

Debtfree

South Africa's debt counselling magazine



March 2015
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WHAT IS DEBT REVIEW?

Debtfree asked Debt Counsellor Annerien de Jager of SMS DC Limpopo to explain the debt review process.

Debt review is a process in terms of the National Credit Act for over indebted consumers. A debt Counsellor is someone who is registered with the NCR and who assists consumers who are experiencing debt-related problems and are having difficulty making their current monthly payment to creditors by providing them with budget advice, support and mediation with their credit providers.

The heavy burden of debt is a reality and more than 70% of households are affected by debt stress. When you visit a debt Counsellor's office, they will take a look at your income. Then we deduct your necessary expenses like groceries, school fees, transport etc. The money that is left is what we offer to your creditors as a reduced instalment.

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EDITOR'S NOTE

Finally! The National Credit Amendment Act 2014 has come into effect this month. This is great news for consumers considering debt review as the amendments make further changes which protect these consumer's rights even more than before.

Consumers in general now get additional protection from unscrupulous collections companies that have abused the Prescription Act and it is now an offence for large creditors to sell off their really old debt. Typically (but not always) this was done to smaller collections firms who try to get consumers to pay for old debt that was never acknowledged by the consumer or enforced by the creditor. This multibillion Rand revenue stream has dried up and this will provide relief for many consumers. It must also be said that once debt has "prescribed" even if a collector "tricks" a consumer into paying something toward the debt then that does not revive the debt. It is merely a voluntary gift from the consumer, essentially. It will be interesting to see the court cases and enforcement that arise due to this massive change.

Sometimes massive changes are needed if you want to balance your budget, reduce your expenses or finally get a handle on your debt. For some debt review is that change. Debt review is growing ever more popular with troubled consumers recently that said finding

a Debt Counsellor can be tricky. Particularly, if you are unsure about how the process works or what a Debt Counsellor does. This issue we interview a Debt Counsellor and have listings of several companies you can talk to about their services in the Service Directory Section. We also discuss various aspects of the recent changes to the NCA.

We are also happy to announce the date of the Debt Review Awards 2015 namely the 13th of June. The Debtfree DIGI team are all helping organise the event again this year. As before Debtfree will not be handing out awards or deciding who actually get awards ourselves but we will be helping spread the word and make the arrangements for the Awards gala in June. More on that in this issue.

We hope that you too have been able to make big changes this year and that these steps will see you soon get debt free.

Zak King



ADCAP Taking On 2015 with Dedication to Service Excellence

With 2015 in full swing it's a great time to take a step back and see whether you, as a debt counsellor, are you on track with your 2015 objectives. Are you navigating with ease through the complexities of the debt review process? Or does it all seem a bit overwhelming? Trying to navigate through the administrative and legal processes of each client by yourself could compromise your promise of service excellence. A promise we at ADCAP understand. We know that you're devoted to giving each client - and in turn their family - a much needed second chance in life. This year ADCAP is once again dedicated to assist. Specifically, to assist you as a debt counsellor achieve service excellence, by providing service excellence to you. Our unique system and years of experience has made ADCAP a trusted specialist in relieving administrative and legal burdens associated with the debt review process. Choosing ADCAP as your partner will give you a unique advantage that will help you deliver on your promise of service excellence. ADCAP streamlines the debt review process, from the application phase to after-care, through the following:

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Designed to manage debt review operations, our system not only gives you (and your client) access to their progress 24/7, but it's also linked to our in-house legal team. Meaning that you'll be first to know of any changes in court verdicts or the consumer law.

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Administrators of the Debt Counselling Process

To find out more please feel free to visit our website at www.adcap.co.za or contact us directly at info@adcap.co.za / 086 186 7868. We look forward to assisting you achieve service excellence.

NEWS FLASH

For daily debt counselling news in 3 minutes or less visit www.debtfreedigi.co.za

THE NATIONAL CREDIT AMENDMENT ACT

The National Credit Amendment Act (NCAA2014) came into effect on Friday the 13th of March 2015. The Act had already been printed in the Government Gazette on August 5th 2014 but after all the excitement died down everyone realised it had no effective date. That date has now come and the NCAA2014 is now in effect. Several key refinements and changes will benefit consumers greatly and help credit providers avoid possible reckless credit granting. Particularly changes in regard to prescribed debt, so called "terminations" of debt review participation and new affordability assessment requirements. Also included in the act are Payment Distribution Agents who will now register formally with the NCR. More consumers than ever are turning to debt review to settle their debts responsibly these days and no wonder as economic pressures continue to mount. The NCR has reported growth in unsecured lending from R40 billion in 2008 to a mind boggling R172 billion in 2014. Therefore the National Credit Act needed to be refined to deal with these growing concerns. Other benefits from the NCAA2014 are covered in the article in this issue on the topic.

THE NATIONAL CREDIT AMENDMENT ACT CONFERENCE

The DTI and NCR recently hosted the National Credit Amendment Act Conference in Gauteng. It's stated purpose was to look at strategies to address over-indebtedness. Obviously this centred in many ways around debt review. At present the NCR report that out of 22.5 million credit-active consumers, almost half are in arrears on their repayments by three months or even more. hundreds of thousands more are a month or two behind.

Also there on the day were the National Consumer Tribunal, the new Credit Ombud, officials from the South African Reserve Bank, the Department of Justice and Constitutional Development, as well as members of the Credit Bureau Association, academics, credit providers, debt collectors, lawyers and of course, Debt Counsellors. There were various speakers throughout the long day which unusually began with the singing of the national anthem.

