

Credit Steps: Making wise borrowing decisions and dealing effectively with over indebtedness



Important Words to know!

“Debt Counsellor”

A Debt Counsellor is someone who is registered with the National Credit Regulator (NCR) and who assists consumers who are over-indebted. Debt Counsellors provide you with budget advice, support and mediate on your behalf with your credit providers. To prove registration to the consumer they must have a certificate and an NCRDC number.

“Debt Counselling”(Review)

Debt review means an application by you to a Debt Counsellor to investigate your financial position. If it is determined that you are unable to, or may experience difficulty in, meeting all your financial obligations, the Debt Counsellor may propose a debt re-arrangement plan to all your credit providers, or make a proposal to the Magistrate's Court to re-arrange your obligations and/or declare one of more of your credit agreements reckless.

"Discretionary Income"

The amount left over every month after your debts and living expenses are deducted from your net income. Credit Providers use your discretionary income to determine if you will be able to afford new credit instalments.

Garnishee (Emolument Attachment) Order

A Garnishee order is an instruction from the court to automatically deduct money from your salary. For example, when you owe money, and your only income is your salary, your credit provider might initiate Garnishment proceedings. If your credit provider is successful, a certain portion of your salary will be automatically deducted and sent to the credit provider each month.

"Gross Income"

Means all income earned without deductions from whatever source;

“Judgment”

A judgment means that a creditor has proof that money is owed and the court is asked to help the creditor receive the money owed. Once the judgment is filed, you will receive a notification that a judgement has been filed against you and you have the right to be present at the hearing. If you do not show up for the hearing, the judgment is usually automatically filed in default and you will be legally required to pay off the debt.

“Net Income”

The amount paid to you directly in the form of a salary after items like income tax, unemployment insurance fund, medical aid, union subscriptions and Garnishee Orders have been deducted,

"Necessary or Fixed Expenses"

Means your most essential monthly living expenses including maintenance payments and things like groceries, transport, school fees, electricity, water, rent. The opposite is **discretionary expenses**. These are expenses that you can do away with, postpone or reduce them. These include airtime, TV subscriptions, entertainment, alcohol and take aways.

“Surplus”

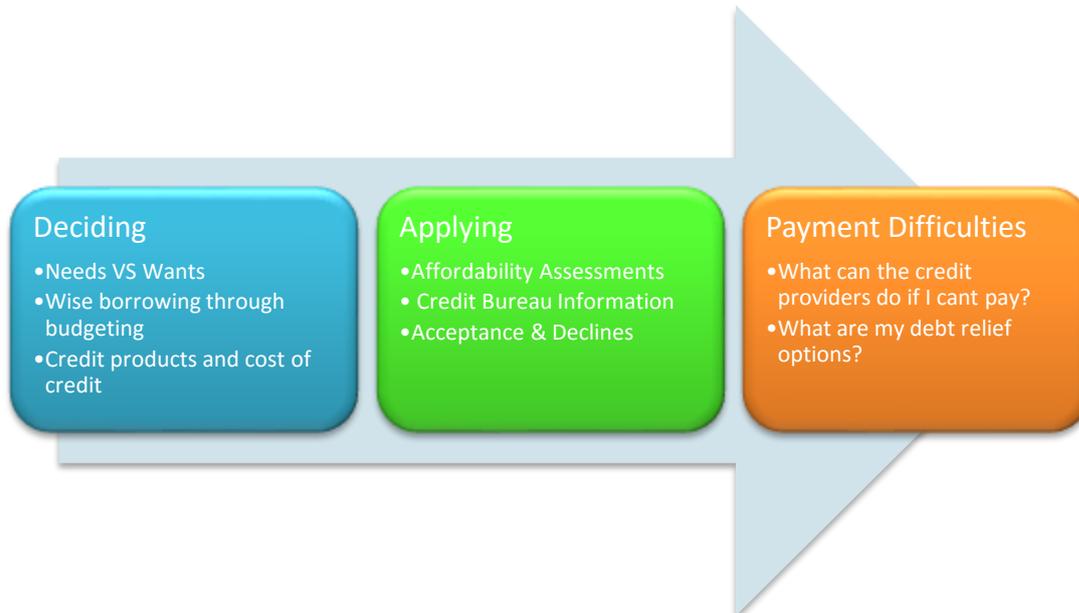
The extra money you are left with after all your expenses, including debt repayments are deducted from your net income.

“Shortfall”

This is when your net income is not enough to meet all your essential monthly expenses, including debt repayments.

