transaction falling under the National Credit Act. The National Credit Regulator can also assist consumers on issues related to credit bureau or credit information and debt counselling.

Consumers can also contact the following institutions which specialise in specific types of complaints:-

- **The Ombudsman for Banking Services (0860 800 900)** deals with complaints that relate to banks;
- **The Credit Information Ombudsman (0861 662 837)** deals with complaints that relate to credit bureaus or credit bureau information;
- **The Provincial Consumer Affairs Directorates** deal with general consumer complaints.

The National Credit Regulator collaborates with Provincial Consumer Affairs Directorates, the Banking Ombudsman and the Credit Information Ombudsman to ensure that effective assistance is provided to consumers.

Which transactions fall under the Act?

- Loans and other credit from banks, including mortgages, overdrafts, credit cards, vehicle finance and any other personal finance;
- Furniture finance, clothing accounts and any other type of credit from retailers;
- Micro loans and pawn transactions;
- Any other type of credit or loan provided to a consumer.

What does the national credit amendment act mean for you the consumer?

The National Credit Amendment Act No.19 of 2014 and Regulations address a number of matters, including:

The continuous removal of paid-up adverse information

- if you have paid-up your debt in full, then the credit

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provider must, within 7 days after your payment update this information with all registered credit bureaus.

- credit bureaus must remove any adverse listing within 7 days after receiving information from the credit provider that you have paid-up your debt in full.
- if the credit provider fails to update information regarding the fully paid-up debt by a consumer, then the consumer may lodge a complaint with the National Credit Regulator.

Newly introduced affordability assessment criteria

What is affordability assessment?

This is an assessment or test used by the credit provider to determine if a consumer is able to afford to take and repay credit without becoming over indebted.

- Affordability assessment criteria are applicable to all credit providers.
- Credit providers are obligated to conduct proper affordability assessments before granting credit.
- A consumer is obligated to provide proper proof and disclosure to the credit provider so the credit provider can properly conduct the affordability assessment.
- The credit provider must take practical steps to ensure that the consumer understands the rights, obligations, risks and costs associated with the credit agreement.

To properly assess the consumer's financial position, the credit provider must:

- Consider the consumer's gross income, statutory deductions, minimum living expenses and other debt obligations.
- Request either three months bank statements or pay slips (original document or certified copies).
- Take the consumer's debt repayment history into account.
- Perform this enquiry within 7 business days before approving credit or increasing the existing credit limit, or within 14 business days for home loans.

If the consumer is not happy with the outcome of the assessment, he/she can lodge a complaint with the credit

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provider after which the consumer can escalate the complaint to the National Credit Regulator if he/she is not happy with the outcome of the process by the credit provider.

Prohibiting the selling and collection of prescribed or "old" debt.

A prescribed or "old debt" is when:

- For the past 3 consecutive years the credit provider has not summonsed you for this debt;
- For the past 3 consecutive years you have not acknowledged the debt by verbal or written communication; and/or
- You have neither made any payment or promise of payment towards the outstanding debt.

Note that: If the above conditions have been met then the debt has prescribed. You are not legally bound to repay the debt and the debt cannot be reactivated.

What rights do you have?

- You have the right to ask for, and receive proof of, when the last payment was made for the debt.
- You have the right to ask for, and receive proof of, whether a summons was ever issued for the debt.
- You have the right to inform the debt collector that you are not legally bound to pay the debt as it has prescribed.
- If you have informed the debt collector that the debt has prescribed and you are not legally bound to pay it, then the debt collector must immediately stop contacting you.

Should you be a victim of a debt collector continuously calling you in order to collect on a prescribed debt or harasses or bullies you even after you have advised them that the debt has prescribed, then you can lodge a complaint with the National Credit Regulator.

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Always make sure your credit providers disclose all credit application costs.

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Loan application tick list

Loan amount	✓
Installment amount	✓
Number of installments	✓
Interest	✓
Compulsory insurance	✓
Interest rate (%)	✓
Residual or final amount payable	✓

For more information call 0860 627 627 | www.ncr.org.za