Ms Joan Fubbs the chairperson of the portfolio committee on trade and industry, who was so outspoken during the drafting of the National Credit Amendment Act (NCAA2014) spoke on the day and urged credit providers to go even further than the law and to only grant credit to those who could really afford to repay. She said:



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NEWS CONT.

“We want to eradicate reckless lending and lenders who refuse to do robust affordability tests,”. Ms Fubbs said that the National Credit Amendment Act had played a major role in reducing the impact for South Africa from the global economic crunch in 2007. This is often referred to as the Great Recession.

Newly appointed Credit Ombud, Nicky Lala-Mohan, said he welcomes the affordability guidelines as published in the NCAA2014, saying they would “solve many problems in terms of income declaration”. Credit providers are now compelled to verify your income by checking your latest three bank statements and salary slips. From now on, credit providers must also use the ‘minimum expense norms’ table in the regulations to calculate a consumers existing financial obligations according to their gross monthly income. The new regulations state that when a credit provider conducts an affordability assessment, they “must take into account all monthly debt repayment obligations in terms of credit agreements as reflected on the consumer’s credit profile held by a registered credit bureau”. This is good news for the credit bureaus and will help protect credit providers better. Credit providers are also required to calculate what is called discretionary funds, as well as all existing debts and maintenance obligations, in order to decide whether the consumer can afford a loan. Lesiba Meshapa say that “Living expense thresholds have been set in the regulations to offset the under-disclosure of consumers’ living expenses in credit applications”. Some parties mistakenly have previously thought that this offered a creditor a complete defence against reckless credit. This new change should help put that perception to rest.

In regard to the registering of smaller credit providers Mr Lesiba Mashapa of the NCR said the regulator will soon “publish a notice on thresholds of registration shortly”. It is expected that the number of agreements and values will be low. He continued: “Once we have that notice anyone who lends money in the Republic must be registered. If they are not registered and they lend money they make a donation. We will not force consumers to repay the loans of credit providers that are not registered,” .

It is now unlawful for a credit provider to attempt to collect an old debt that has prescribed (can no longer be collected) or to sell debt that has prescribed. A debt prescribes if a creditor does not start legal proceedings at court to recover the debt. Normally for most types of debt this is within three years of the last payment. Other factors are involved- see our article about it in this issue. It is now unlawful and punishable if a credit provider to even tries to recover prescribed debt.

There was also a lot of discussion revolving around the use and abuse of EAOs (which some people call garnishee orders) Possible solutions were put forward by various parties including the BDCF> also discussed was the role that Magistrates and their clerks play and changes needed and planned. The conference was well attended and allowed the various role players to engage with one another and the DTI and NCR.

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MUTUAL & FEDERAL AND ONE IN R1BN PARTNERSHIP

Mutual & Federal has secured a partnership with One Financial Services Holdings (Pty) Ltd (ONE), the leading short-term niche underwriter which came into effect on the 1st May this year.

Karen Miller of Mutual & Federal commented: "We are very excited about the partnership with ONE given the growth and diverse product opportunities it provides us. This deal reflects the multi-channel growth strategy within the Corporate and Niche Division. ONE provides access to a broader intermediary footprint, and provides client service delivery through a digital platform."

ONE began underwriting specialist motor business in 1996 works closely with their broker partners to provide innovative, market leading and cost effective solutions across all classes of business including for the debt review industry and consumers under debt review. Andrew Harvey of ONE says: "We are proud to be associated with Mutual & Federal and are excited at the opportunities this partnership presents."



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NEXT

**THE NATIONAL
CREDIT
AMENDMENT ACT**

THE NATIONAL CREDIT ACT

Since the day the National Credit Act (NCA) was published there were those who had concerns about the wording, numbering and ramifications of certain sections of the Act. As the market adopted the standards set out in the Act and as certain matters went to court it was clear that there were issues that could not be sorted out simply by industry agreement or even regulation. There was a growing need to amend the Act. This is not unusual of most legislation . What was unusual was how long it took for the DTI, NCR and Parliament to begin to review the matter.

In regard to debt review in particular there was dissatisfaction in regard to abuse of Section 86(10) by some credit providers in creating a second legal process while the debt review process was ongoing.

Over the years the NCR pressed for Debt Counsellors to, at their own expense, pursue investigations into reckless credit. Credit providers often simply said they had asked the consumer if they could afford the credit and they had said they could. Across the industry different creditors applied sometimes very lax affordability assessments.

At the same time consumers across the country were being hounded by collections agents who had bought very old expired (prescribed) debt and were trying to get consumers to pay large amounts of fees and interest charges. Some argued that getting consumers to pay reactivated the debt even after many years of non payment.

The National Consumer Tribunal worked closely with the NCR in hearing cases about infractions of the NCA but found that many matters were outside their purview. As a result enforcement was a problem. In 2013 and 2014 the DTI (with help from Debt Counsellors) lead the charge for changes to the NCA. Conferences, workshops, meetings, consultations, parliamentary portfolio committees were held and eventually in August 2014 the National Credit Amendment Bill was

AMENDMENT ACT

signed into law to be known as the National Credit Amendment Act (NCAA). The snag was that the Act had no effective date and so many of these practices simply continued unabated. In some cases with renewed vigour in anticipation of the NCAA coming into effect.