Credit Steps Explained

Before taking out credit it is important to understand the key issues you need to consider to avoid making costly mistakes or becoming over indebted in future. The credit consideration and application process is illustrated below and each step is discussed in detail to assist you to make wise borrowing decisions and to manage payment difficulties if you already have credit:



Step 1 – Deciding to take out credit

Credit Need vs Wants

Do you really need to get a loan or can you wait and save for that item?

Before you take out credit make sure you have identified a real need and you have a clear idea of how much you need and what you will use the credit for. Sometimes it is better to save to buy the item cash or save for a deposit. When you have a deposit you will borrow less and as a result pay less interest.

Borrow Wisely through Budgeting



- ✓ Keep a diary of all your monthly day to day expenses if you don't know them well and start developing a budget
- ✓ Check your bank statements, salary slip to see what deductions or expenses are reflected and adjust your budget accordingly
- ✓ Set aside time to do your budget with your family or partner and commit to stick to it
- ✓ Make sure you understand the following concepts
 - ❖ Gross & Net Income
 - ❖ Fixed & Discretionary Expenses
 - ❖ Shortfall
 - ❖ Surplus

Your Budget

Budgeting is important as it will give you a good idea of whether you can afford the credit and future monthly instalments. It is important to include savings for emergencies, big purchases and future increases so that you continue to afford your instalments even if interest rates or cost of living increases. Below is an example of a budget

Expenses	Amount - Rands (p/m)	Income		Total Income - Expenses
Home Expenses		Salary	5000	5600 - 4455
Rent	1500	Piece Job	100	
Electricity	300	Maintenance	500	
Phone	100			
Gardening	50			
Transport				
Petrol	300			
Taxi	55			
Train	250			
Repairs	100			
Daily Living				
Groceries	1000			
Education	200			
Eating out	150			
Lunch	100			
Debt Repayments				
ABC Furnishers	100			
ABC Clothing	100			
Personal Loan	150			
TOTAL	4455	5600		1145 Surplus

In the above example the consumer has a surplus that is extra money that they can save or keep for emergencies. If let's say the expenses are R6000 then the consumer would have a shortfall of R400. If there is a shortfall one has to reduce the discretionary expenses like eating out so that the income can be enough for living expenses.

Staying on Track with your budget

- ✓ Don't think of your budget as something that is set. If you do, you might spend more on things that you've budgeted for. Don't throw in the towel and give up – make adjustments. Budgets are there to make you aware and give you control in dealing with your money.
- ✓ There might be price increases and reductions (such as the Yo-Yo petrol prices). If you never have enough money to make ends meet, it's time to adjust some more. Or, if you constantly overspend in one area, change the amount for that category and trim the money from another category.
- ✓ Keep an eye on the bigger amounts that you spend. If you continually come up short, you may need to consider some changes. For example, you might sell your newer car for an older used car to free yourself from car payments. Think about what you value, and be honest with yourself.
- ✓ Be willing to give up some things that you consider important. But don't expect to stick to your budget if you take away everything, but the essentials. Be realistic, work in those luxuries somewhere!
- ✓ Stick to your budget every month as this will help you to spend and borrow wisely.
- ✓ Don't get excited and buy items you don't need because they are "on sale", "special offer", "buy now pay later" or "limited offer".



Step 2: Applying for credit: What you need to know



When applying for credit the following will be considered:

- Your monthly income and expenses;
- How much debt you already have and how much you are paying per month;
- Whether you are paying maintenance;
- How you are handling your account payments every month according to your credit report;
- Whether you have any judgments or other negative information on your credit report



- ✓ *It is very important for you to be very honest about your income and expenses when applying for credit to avoid reckless lending and borrowing!!!*
- ✓ *Only take what you know you can afford not what the consultant says you qualify for;*
- ✓ *If you were granted loans recklessly you can lodge a complaint with the National Credit Regulator at 0860 627 627*

Required Documents when you apply for credit:

1. Three months' payslips OR;
2. Three month bank statements;
3. Latest three month documentary proof of income if not receiving a salary and if it is a company, financial statements where no bank statements exist.

Why was I declined?

When you are declined for credit, you have the right to be provided with written reasons and the contact details of the relevant credit bureau if you were declined because of a bad credit report. Below are the reasons why you might be declined:

- After the credit provider has deducted your living expenses and existing debt repayments from your net income you don't have enough money left over to repay the new debt
- Your credit bureau record shows that you have not been paying your debts on time every month
- Your credit report shows that you have judgements, adverse listings, under administration or debt counselling

- You don't have proof of income being a payslip or bank statements

Wise Borrowing and good credit health tips!

