CONSUMER PROTECTION AND DEBT MATTERS

Credit Records

In terms of the National Credit Act ("NCA"), credit may not be given to a person ("consumer"), if s/he is unable to repay such credit. A credit provider must determine a consumer's creditworthiness by assessing his/her:

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For all your Credit Record answers, simply follow our guide below:

1. What is a credit record?
2. What is a credit bureau?
3. What type of information may be held by a credit bureau?
4. May a consumer's credit record be considered when applying for employment?
5. Can a consumer challenge the credit information held by a credit bureau?
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In terms of the National Credit Act ("NCA"), credit may not be given to a person ("consumer"), if s/he is unable to repay such credit. A credit provider must determine a consumer's creditworthiness by assessing his/her:

- existing financial means, prospects and obligations (in other words, his/her income, expenses, dependants and so on);
- repayment history (previous and current payments towards his/her credit, whether or not s/he is financially responsible);
- understanding of the risks, costs, or obligations under the proposed credit agreement.

When doing the above assessment, credit providers make use of the information provided by consumers, together with information available at the time of the assessments, like credit records.

1. What is a credit record?

- A credit record is a report of a consumer’s credit activities. A credit record can hold positive and negative credit information about a consumer as reported by credit providers and others. However, a credit record may not contain adverse credit information of a consumer that has been settled or information relating to paid-up judgments.
- A credit provider must maintain records of applications for credit, credit agreements entered into and terminated for a prescribed period of time. A credit provider must also report information about credit agreements to the National Credit Register or a credit bureau within a prescribed period of time, for example, the amount of credit, details about the credit provider and consumer, repayment schedule, obligations, amendments to the agreement, and so on.
- The National Credit Register or a credit bureau must protect and keep a consumer’s credit information confidential by only using it for the purpose permitted by the law, and reporting it to third persons when permitted by law, the consumer, a court or the National Credit Tribunal.

2. What is a credit bureau?

- A credit bureau is a body registered by the National Credit Regulator that retains, maintains and removes credit information held on a consumer’s credit record.

3. What type of information may be held by a credit bureau?

- A consumer’s credit history, such as applications for credit, credit agreements entered into and terminated, how well or badly a consumer pays his/her credit, debt counselling, debt enforcement, judgments and so on.
- A consumer’s financial history: past and current income, assets, debt and so on.
- A consumer’s personal information: identity (for example, name, identity number, marital status, contact details, address and so on), education status, employment, business history (for example, termination of employment and/or business relationships) and so on.
- Every consumer is entitled to obtain a free credit record from a credit bureau or the National Credit Register once per year.

4. May a consumer’s credit record be considered when applying for employment?

- A prospective employer, employment agency and so on, may request the credit record of a prospective employee, when the position requires honesty in dealing with cash and finances. A

credit record may also be used to verify a prospective employee's qualifications and employment.

- The job description of such a position must, however, be clearly outlined.
- A prospective employee may give a prospective employer permission to access his/her credit record in other circumstances.

5. Can a consumer challenge the credit information held by a credit bureau?

- A consumer has the right to inspect and challenge the credit information held by a credit bureau or the National Credit Register.
- The credit provider, credit bureau or the National Credit Register must take reasonable steps to seek evidence in support to the challenged information.
- Once the investigation has been completed, the credit provider, credit bureau and/or National Credit Register must either remove the challenged information, alternatively retain it if it can provide the consumer with a copy of the evidence in support of the information.
- A consumer may within 20 business days of receiving a copy of the evidence, apply in the prescribed manner and form to the National Credit Regulator to investigate the challenged information.
- Until a challenge is resolved, the challenged credit information of the consumer may not be reported by the credit bureau or the National Credit Register.
- If it is found that the incorrect information has been reported about the consumer, the credit bureau must remove the information from its files and inform the consumer, credit bureaus and other persons about the removal.

6. How can LegalWise assist you?

Should you require an explanation of your rights on this topic, please contact your nearest LegalWise Branch , call, e-mail or WhatsApp us. For more information about our membership options visit our legal services page or visit our join now page.

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