For months the credit industry waited with a mixture of relief and anxiety for each coming Government Gazette. Eventually on the 13th of March 2015 (Yes, it was a Friday) the NCAA came into effect.

Changes For Those Under Debt Review

One of the many positive changes for consumers under debt review is the amendment of NCA Section 86(10). These notices were commonly referred to as “termination letters” (Scary, right?). Whereas in the past a credit provider could wait until 60 days after the consumer had applied for debt review and then simply try duck out of the process and go their normal legal/ collections route now this is no longer the case. If during the first 60 work days of the debt review the matter is set before a Court or the NCT then no “terminating” or withdrawing the account from the process can happen. Well, it might happen anyway if the creditor does not listen to the law but that will quickly be reported to the NCR and any court hearing the matter will be very strict with the creditor.

Reckless Credit

Often when considering a consumers situation Debt Counsellors will ask if the consumer wishes a matter to be investigated as possible reckless credit granting. Reckless credit includes matters where the consumer did not understand the ramifications of getting the credit, non disclosure of costs involved, failure to conduct an affordability assessment or granting credit even if the assessment came back showing the consumer could not afford repayments. In the past these matters had to be taken to court and were thus extremely costly affairs (coming out of the Debt Counsellor’s pocket). Now the NCAA empowers the NCT to hear these matters. As yet the process of doing so is undefined but the NCT promise that they will let the industry know how soon.

There are numerous other changes which came into effect with the NCAA2014 and over the next few issues Debtfree DIGI will review some of them. See the article on the changes to prescribed debt in this issue.

CHANGES TO THE APPLICATION OF PRESCRIPTION OF DEBT

The long awaited amendments to the National Credit Act were published in the Government Gazette on 13 March, 2015.

This will be severe blow to some naughty credit providers; debt collecting agencies and third parties who previously purchased debt to collect monies from consumers where that debt has prescribed.

The extinction of debts by prescription is provided for in the Prescription Act 68 of 1969 (PA). The law states that if a credit provider does not issue a summons, or obtain judgement against a consumer within 3 years after defaulting on payment of an account, the consumer can rely on the defence of prescription by stating that the claim has lapsed or expired.

For more clarity: if no payments were made; no recorded promises to pay were made; or a consumer did not admit that the debt existed during the three year period; prescription sets in.

It is for this reason that credit providers normally issue summons and obtain judgement within three years from the date of default to avoid the claim from lapsing.

In a major change, a new section regarding the application of prescription of debt is included the National Credit Amendment Act 2014 (NCAA).

This section {126 (b)} forbids any person to sell a debt under a credit agreement to which the NCAA applies and that has been extinguished by prescription under the PA.

Importantly it also forbids any person to continue the collection of, or re-activate a debt under

a credit agreement (to which the NCA 2014 applies); which debt has been extinguished by prescription under the PA; and where a consumer raises the defence of prescription, or would reasonably have raised the defence of prescription had the consumer been aware of such a defence, in response to a demand, whether as part of legal proceedings or otherwise.

The promulgation of this section which is included in the NCA 2014 will hopefully put a stop to the frenzy where consumers were bombarded with requests from debt collectors to pay outstanding debts that were donkey's years old. In most cases these debts consisted mostly of costs and interest!

There is nothing untoward about the PA. It is also not a new Act – it has been in existence for many, many decades. One purpose is to urge credit providers and debt collection agents to collect monies owed within the specified period and deal with any defaults promptly.

Another reason is to protect consumers against unscrupulous credit providers or third parties (where debt has been sold) to intentionally delay the collection of that debt which will result in the outstanding balance ballooning due to interest and administrative costs accruing. Fortunately for consumers there is the In Duplum Rule [NCA Sect 103(5)] that caps the amount that can be added to an account after it has gone into default. But that is another story.

There are scary examples of how the buyers of prescribed debt have tried to bamboozle consumers to pay for prescribed debt. Here is one example: a consumer who is under debt review was conned into signing an acknowledgement of debt for a debt that had prescribed 8 years earlier. The consumer also signed receipt for a S 129(1) letter; consent to judgement and consent for an EAO. The S 129(1) letter was dated one day earlier than the date of the acknowledgement of debt; there was no assessment done; and most important was the fact that the consumer was already under debt review! We now have a matter where the prescribed debt is also reckless!

Consumers should be on the look out for those trying to collect on prescribed debt and report them to the NCR at once. If you are unsure if debt has prescribed contact your local Debt Counsellor for more information.

A caveat: Section 11 of the Prescription Act provides that prescription shall run for an uninterrupted period of 30 years for: 1. Judgment sound in debt; 2. A debt incurred by way of mortgage bond; 3. A debt incurred by way of taxation or levies imposed by law (TV licenses and rates and taxes for example); 4. A debt incurred by the state in the form of profits of shares, royalties or mining minerals.



THE DEBT REVIEW AWARDS 2015

Last year saw the inaugural Debt Review Awards. The awards process is designed for the industry itself to recognise others within the industry that are offering a high level of service to their clients. The 2014 Debt review Awards was a great success and gained a lot of attention. We are happy to announce that the 2015 Debt Review Awards gala will be happening in MidRand (Gauteng) on Saturday evening, the 13th of June.

The Organisers

The Debtfree team will once again be organising the debt Review Awards this year. The team are helping with both the basics grunt work for the process and with arrangements for the Debt Review Awards Gala in June.