- ✓ **Understand your rights and obligations:** Know your rights and obligations as this will ensure that you make the right decisions. If you are unsure of anything contact an independent party like the NDMA.
- ✓ **Borrow within your means:** Only borrow what you can afford and try as much as possible to borrow for essential things like a house, a car, small business, education etc. Do a proper budget to see what your affordability is. Factor in possible interest rate increases and other inflation increases.
- ✓ **Make your payments on time and in full:** You may think missing a payment and paying double the next month is not a big deal, but doing so will negatively impact your credit record and payment profile.
- ✓ **Understand how much interest you will pay:** The amount of the loan and the time you take to repay the loan will have a big impact on how much you'll spend over the life of the loan. Make sure you understand how interest is calculated and what the loan will cost you after all other fees and charges are included.
- ✓ **Be aware of all the fees:** Lenders can charge you a range of fees including up-front initiation, and monthly service fees. Credit cards may charge annual fees and additional fees for certain transactions, so find out what costs you will be paying and factor this into your budget. If credit life insurance is included ensure that it is reasonable, that you have the policy document and you understand the claims conditions and procedure.
- ✓ **Shop around:** Credit costs money, so compare different interest rates from different lenders. In addition to ensuring that the interest rate you are charged is legal; also check the terms of the loan and the period over which you will pay it back.
- ✓ **Read the small print:** Don't feel pressurised into signing a loan agreement without taking the time to understand the conditions. It's also your right to ask an independent person or organisation like the NDMA to explain the terms of the contract before you sign

Cost of Credit

The following are the fees and charges you can expect to see on the quotation or that are discussed in your pre-agreement statement (which shows what would be charged in your credit agreement). It is vital that you take note of these before signing the credit agreement. The pre-agreement statement and quotation must show the total cost of credit for the duration of the loan or for one year of a credit facility.

Interest: This is the amount that a credit provider charges you on the outstanding balance of a credit agreement. It is shown as a percentage of the principal amount. The National Credit Act has set the maximum percentage of interest that you may be charged depending on the type of credit agreement.

Initiation fee: These are once-off fees credit providers charge you for entering into a credit agreement. The credit provider must give you the option to pay this fee upfront and with no interest.

Service fee: This is a fee that a credit provider charges you for servicing, administering or maintaining the credit agreement between you and the provider. Credit providers can charge this on a monthly, annual or transactional basis. The quote must show the service fee total for the period of the loan or for one year for a credit facility.

Credit life insurance (depending on the credit agreement): Credit providers may require you to take out credit life insurance during the term of the agreement, which may settle your debt in certain events such as death, disability or retrenchment. The policy will stipulate the exact type of cover provided and which events are covered. The credit life insurance cost shown in the quote must be for the whole term of the loan or for one year for a credit facility.

Default administration charges: These are fees discussed in your agreement and will only be charged if you were to default, to let you know that your account is in arrears (in other words, that you are behind on making regular payments on money owed). These costs are limited to a letter sent by the credit provider to you to inform you that you are in default in terms of the agreement.

Collection costs: These are costs that are listed in your agreement and will only be charged should the credit provider try to collect outstanding or overdue debt from you if you are in default.

Asset insurance or vehicle insurance: Credit providers will require you to have insurance cover for the asset, for example the house or vehicle you are financing. You may obtain your own asset insurance cover or request that the credit provider supply you with such cover, but the credit will not be approved unless you have such cover in place.

Maximum Interest Rates

Below are the maximum interest rates that all credit providers, even those that are not registered are allowed to charge. A monthly service fee of R50.00 (excluding VAT) has been set by the National Credit Act which means that a credit provider can charge less than this but not more. You should also remember to check that all fees and costs include VAT (which is 14%), so this should also be added if not already shown.

Always make sure you are charged the correct interest rate. If you have a good credit record you can negotiate to pay less than the maximum on the table. RR = The rate set by the SA Reserve Bank and it sometimes changes. At the time of publication of this material it was 6.25%.

