

GUIDELINE ON ACCESS TO CREDIT BUREAU INFORMATION IN RESPECT OF DECEASED CONSUMERS



National Credit Regulator

Advocating For Inclusive Credit

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1. INTRODUCTION

Section 16(1)(b) of the National Credit Act 34 of 2005 (“the Act”), empowers the National Credit Regulator (“NCR”) to provide guidance to the credit market and industry by issuing explanatory notices on the interpretation of the Act.

2. PURPOSE OF THE GUIDELINE

The purpose of this Guideline is to provide guidance to registered credit bureaus regarding access to credit bureau information relating to deceased consumers by duly appointed executors for purposes of administering deceased estates.

3. DEFINITIONS

- 3.1. Deceased Estate: The estate of a deceased person administered in terms of the Administration of Estates Act 66 of 1965.
- 3.2. Executor: includes a person authorised to administer a deceased estate under letters of executorship or letters of authority issued in terms of the Administration of Estates Act 66 of 1965.
- 3.3. Letters of Authority: A written authority issued by the Master of the High Court in terms of section 18(3) of the Administration of Estates Act 66 of 1965, authorising a person to administer a deceased estate.
- 3.4. Letters of Executorship: A document issued by the Master of the High Court under section 13 of the Administration of Estates Act 66 of 1965, authorising a person named therein to act as executor of a deceased estate.

4. THE STATUTORY PROVISIONS

- 4.1. Section 72 of the Act provides for the right of a person to access and challenge credit bureau information concerning that person. Section 72 states that:

“Every person has a right to –

(b) inspect any credit bureau file or information concerning that person; and

(c) challenge the accuracy of any information concerning that person, and require the credit bureau or National Credit Regulator, as the case may be, to

investigate the accuracy of any challenged information, without charge to the consumer."

5. ACCESS TO CREDIT BUREAU INFORMATION IN RESPECT OF DECEASED CONSUMERS

5.1. A deceased person remains the consumer for purposes of the credit agreement and any associated credit bureau information. The rights and obligations attaching to that position are exercised and administered through the deceased estate by the duly appointed executor acting in a representative capacity.

5.2. Section 72 of the Act gives every person the right to access and challenge credit bureau information concerning that person. On a purposive interpretation of section 72, this right may be exercised, in respect of a deceased consumer, by the duly appointed executor acting on behalf of the deceased estate for purposes of estate administration.

5.3. Access by an executor to credit bureau information relating to a deceased consumer is granted under section 72 of the Act. Section 70(2)(g), read with Regulation 18(4) of the Regulations, is not applicable, as an executor acts in a representative capacity on behalf of the deceased consumer's estate and not as a third-party seeking disclosure for a prescribed purpose.

5.4. Challenging, correcting, and removing information

5.4.1. A duly appointed executor may, in a representative capacity under section 72(1)(c) of the Act, challenge the accuracy of credit bureau information relating to a deceased consumer.

5.4.2. A duly appointed executor may require the credit bureau to correct, update, or remove inaccurate or expired information relating to a deceased consumer, in line with the National Credit Regulations.

5.5. Documents required to access information

5.5.1. Letters of Executorship or Letters of Authority issued by the Master of the High Court, as applicable.

5.5.2. The deceased's death certificate.

5.5.3. Executor proof of identification.

5.6. Credit bureaus may not require any additional documents beyond what is reasonably necessary for verification and fraud prevention.

6. CONCLUSION

6.1. Executors may access credit bureau information under section 72 of the Act, in a representative capacity, for the administration of deceased estates. The right of access in section 72 extends to executors acting on behalf of a deceased consumer's estate, on a purposive reading of the provision and having regard to the operation of the Administration of Estates Act.

6.2. Executor access is distinct from requests for prescribed purposes under Regulation 18(4) of the Regulations to the Act. Credit bureaus may not impose Regulation 18(4) requirements on executors.

6.3. Executors are entitled to challenge, correct, or require removal of inaccurate or expired information relating to a deceased consumer, in line with the Act and Regulations.

6.4. Credit bureaus must process requests upon verification of the required documents and in accordance with the dispute provisions in section 72.

7. EFFECTIVE DATE AND REVIEW

This Guideline is effective immediately upon publication. It will be reviewed no later than 12 June 2027, or earlier if there are material legislative or regulatory developments affecting its subject matter.

FOR MORE INFORMATION, QUESTIONS OR CLARITY RELATING TO THIS GUIDELINE:

Please address all queries to the Executive Legal Unit at ExecutiveLegalUnit@ncr.org.za



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