The Sponsors and Supporters

Without the help and support of various organisations, associations and individual companies the costs involved with the process could never be covered. Some sponsor the process and others the Gala evening. We wish to thank all the sponsors for their support. It must be noted that sponsors do not get to decide who wins awards. This is done by either the panels of industry experts or by the public (in the separate public voting process).

Industry Panel Awards

The experts who are invited to sit on the 3 different industry panels (one which discusses Debt Counsellors, One which discusses Credit Providers and one which looks at the Payment Distribution Agencies) all have many years experience in debt review and the credit market. They are Attorneys, trainers, banking and counselling experts. Their identity will remain closed until the voting stage is complete prior to the Debt Review Awards Gala.

Over 2 months the panels look at various possible candidates and try to narrow down possible winners. With over 5000 Credit Providers and more than 2000 registered DCs it is a big task. The organisers [that's us] extend a call to relevant industry associations, groups, companies and parties to make initial suggestions for consideration to the panel. This makes their lives a lot easier and brings focus to the process. These bodies and companies deal with their industry counterparts on a daily basis and are well equipped to make suggestions on who might be considered.

Companies do not put themselves forward but are suggested for consideration by the 'other side' of the industry. For example; a credit provider or association might recommend Debt Counsellors in one of the 3 DC categories or a Debt Counselling company or group may put forward the name of a credit provider they feel is leading the way at present. These suggestions are given to the panel and they then begin the process of interviews and research to narrow the large list down further and further until only a few nominees are left. Nominations will be announced in the May 2015 Debtfree DIGI magazine. Winners are announced at the Gala.

The industry panels consider a number of factors for each candidate such as (but not limited to): standing /registration with the Regulator (NCR), turn around times, professionalism, client care, public marketing, support for the debt review industry and process, participation in consumer education, promotion of the process, content of advertising, communication with industry role players, participation in industry forums and groups, reputation, complaints, innovation and a

number of other factors. Each aspect may play a larger or lesser part dependent on the size and category of the companies considered and the panel use their discretion in this regard.

If you would like to know more about the Industry Panel process visit www.debtreviewawards.co.za for more info.

Public Opinion Does Count

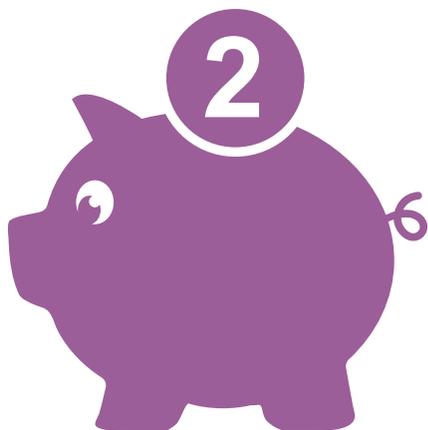
The main focus of the Debt Review Awards is naturally the Industry Panel Awards however in addition to the Panel awards a second (faster) process will run looking at public perception and willingness of the public to vote for their favourite debt review industry service provider. This is called the Public Voting or informally “the peoples choice”. The public voting is mainly perception based and has a lot to do with encouraging members of the public to vote for your firm. While by no means an indication that you offer perfect service it is an indication that your level of service and engagement with consumers is high enough for them to go online or send an sms about your firm. Getting consumers to do so (without incentives) is tough if you are not working hard on your reputation. Companies who receive votes are grouped into categories (or size) and are only compared to others in their category. Since perception of the debt review industry as a whole is an important part of adoption of the process the organisers feel that it is of merit to once again run this process this year.

If you would like to know more about the public voting process visit www.debtreviewawards.co.za for tips and info.

Auditing the Process

The organisers do not participate in any of the voting or make decisions on the panels. The Debtfree team will try help with admin functions etc but we do not get a say in who wins. [Debtfree love you all]. To ensure the integrity of the process auditors WCCA will once again be keeping an eye on things.

We wish to thank all those who on the panels last year and those who recently have helped us refine the guidelines for the process. We wish you all the best for the 2015 Debt Review Awards.



DEBT REVIEW AWARDS



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**DEBT
REVIEW
AWARDS**

IN A NUTSHELL



DEBT REVIEW WITHDRAWAL GUIDELINES

In February 2015 the National Credit Regulator (NCR) formally issued Debt Review Withdrawal Guidelines (002/2015). The withdrawal process was never formally detailed in the National Credit Act (NCA).

The credit industry developed a voluntary withdrawal process and Form 17.4 to facilitate the withdrawal process for both consumers and debt counsellors. The judgement granted in the case of Rougier v Nedbank in April 2013 made it clear that it is beyond the statutory powers of a debt counsellor to withdraw or terminate a consumer from the debt review process. This judgement kick-started an intensive review process by the Credit Industry Forum with the NCR, resulting in the set of withdrawal guidelines that now replace the use of Form 17.4.

Key implications for debt counsellors

According to the withdrawal guidelines consumers can only be withdrawn or terminated from debt review prior to the issuance of Form 17.2 (declaring the consumer as over-indebted). Debt counsellors would then issue Form 17.W and update the Debt Help System (DHS) with status G. Once the consumer is determined as over-indebted, the consumer will remain under debt review notwithstanding the issue of a court order.

In the instance, that consumers don't cooperate with the debt counsellor (e.g. not providing necessary documentation, not paying debt obligations and or debt counselling fees) then the debt counsellor can suspend services. Prior to the suspension of services the debt counsellor needs to notify and educate the consumer about the consequences of not complying with the debt review process. This notice needs to allow ten business days for the consumer to rectify the situation. The debt counsellor remains on record for the consumer. The consumer can opt to transfer to another debt counsellor. However the debt counsellor fees up to the point of suspension, must be paid.