Sub Sector	Examples	Maximum Prescribed Rate	Rate
Mortgage Agreements	To buy a house	$[(RR \times 2.2) + 5\%]$ per year	18.75%
Credit Facilities	Overdraft, revolving credit, credit card	$[(RR \times 2.2) + 10\%]$ per year	23.75%

Unsecured Credit Transaction	Personal loans	$[(RR \times 2.2) + 20\%]$ per year	33.75%
Developmental Credit Agreements			
For the development of a small business	Start up business funding	$[(RR \times 2.2) + 20\%]$ per year	33.75%
For low income housing (unsecured)	Building loans with no asset backing the financing	$[(RR \times 2.2) + 20\%]$ per year	33.75%
Short term Credit Transaction	Up to R8000 repayable over six months	5% per month	60%
Other Credit Agreements		$[(RR \times 2.2) + 10\%]$ per year	23.75%
Incidental Credit Agreements	Doctors, plumbers, etc.	2% per month	24%

Assessing your Creditworthiness: Credit Bureau Information

Credit Bureaus keep your personal information, a list of all the debts you have, how you pay them monthly and any court or default information against you. When you apply for credit, credit providers will check your credit bureau history to determine if you can be trusted to pay back your debts. Below are your rights regarding credit bureau information.



- ✓ You have the right to receive a free credit report once a year from any of the credit bureaus;
- ✓ You have the right to lodge a dispute directly with the credit bureau if there is any information about you that you do not agree with;
- ✓ If the information is correct it can only be removed if you settle the debt in full or if the time that it is allowed to stay on your report expires;
- ✓ If you settle the debt, the information must be removed within seven days of the credit bureau receiving proof of settlement;
- ✓ You can call the [Credit Ombudsman on 0861 662 837](tel:0861662837) for more information on how credit bureaus work and if your credit bureau dispute has not been resolved within 20 business days.

HOW LONG DOES CREDIT BUREAU INFORMATION STAY ON MY RECORD

The table shows how long information may remain on your credit report. When these times expire, the information must be automatically removed. If you cannot wait for the time to expire the information can be removed 7 days after the credit bureau receives confirmation from the credit provider that you have settled the debt. It is not necessary anymore to go to court to cancel a judgment if you have settled the judgment.

NEW PRESCRIBED TIME LIMITS FOR RETAINING INFORMATION AT THE CREDIT BUREAU		
Categories of Consumer Credit Information	Description	Maximum Period
1. Details and results of complaints lodged by consumers	Number and nature of complaints lodged and whether a complaint was rejected. No information may be displayed on complaints that were upheld.	6 months
2. Enquiries	Number of enquiries made on a consumers record, including the name of the entity/person who made the enquiry and a contact person if available.	1 year
3. Payment Profile	Factual information pertaining to the payment profile of the consumer.	5 years
4. Adverse classifications of enforcement action	Classification related to enforcement action taken by a credit provider .	1 year or until the debt is settled as prescribed in section 71A
5. Adverse classifications of consumer behaviour	Subjective classifications of consumer behaviour.	1 year or until the debt is settled as prescribed in section 71A
6. Debt Restructuring	As per section 86 of the Act, an order given by the court or Tribunal.	Until you are provided with a clearance certificate or you are declared not over indebted by a court.
7. Civil court judgments	Civil court judgments including default judgments.	The earlier of 5 years or until the judgment is rescinded by the court or abandoned by the credit provider in terms of section 86 of the Magistrates Court Act 32 of 1944 or until the debt is settled as prescribed in section 71A of the Act
8. Maintenance judgments in terms of the Maintenance Act 99 of 1998	As per the court judgment.	Until the judgment is rescinded by a court
9. Sequestration order	As per court order.	5 years or until rehabilitation order is granted
10. Rehabilitation order	As per court order .	5 years
11. Administration Order	As per court order.	5 years or until order is rescinded by court

How to challenge credit records and information?

1. Contact the credit bureau immediately.
2. Explain what information you want to challenge and why;
3. Provide them with any documents to prove your claim. This can include paid up letters, statements or any past communication with your credit providers or their legal representatives.

The bureau has 20 business days in which to resolve the issue. If the bureau is unable to resolve the issue, the consumer should refer the matter to the Credit Ombudsman (CIO)

You can access your **free annual credit report** from one of the registered credit bureaus. Here are the details of the largest credit bureaus:

- TRANSUNION (ITC): **0861 482 482**

- EXPERIAN: **0861 105 665**
- XPERT DECISION SYSTEMS (XDS): **0860 937 000**
- COMPUSCAN: **0861 514 131**
- CONSUMER PROFILE BUREAU (CPB): **086 726 5183**



EXPERIENCING PAYMENT DIFFICULTIES:

WHAT ARE MY RIGHTS AND OBLIGATIONS AGAINST THOSE OF CREDIT PROVIDERS WHEN I CANNOT PAY MY DEBTS?

When for any reason you are struggling to pay your debts, you need to take quick action before credit providers take legal action against you.



What is Over-Indebtedness?

