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National Credit Regulator



The National
Credit Act
and the
National Credit
Regulator



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Department
Trade and Industry
REPUBLIC OF SOUTH AFRICA

National Credit Act

Act No. 34 of 2005

“The purposes of this Act is 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”

ENACTED by the Parliament of the Republic of South Africa,

ASSENTED to by the President on 15 March 2006

“The Act establishes a National Credit Regulator, to carry out education, research, policy development, registration of industry participants, investigate serious complaints, and ensure enforcement of 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 information;
- to provide for registration of credit bureaux, 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.”

Key features of the National Credit Act

- Language in credit agreements must be in simple and understandable;
- Quotes must be given on all credit agreements, and are binding for 5 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 Bureaux are regulated and consumers have the right to a free credit bureaux record;
- Debt counselling is introduced, to enable restructuring of debts for over-indebted consumers.



When Does The Act Come Into Effect?

The Act comes into effect on the 1 June 2006.

Certain sections will become effective at a later date.

Institutions

- The National Credit Regulator is established with effect from 1 June 2006.
- The National Consumer Tribunal is established with effect from 1 September 2006.

Registration

- Credit providers and credit bureaux must register within 40 working days from 1 June 2006.
- Debt Counsellors must register before 1 June 2007.

Conduct & compliance

- The sections on credit bureaux and credit information become effective on 1 September 2006.
- The remaining compliance sections become effective on 1 June 2007. This includes the sections on disclosure, limits on interest & fees, reckless lending and all related compliance requirements.
- The sections on debt counselling & debt restructuring become effective on 1 June 2007.

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 is the role of the National Credit Regulator?

The National Credit Regulator has to

- Register credit providers, credit bureaux and debt counsellors, and monitor the conduct of these parties;
- Educate and create awareness of the protection which the Act offers;
- 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;
- Advise government on policy and legislation;
- 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 National Consumer Tribunal hears cases on non compliance with the Act, issues fines and provides redress to consumers. Consumers and credit providers may appeal to the Tribunal against any decision of the National Credit Regulator.

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.

Provincial Regulators

The Act provides for certain regulatory functions to be performed by a provincial regulator if a province passed provincial credit legislation and established a provincial regulator.

The Act requires that the National Credit Regulator must regulate credit providers in provinces that chose not to establish provincial regulators. Credit Providers with branches in more than one province have to register with the National Credit Regulator.



Implications for the Usury Act, Credit Agreements Act and Usury Act Exemption Notice

These Acts continue to apply until 1 June 2007, when the relevant sections of the National Credit Act will become effective.



How do consumers get assistance?

Consumers can approach the National Credit Regulator for advice or assistance on any transaction falling under the new National Credit Act, or under the old Usury Act, Credit Agreements Act or Usury Act Exemption Notice. The National Credit Regulator can also assist consumers on issues related to credit bureaux or credit information.

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

- The Ombudsman for Banking Services deals with complaints that relate to banks;
- The Credit Information Ombudsman deals with complaints that relate to credit bureaux or credit bureaux information;
- The Provincial Consumer Desks deals with general consumer complaints.

The National Credit Regulator will coordinate with Provincial Consumer Desks, the Banking Adjudicator and the Credit Information Ombudsman to ensure that effective assistance is provided to consumers.



How to contact The National Credit Regulator?

- **Toll share:** 0860 627 627 or 0860 NCR NCR
- **Registration issues:** (011) 554 2766
- **E-mail:** info@ncr.org.za or complaints@ncr.org.za
- **Web site:** www.ncr.org.za

OTHER USEFUL CONTACTS

Financial Services Board

Toll Free: 0800 110 443 or 0800 202 087
Fax: 012 347 0870

Credit Information Ombudsman

Call Centre: 0861 66 28 37

Ombudsman for Banking Services

Tel: 0860 800 900
Fax: 011 838 0043

Debt Collectors Council

Tel: 012 804 9808
Fax: 012 804 0744

Department of Trade and Industry

Tel: 012 394 9500
Call Centre: 0861 843 384
Fax: 0861 843 888

Provincial Consumer Affairs Directorates

Eastern Cape

Tel: 040 609 3050
Fax: 040 635 2193/4

Gauteng

Tel: 011 355 8008/6
Fax: 011 355 8019

Mpumalanga

Tel: 013 752 3761
Fax: 013 752 3729

Limpopo

Tel: 015 293 8300
Fax: 015 291 2898

North West

Tel: 018 387 7700
Fax: 018 387 7900

Free State

Tolfree: 086 514 6112
Tel: 051 400 4852
Fax: 051 400 1909/10

Kwa-Zulu Natal

Tel: 033 264 2500
Fax: 033 264 2676

Northern Cape

Tel: 053 830 4800
Fax: 053 803 4838

Western Cape

Tolfree: 0800 007 081
Tel: 021 483 5133
Fax: 021 483 5878