The NCA is impartial as to how payments to credit providers should be made. Nonetheless, the legalisation of Payment Distribution Agencies in the pending promulgation of the revised NCA strengthens the role they deliver in the industry to facilitate the collection and distribution of payments between parties. Payment Distribution Agencies like the National Payment Distribution Agency (NPDA) invest in both systems and consumer programmes, like the DCM Business Partnership Programme™ that effectively increase consumer conversion and collection rates, improving both debt counsellors business efficiency and their revenue.

A positive industry step

The withdrawal guidelines provide greater clarity and control for the industry and will inhibit unfair terminations that negatively impact consumers. Ultimately the goal of the debt review process is to rehabilitate as many consumers as possible. The guidelines encourage greater co-operation between consumers and their debt counsellors, hopefully resulting in consumers remaining in the process for longer. The onus is placed on debt counsellors to correctly identify and better educate debt counselling candidates.

IN A NUTSHELL is brought you by: The DCM Business Partnership Programme™, designed to support debt counsellors and consumers during the debt review process, in collaboration with the NPDA. For help, contact DCM on 0861 628 628.





DEBT REVIEW AWARDS 2014
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- INDUSTRY SUPPORT & ENGAGEMENT

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NPDA

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LETTER FROM A READER

Having recently attended the DTI/NCR Conference on the NCAA2014 I am concerned. Even though the Amendments in the Act under section 44A(2)(b) state that a consumer is not obliged to make use of the services of a payment distribution agent; the NCR is adamant that Debt Counsellors should “convince” consumers to make use of a NCR accredited PDA. The NCR at the Boksburg DTI conference was of the opinion that any DC who does not use a PDA because it is part of the registration conditions (those that do have this in their particular conditions document) will be deregistered. I have a number of problems with what message is being sent. Bear in mind that I do accept that debt counsellors as per regulation 11 must not collect and distribute monies on behalf of consumers.

- Registration conditions of DC demand:
 - (2) that a DC must perform debt counselling in a manner that is consistent with the purpose (section 3 of the Act) and requirements of the Act and
 - (5) that a DC refrain from entering into any activity which could be in conflict with the consumer’s interest. It goes further to say that a DC must not engage in any activity which may prevent him/her from acting in the consumer’s best interest.
- These conditions are imposed for e.g. the following reasons:
 - (1) to facilitate the effective implementation of debt counselling as envisaged by the Act,
 - (2) to promote professionalism, integrity & ethical behavior in the provision of DC services
 - (4) to safeguard the rights and interests of consumers and creditors
- The Human Rights of the Constitution provides for all members of society to have freedom of choice and association

The requirements of the PDA’s to be accredited by the NCR cannot overrule the Banking Act (also providing for the registration of payment agents) and PDASA (Payment Distribution Agents of South Africa) or the Constitution as only provided for in the Regulations. To quote a reputable debt counsellor in Gauteng “my head Magistrate stated that the law takes precedence over any regulation so I am compelled by law to abide by the law” I would like to know on what authority the NCR claims to overrule law? Threatening debt counsellors to Act outside of the law might be ultra vires and here I would like to quote section 157 of the Act: It is an offence to hinder, oppose, obstruct or unduly influence any person who is exercising a power or performing a duty delegated, conferred or imposed on that person by this Act. Consumers have the right to choose and as there are other affordable ways to manage consumer distributions that are indeed lawful, the consumer’s rights must be taken into consideration as provided for in the Act and Human Rights. To proclaim that DC’s must convince consumers to use particular service providers or have their license revoked is cause for grave concern.

*The NCR has been asked for comment and their reply will soon be available to read on www.debtfreedigi.co.za



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A Special Thanks to HYPHEN PDA for their support of the event and
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NCRDC075

How long have you been a DC?

Since July 2007, can't believe how time flies...

What did you do before becoming a DC?

I worked for an Administration Company

What area of South Africa do you practice in?

Our Head office is situated in Tzaneen (Limpopo). I recently opened branches in Phalaborwa and Giyani.

Do you have a small/medium/large DC company?

I would say medium.

What makes your business a success?

My Staff. I surround myself with positive caring individuals that will walk the extra mile for ANY client that walks through our doors.

Where do you find new business?

Mainly through word-of-mouth. We also advertise in our local newspaper, Facebook and flyers.

Who are your most co-operative and least co-operative credit provider at the moment?

Most co-operative I would say Consumer Friend by far. Least co-operative at the moment, Edcon and Absa. I don't know what is going on at ABSA, this is a recent problem we have with them.

What is the biggest challenge facing Debt Counsellors at the moment?

I would say Consumers not making their monthly payments on a regular base. Also these fly by night Debt Counsellors that want to make a quick buck and not helping their clients, but take them further down their debt struggle. These people are giving our industry a bad name.

What is the biggest challenge facing your consumers at the moment?

Inflation – The ratio between living expenses and salary increases are not in line. Then retrenchments, at least one client per month come to my office with a retrenchment letter.

What advice do you have for consumers under debt review?

Stick to your reduced instalment, make sure you have a Court Order in place, and that your Debt Counsellor is using a registered PDA. Don't cancel your Debt Counselling order, you have started the process to your financial freedom and the day you make your last payment, will be YOUR VICTORY DAY and we will celebrate your financial freedom with you!