As per the National Credit Act, you are over-indebted when you are unable to pay all your payment obligations as per the credit agreements you have entered into with a credit provider in a timely manner. This is indicated by your history of debt repayments captured by Credit Bureaus. In other words, you are considered over-indebted if your total monthly debt repayments exceed the difference between your net income (take-home pay) and your cost of minimum living expenses.

Temporary Difficulty

In some cases you might not be over-indebted, but could be experiencing difficulty in paying your accounts timeously and keeping it up to date. An example of a temporary difficulty could be:

- Unexpected death in the family (especially if the deceased was a primary breadwinner and you are awaiting a life cover to be paid out).
- Maternity Leave
- Retrenchment
- Reduction in salary or in working hours for hourly paid workers

!!! When you find yourself in financial distress and are unable to meet your payment obligations, the following steps can be used to help you:

- ✓ Draw up a **budget**, manage it on a monthly basis, and revise it when necessary.
- ✓ Stop increasing your debt. Talk to your family and get everyone's buy-in to start reducing debt for the family's future. Close unnecessary accounts and **limit yourself** to only a few accounts.
- ✓ Start **tracking your expenses** – keep a record of all money that goes in and out of your accounts. Identify areas where you overspend and reduce those expenses. Identify expenses on luxury items and cut out these expenses.
- ✓ **Add income** – sell anything you don't need and use your hobby to make some extra cash.
- ✓ Have a credit health check-up – get a copy of your **credit report** at least once a year as a way of assessing your current financial health.
- ✓ **Contact credit providers** to negotiate and make an arrangement for lower instalments with an extension of the term or a reduction in fees, or speak to them about the possibility of a consolidation loan. If you agree to a new payment plan, stick to it!
- ✓ Once you have paid off one account, redistribute the money to **pay more** on another.

- ✓ Look at your insurance products and see if you can **switch** to a cheaper option

When is it a good idea to consolidate my debt?

A debt consolidation loan is not always a good idea as it can lead to more problems if not handled correctly or used for the correct purpose. However if you have reduced your expenses and you still cannot afford to pay all your debts then a consolidation loan might be an option.

- ✓ A consolidated loan allows you to settle all you existing credit agreements with a new loan.
- ✓ You will be assessed as if you are applying for a normal loan and if your credit record is not good or you have too much debt you will be declined.
- ✓ If you are approved for a consolidation loan, the law now requires credit providers to ensure that you use the loan to settle your debts. This is to avoid instances where consumers took consolidation loans but not using them to settle their debt and therefore becoming more over indebted.

Going into Debt Counselling.

Before you go under debt counselling you need to be aware of the following:

- ✓ Debt Counseling is a long term legal solution that must be performed by a registered debt counselor;
- ✓ There are no upfront fees payable;
- ✓ Fees charged must be according to the guidelines set by the National Credit Regulator(NCR);
- ✓ You will be listed at the credit bureau as being under debt counseling;
You will not be allowed to access credit;
- ✓ You cannot voluntarily cancel or exit debt counseling after you have been accepted into debt counseling unless you go to court to be declared not over indebted anymore;
- ✓ You will be issued with a clearance certificate and your credit record cleared once all debts are satisfied according to the guidelines of the National Credit Act;
- ✓ Complaints regarding debt counselors can be referred to the NCR @ dccomplaints@ncr.org.za or 0860 627 627

The debt counselling Process

Below is a summary of the Debt Counselling process as outlined by the Debt Counsellors Association of South Africa. It is important for you to understand how the process works so that you can ask the right questions.

<p>Step 1: Application Day 1</p>	<p>You will provide details of your income, monthly budget and debt commitments. Your Debt Counsellor will do an initial assessment to check that you are over-indebted and a new budget will be agreed upon. You will receive details of all cost and be requested to sign Form 16. You will receive new budget guidelines. You have applied for Debt Review in terms of Section 86 of the NCA.</p> <p><i><u>You have to be completely honest when you complete the FORM 16</u></i></p>
<p>Step 2: Notify CP's & CBs of application for Debt Review Day 1- 5</p>	<p>Your Debt Counsellor will contact all your Credit Providers and the Credit Bureaus to verify your debt by sending out a Form 17.1. You will be listed on the Credit Bureaus as under Debt Review. This listing will remain until you have repaid your debt or when a Clearance Certificate is issued. Repayment terms will be negotiated with all Credit Providers. Your interim payment plan is loaded at your Payment Distribution Agency (PDA)</p> <p><i><u>You need to commence payment in line with the interim repayment plan.</u></i></p>

<p>Step 3: Over indebted notice Day 6 - 30</p>	<p>Credit Providers will confirm outstanding balances and your Debt Counsellor will notify your Credit Providers and Credit Bureaus that you are over-indebted by sending a Form 17.2. Debit Orders, for debt repayment only, need to be cancelled at this point to allow the interim repayment plan to kick in.</p> <p><u><i>You need to sign a Debit Order cancellation on your original credit agreement and submit this to your Credit Providers and then make new payments as per interim repayment plan.</i></u></p>
<p>Step 4: Repayment Plan Day 31 - 45</p>	<p>Your repayment plan will be finalised. Credit Providers will either accept or reject your repayment proposal. This will enable your Debt Counsellor to finalise your repayment plan and to submit this to your PDA. Your PDA will collect a single payment from you and distribute the payment to all your Credit Providers. You will receive a SMS to notify you every month. At this point your Debt Review Court application can be finalised. You will be requested to sign an Affidavit. Do not be afraid to do this:</p> <ul style="list-style-type: none"> ✓ the law is on your side as long as you follow the process. ✓ Your Debt Counsellor will assist you all the way. ✓ You need to sign the Affidavit and keep up with the payments according to the plan.
<p>Step 5: Court Order Day 46 – 60</p>	<p>A Court date will be obtained by your Debt Counsellor. This usually is after the expiry of the 60 days. The aim is to obtained approval from Court on the proposed Debt Review plan. As long as you make payment you are protected. Your Debt Counsellor will monitor the process and advice you accordingly along the way You need to continue with payments and refer all enquiries to your Debt Counsellor.</p> <p><u><i>The Court order will confirm repayment plan. You need to keep up payments</i></u></p>
<p>Step 6: Clearance Certificate</p>	<p>In terms of section 71(2)(b)(i) of the NCA, a debt counsellor must issue a Clearance Certificate (Form 19) if the consumer has fully satisfied all the debt obligations under every credit agreement that was subject to the debt re-arrangement order or agreement. Once a Clearance Certificate has been issued Credit Bureaus will be required to remove all the information relating to debt counselling and you can then start getting credit again. There are now new rules that allow you to finish debt counselling early after you have settled your unsecured loans and cleared your arrears on the Home loan.</p>

Debt Counselling Fees

It is important to understand how much debt counsellors are allowed to charge you for their services and legal fees. Below are the fee guidelines set by the National Credit Regulator. You are not required to pay any upfront fees as the fees are deducted from the monthly instalments agreed.

Debt Counselling Services	Approved Fees
1. A Debt Counsellor may receive the following fees in respect of consumers who have applied for debt counselling:	
1.1. An application fee, limited to the amount prescribed in terms of Schedule 2 (2) of the Act, recoverable directly from the consumer upon receiving an application for debt review;	R50
1.2. A rejection fee of R300.00 (excluding VAT) in respect of consumers whose applications have been rejected in terms of section 86(7)(a);	R300 (excl vat)
1.3. A restructuring fee of the lesser of the first instalment of the debt re-arrangement plan in respect of a consumer whose applications have been accepted in terms of 86(7) (b) or 86(7) (c).	
Maximum allowable fee for a Single Application (Once off)	R6000 (excl vat)
Joint Application (Once off)	R6000 (excl vat)
1.3.1. 100% of the fee is payable at the first instalment.	Yes
1.4. Should a Debt Counsellor fail to submit proposals to Credit Providers or refer the matter to a Tribunal or a Magistrate Court within 60 business days from date of the debt review application the Debt Counsellor has to refund 100% of the fee paid by the consumer (excluding the application fee).	100%
1.5. A monthly after-care fee payable to the DC	5% up to a max of R400 (excl VAT) for the first 24 months, thereafter reducing to 3% to a max of R400 (excl VAT).
1.5.1. Payment of the monthly after-care fee is to commence in the 2nd month after the amount in 1.3.1 above has been paid.	Yes
1.6. Should the consumer withdraw from the process after completing stages 1.3 above, a fee equal to 75% of the restructuring fee as per 1.3 above is payable by the consumer.	Yes
1.7. Legal Fees	A legal fee for a consent order of R750. Any additional legal fees to be negotiated separately with the consumer and the DC must be able to produce pro-forma invoices.