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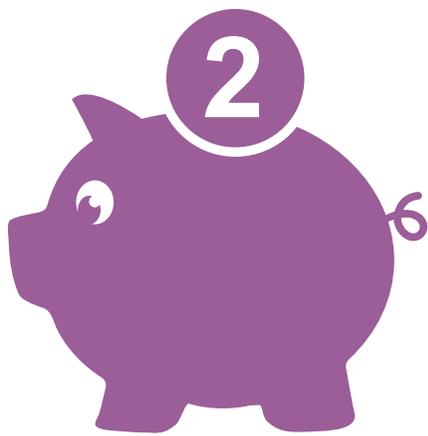


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DEBT REVIEW AWARDS

SAVE THE DATE

13.06.2015



NCR WORKSHOP FOR DEBT COUNSELLORS MARCH 2015

The NCR hosted the latest in a series of workshops with Debt Counsellors in Durbanville, Western Cape. The workshop was a great opportunity to talk about the new amendments and guidelines.

The day began (early) with an opening speech by Morris Moluleke of the NCR who discussed the current state of debt review. He touched on the amendments, CIF and the recent guidelines as published by the NCR. He said that the NCR are receiving complaints about the new guidelines. He stated that the guidelines were not “tested” before but are currently being considered in line with these complaints and concerns. Regarding inclusion at the Credit Industry Forum he acknowledged that not all DCs belong to an association and said that the NCR are trying to get non aligned DCs opinions on matters at CIF

Magistrate Tabosche of the Wynberg Civil Court presented at the workshop. He was insistent that DCs have no right of appearance (they only make the application on behalf of the consumer not in their personal capacity). In Wynberg the court only want attorney or advocate to appear (some DCs disagree) at court. As usual MCA Rule 55 is to be used for all applications. He asked DCs to ensure that their current NCR registration renewal and proof of fee payment is available. He mentioned that locally Magistrates want to see a limit for consumer’s legal fees of less than R7000 and they are happy when DCs charge fees based on the NCR guideline.

The Magistrate then answered some questions from the audience. There was a complaint about slow turn around on new registration letter or annual renewal from NCR. The hosts of the workshop, the NCR say some staff from that department have left that department with other members of staff unsure of what has and has not been done. The NCR stated that DCs will only get renewal letters if quarterly reports are up to date.

Paul Slot of Octogen Debt Counsellors presented the NCR Guideline on Debt Review Task Team Agreements. He gave a short history of how debt review was years ago and the many challenges that were faced. He then spoke about how things improved after the original Task Team report. He discussed aspects of the agreement as now issued as guidelines by the NCR. He reminded the audience that all CIF members agreed. Locally there are a lot of Alliance of Professional Debt Counsellors (AllProDC) who were, at the time, not involved at CIF. AllProDC have subsequently joined the CIF along with many other bodies in an effort to increase representation.

Mr Slot was quick to point out that these guidelines are just a voluntary agreement. He reminded the audience that the purpose of the guideline is to improve the workings of the debt review process. He pointed out that there are still issues that need to be addressed. While stating how much these steps have helped he mentioned that realistically "It is not a perfect document and is a compromised document". He then went on to discuss CIF and DCRS.

DCRS

CPs will now get to see how many times a DC has put information into the system to check up if anyone is abusing the system to try figure out how little a consumer can repay. Mr Slot indicated that there will be big improvements in 2 months time. He reiterated that under the DCRS process CPs cannot make counter proposals on calculations that solve. Some CPs with association representation at CIF (who have agreed) are not complying. Some DCs raised Nedbank's name in regard to sending counter proposals.

Mr Slot firmly said: "That practice has to stop".

Mr Slot touched on the end balance difference issue and said that DCs need to be realistic and acknowledge that amounts will never be 100% the same. In regard to DCRS he informed the audience that instead of applying NCA Sect.103(5) the CPs have currently agree to use COB amount x 2 or 1.9 [which may be more than the Sect.103(5) limit and thus if that limit is reached the consumer or DC can address this issue]. This is seen as an interim solution.

DTI & the NCAA2014

Siphamandla Kumkani who is Director: Credit Law & Policy at the DTI discussed forthcoming regulations and developments from the DTI side. One thing mentioned was that in future the minimum of 100 agreements before registering as CP is going to change. The DTI are preparing a notice in this regard. They will also be publishing more regulations for comment in the next

few weeks. Also discussed was PDAs and the change from Service Level Agreements to being registered in regard of the NCAA2014. There was as strong feeling that the DTI want to see more PDAs.

NCT

Mr Farhad Lockhat of the NCT presented on their processes and how consumers (and Debt Counsellors assisting them) can make use of the NCT. He explained the staff make up and what the NCT is empowered to do. The NCT are rolling out a new case management system which allows for electronic applications and filing. This should increase the speed and ease of filing applications. At present cases are taking about three and a half months. They are expecting a whole lot of applications for reckless credit applications. No formal process at present but they are working on it and will soon make them known. He mentioned that notifications by Debt Counsellors to all parties has been a weakness in the past. If notice is given via email or fax (by consent) use of registered mail should also be used (in conjunction with email). Proof to be added to the application.

CP Panel Discussion

Next there was a credit provider (CP) panel featuring FNB, Nedbank, Standard Bank, African Bank, Old Mutual and Wesbank. ABSA was conspicuous by their absence. The crowd soon began to light-heartedly chant: " We want ABSA".