Guidelines to Avoid Over-Indebtedness

- ✓ Always be honest with yourself with how much you can afford before you apply for credit by developing a detailed income and expenditure statement. You will only hurt yourself by pretending you are able to afford the repayments, when in fact, you can't.
- ✓ Do not rush yourself into signing an agreement with a credit provider. When applying for credit, you will receive a pre-agreement statement and quotation. This quotation will be valid for five days after the quotation was presented.
- ✓ It is important to understand all the terms and conditions stipulated in a credit agreement. You have the right to receive information from your credit provider in a language of your choice / understanding.
- ✓ Do not attempt to make more financial debt for yourself, even if you think that small amount might not harm you. Always consider all your costs and expenses, in order to avoid over-indebtedness;
- ✓ Plan for emergencies(illness, death);
- ✓ Find ways to increase your income so that you can use it to luxuries or save for big items;
- ✓ Take out credit life insurance to cover you for retrenchment, death and disability
- ✓ If possible use the services of a registered financial advisor to assist you with savings and investments

The Legal Process

If for any reason you do not go under debt counselling, fail to honour arrangements or cannot pay at all the credit provider will take legal steps against you as outlined below.

Step 1	The credit provider will contact you telephonically or through SMS to ask you to settle the arrears or make an arrangement.
Step 2	<ul style="list-style-type: none"> ✓ If you don't respond they will send out a section <u>129 notice</u> that credit providers are obliged to issue to you once you are in default for at least 20 business days. ✓ Once you have received a section 129 letter you have the option to <u>refer that specific credit agreement to a debt counsellor, an Alternative Dispute Resolution Agent, Consumer Court or Ombud with jurisdiction</u>. The intention is that the credit provider and you resolve any dispute related to the agreement or agree on a plan to bring the arrears up to date.
Step 3	If 10 business days elapse without you responding to the section 129 notice or if negotiations are not successful, the credit provider is at liberty to proceed <u>to issue a Summons which inform you that the matter is not going to court.</u>
Step 4	<ul style="list-style-type: none"> ✓ After summonses are served the court will <u>issue a judgment</u> against you if you defend the matter or <u>a default judgment</u> if you are not present in court;

Step

A judgment allows the credit provider to recover the money owed through the following:

- ✓ Auctioning a house
- ✓ Repossess and auction a car
- ✓ Garnishee your salary
- ✓ Sell your household goods

After the sale you are liable for the shortfall if the auction did not cover the full outstanding debt.

INFORM YOURSELF ABOUT YOUR RIGHTS AND RESPONSIBILITIES!! THE NATIONAL RESPONSIBLE CREDIT HELPLINE

If you are thinking of taking out credit or you currently have credit and there is something you don't understand the National Responsible Credit Helpline is available to provide you with information that will assist you to make informed decisions.



The National Debt Mediation Association provides information to consumers through its NRC Helpline. If you are not sure about anything related to credit, the helpline agents will be available to assist you with the correct information. The Helpline provides information on the following:

When about to apply for credit:

- ✓ Budgeting and affordability
- ✓ Types of loans and their cost
- ✓ Credit terms and conditions
- ✓ Rights and Responsibilities
- ✓ Credit provider responsibilities

Keeping a clean credit record:

- ✓ Maintaining repayments
- ✓ Managing cash flow problems and emergencies
- ✓ Payment behaviour and its impact on credit bureau record

Financial Hardship: Managing payment difficulties

- ✓ When and how to talk to your credit provider;
- ✓ Options (lifestyle change, informal arrangements, debt counselling, mediation etc.)
- ✓ Legal action and how to manage it

When there are disputes

- ✓ Who to approach for each type of complaint
- ✓ Mediation assistance where legal action is taken against you.

The information is provided for free, however assistance with making payment arrangements and debt counselling is charged for.

DID YOU KNOW HOW THE NATIONAL CREDIT AMENDMENT AFFECTS YOU?

Below is a summary of the key amendments that were gazetted in March 2015. Inform yourself to protect your rights and carry out your responsibilities.

ITEMS	Your Responsibilities	Credit Provider Responsibilities
	<ul style="list-style-type: none"> ✓ Do not approach the credit provider before you sit down and do your own budget ✓ Doing your own budget will prevent you from accepting credit limits or offers that are more than what you require or under declaring your true expenses. 	<p>The credit provider must make sure that you declare a realistic budget and that you understand the risks and implications of taking out credit to avoid giving you a reckless loan</p>
	<ul style="list-style-type: none"> ✓ You are required to ensure that you can afford the credit you apply for taking into consideration not only the current instalment but future price and interest rate increases. ✓ You must truthfully declare all your expenses and debts including those that do not appear on your credit report ✓ Lodge a complaint with the National Credit Regulator if you feel that the affordability assessment was not fair leading to you being denied credit 	<p>When conducting the affordability assessment, the credit provider must: -</p> <ul style="list-style-type: none"> ✓ Calculate your discretionary income using the minimum expense norms issued by the National Credit Regulator and the information you provide; ✓ take into account all your monthly debt repayment obligations in terms of credit agreements as reflected on your credit bureau report ✓ Take into account maintenance obligations and other necessary expenses. ✓ Consider your history of how you pay your debts as reflected in your credit report; ✓ On request by you, provide you with written