DCs ask about consumer statements which are not sent. The CPs say that their normal statement system will not be right unless each statement is manually produced by their staff on special request.

One DC asked African Bank why, since he has stopped using DCRS for proposals, he has not been getting a response from them? They replied they have a 8 - 10 day response time. They pointed out that it could be an email server problem.

There was a question regarding CPs not providing date of default on COB. African Bank say they have many different types of default.

DCs asked what the CPs will do if a consumer leaves debt review once the short term unsecured debt is paid up? The CP mentioned that they are trying to get a clear picture themselves. Those present say they are not pursuing collection of assets and demanding the entire contractual arrears at present. There was some differences of opinion in regard to homeloans.

Withdrawing from Debt Review

Paul Slot then spoke about the new NCR guidelines regarding consumers withdrawing from debt review and Debt Counsellors suspending their services to consumers who don't pay. Under

other processes such as sequestration or administration once the matter has gone to court if the consumer later wants to leave that process they have to go back to court to get the court order changed. Now the debt review process, as per these guidelines, aligns with similar debt rehabilitation processes. The 17.4 process is now “dead”. Systems providers have removed it from their programs.

End Balance Differences

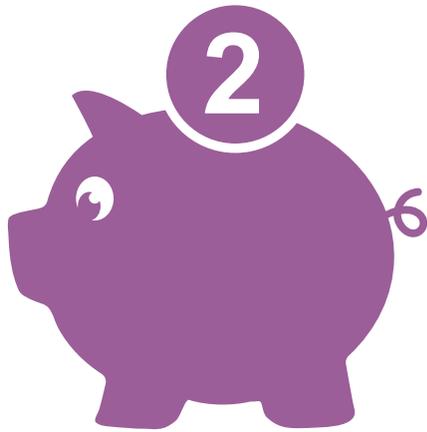
Rob Easton Berry addressed the audience on end balance differences and the process that the Credit Industry Forum (CIF) are working on. He said that getting credit providers to apply the proposal as soon as possible is a vital step. He reported that there is little or no agreement on Section 103(5) at present. The NCR will soon be publishing a non binding opinion on the topic and this might help reduce the ongoing stalling and conflict on this matter. A pilot program is underway and Consumer Friend report that they have started getting some of these test cases during March.

NCR Complaints Process and Enforcement

Takalani Mudau of the NCR’s complaints department said she was nervous to come present even though so few complaints come to the NCR from the Western Cape. She spoke about how 2 team members have to man one inbox which gets thousands of complaints emails and the challenges the department face. She said that the NCR will be meeting with ABSA to discuss the backlog of COBs which they are not providing timeously. She said the NCR will ask ABSA to come visit and engage with local Debt Counsellors.

Lesley Odendaal , Acting Senior Inspector for the NCR investigations & enforcement department said he was not intending to scare anyone. He asked for assistance from local DCs in reporting fly by night DCs who provide bad service to consumers. He specifically discussed their concern regarding some call centre DCs who draw a credit bureau record without the consumers consent. Some of these companies are buying consumer data and cold calling consumers. Some companies have even said they are talking about consolidation loans but are actually talking about debt review. His department are also investigating misleading advertising. They are currently investigating some large call centre operations. In fact he said, “not just one but several investigations are pending”. They also discussed the recent advert from the NCR regarding call centre debt counsellors. There was concern that the NCR might be discriminating against call centre Debt Counsellors whoa re doing a good job. The NCR would like to see consultations done by registered Debt Counsellors.

The Workshop ended late in the afternoon with comments from Morris Moluleke and a round of applause from the audience. Afterward attendees were able to engage directly with credit providers and those companies displaying at the workshop such as One, Maximus, Hyphen and DC Partner.



DEBT REVIEW AWARDS

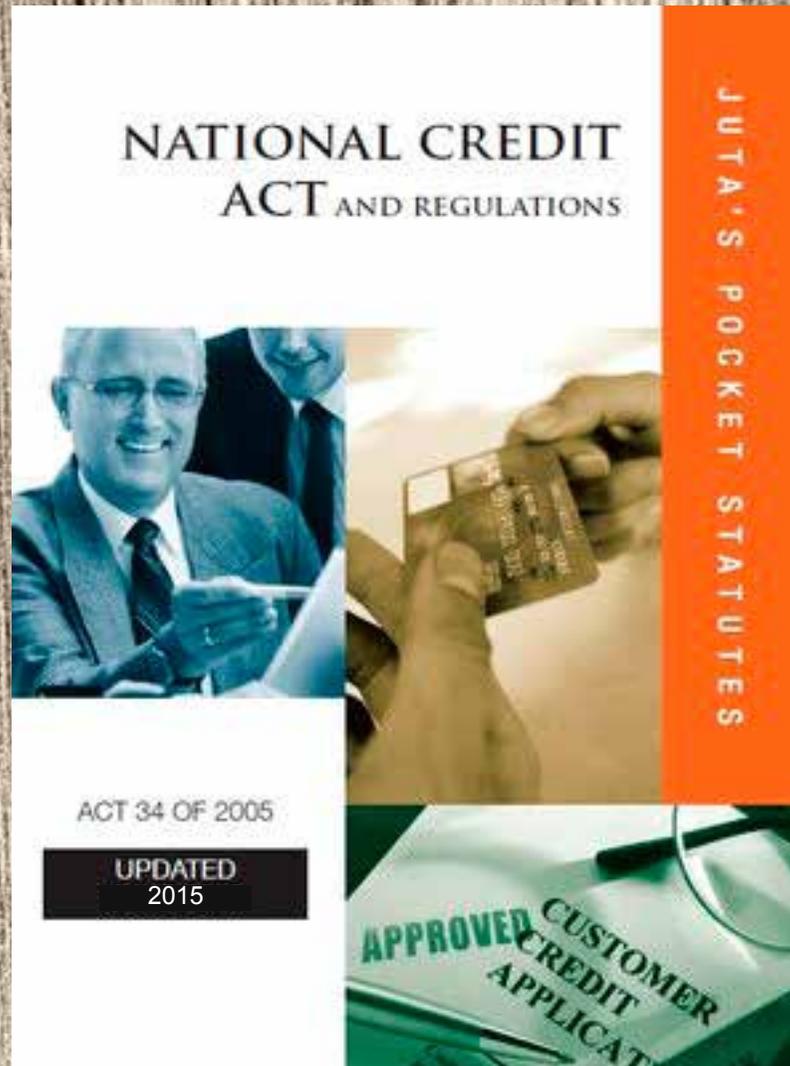
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DON'T WORK WITH AN OUT DATED VERSION OF THE ACT



As our readers (and shoppers) will know the NCAA2014 has now come into effect. We have contacted our supplier and they have indicated that the amended NCA booklets will become available probably during April 2015 sometime. Those customers who have pre ordered will receive these booklets as soon as they begin printing and distributing them to us. We will update clients via email. Pre order yours now!

PRE ORDER NOW

<http://debtfreedigi.co.za/product/pocket-sized-national-credit-act-booklet/>

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The next DCASA Meetings will be:

- | | |
|---------|---|
| 20 May | Gauteng Branch Meeting
11:00 at Kempton Park Golf Club |
| 22 May | Western Cape Branch Meeting
10:00 at Parow Golf Club |
| 10 June | KZN Branch Meeting
10:00 at Health Haven, Westville |

For more information on the meetings and our membership, contact DCASA at 086 143 2272 or dcasa@dcasa.co.za



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<http://news.acts.co.za/blog/2015/03/calls-grow-for-class-action-suits-against-banks-over-securitisation>

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Black Debt Counsellors Forum
“MAKING A DIFFERENCE”

BDCF’s Keystone Sono was selected as one of the panellists at the DTI NCAA2014 conference due to our extensive participation leading up to the implementation of the NCAA2014. Keystone also assisted on panels re: The role of the courts; Strategies to deal with EAO abuse; How consumers can address EAO abuse. Through our Chairperson we provided clear and practical solutions to address EAO abuse within our economy.

www.bdcf.co.za

• ALLIANCE OF •
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We remind all members to send us comments on recent guidelines and the New Regulations.

We wish to say a big THANK YOU to Adri De Bruyn for all her hard work over the years as a NEC member.

www.allprodc.org

MARCH

• ALLIANCE OF •
PROFESSIONAL
DEBT *Counsellors*

NEWSLETTER

NATIONAL CREDIT AMENDMENT ACT 2014

We are very happy that the National Credit Amendment Act 2014 is now in effect. We remind our members that this is now law and we all need to comply.

We thank all our members for their hard work in regard to input on the draft amendments. The wait for the amendments to come into effect has been a long one and it is a great relief to see these changes now in effect. One of the biggest changes for our clients is in regard to Section 86(10). We feel this will greatly benefit consumers. Selling and buying of prescribed debt now being an offence is also a step in the right direction.

The NCR have recently been pushing for consumers to deal directly with Debt Counsellors and not admin staff when applying and going for consultations. We feel this is a big move toward better debt counselling.

We remind members to please submit comments on the published regulations and recent NCR guidelines. Emails can be sent to secretary@allprodc.org

THANK YOU

We wish to thank Adri De Bruyn for all her many hours of hard work in the past on the NEC. We look forward to your continued input in the future and wish you well with all your current projects which are keeping you so busy. Thank You!

CIF

We will have representation at the upcoming meeting in March and will report back to members on the Facebook page.

CONTACT DETAILS

FORUM: www.debtconcern.webs.com / WEBSITE: www.allprodc.org /
FACEBOOK: www.facebook.com/AllProDC / TWITTER: www.twitter.com/AllProDC

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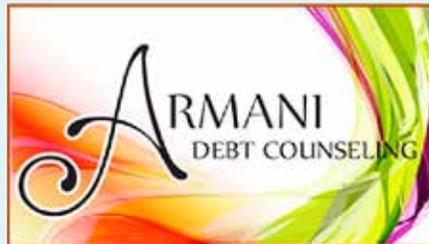
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Cathy Foster
Debt Counsellor - NCRDC1977
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Fax : 086 219 2615

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Coreli Roos - NCR DC 509
Aliwal North, Burgersdorp, Bethulie,
GariepDam, Smithfield,
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croos@global.co.za

Zuné Coetzer Debt Counsellors

NCRDC 1599
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Bloemfontein
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Fax: 086 5870 845
Email: zunecoetzer1@gmail.com

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www.thedci.co.za



Iana Van Herwaarde,
DC Operation Centre (PTY)
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Experian

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debtcounsel@experian.co.za

Eric Streso

Financial Planner
B Juris LL B CFP MBA
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Fax: 0865368783
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Nedbank

Debt Rehabilitation & Recoveries
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Debt review Helpline
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