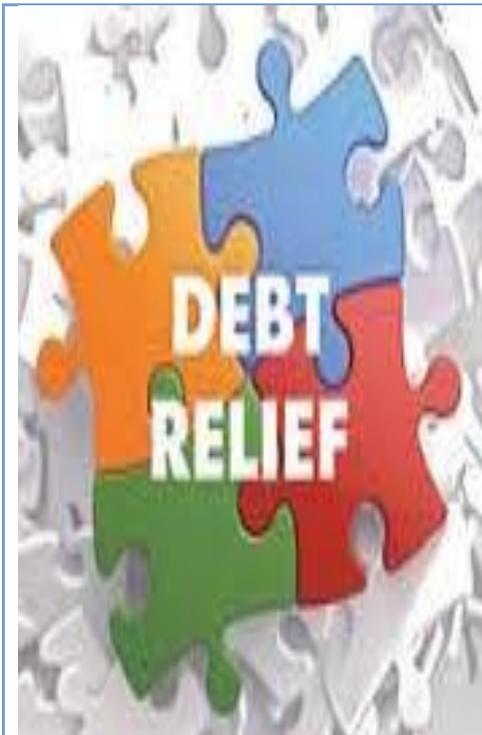
reasons for why you were denied credit and if the denial is due to a bad credit report, to provide you with the name and contact details of the credit bureau that issued the credit report.



- ✓ You are not under any obligation to pay old debts that have legally prescribed
- ✓ Prescription applies to some debts that are more than three years since you last paid, no judgment was taken and you did not acknowledge the debt
- ✓ If you get a call from a debt collector for old debts and you are not sure if they are prescribed to call the NDMA or the National Credit Regulator for assistance before agreeing to pay the debt

If you have old debts the Amendment Act does not allow credit providers to:

- ✓ Sell debts that have prescribed
- ✓ Collect debts that have prescribed
- ✓ Mislead you into paying old debts
- ✓ List you at the credit bureau for prescribed debts



When you cannot pay your debts you have the right to:

- ✓ To approach a debt counsellor, ADR agent or Consumer Court to negotiate with your creditors to agree on a plan to bring your arrears up to date or resolve any dispute you have
- ✓ To go under debt counselling before the credit provider issues a summons

To avoid missing important legal documents make sure all your contact details are up to date so that you can receive all the notices

Before taking you to court and obtaining a judgment against you the credit provider must:

- ✓ If you are behind with your payments by 20 business days, to send you a section 129 notice and give you 10 days to ask for help, go under debt counselling or negotiate with them how you will correct the arrears
- ✓ Not cancel your debt counselling if the debt counsellor has submitted the matter to court



In order to keep a clean credit record you are required to:

- ✓ Pay your monthly instalments on time with the correct amount
- ✓ Dispute incorrect information directly with the credit bureau
- ✓ Check your credit report for free once a year to detect fraud, unauthorised enquiries or information that has not been updated.
- ✓ Settle your debt if you want judgments or adverse listings to be removed

Credit Providers are required to:

- ✓ Notify you if any adverse listing is going to be loaded on your credit profile
- ✓ Not load any adverse listing until you have skipped payments for three months in succession
- ✓ Update the Credit bureau if you settle a debt that has an adverse listing or judgment so that it can be removed within seven days of the credit bureau receiving proof of payment



- ✓ When you have been accepted under debt counselling you are required to diligently pay off your debts until you are issued with a clearance certificate by your debt counsellor.
- ✓ Once a clearance certificate is issued you will be considered debt free, your credit bureau status will be amended and you can start borrowing again in a responsible manner.

A clearance certificate can now be issued under the following circumstances:

A Consumer whose debts have been re-arranged in terms of Part D of this Chapter must be issued with a Clearance Certificate by a Debt Counsellor within seven days after the Consumer has –

- (a) Satisfied all the obligations under every credit agreement that was subject to that debt Re-arrangement order or agreement in accordance with that order or arrangement; or
- (b) All credit agreements including the vehicle have been paid up and © the mortgage arrears have been cleared and the consumer can afford to pay the normal instalments on their house.

The HELPLINE can be reached at 086 111 6362 OR info@ndma.org.za