

## **National Credit Act, 34 of 2005 (NCA) Information Brochure**

### **Definition of Consumer Credit Information in terms of the National Credit Act, 34 of 2005**

Consumer credit information is defined in section 70(1) of the NCA to mean information concerning:

- (a) a person's credit history, including applications for credit agreements to which the person is or has been a party, pattern of payment or default under such credit agreements, debt re-arrangement in terms of the Act, incidence of enforcement actions with respect to any such credit agreement, the circumstances of termination of any such credit agreement, and related matters;
- (b) a person's financial history, including the person's past and current income, assets and debts, and other matters within the scope of that person's financial means, prospects and obligations, as defined in section 78(3), and related matters;
- (c) a person's education, employment, career, professional or business history, including the circumstances of termination of any employment, career, professional or business relationship, and related matters; or
- (d) a person's identity, including the person's name, date of birth, identity number, marital status and family relationships, past and current addresses and other contact details, and related matters, which is not generally known to others or available in the public domain.

### **Permissible / Prescribed Purposes for data access under the National Credit Act, 34 of 2005**

18(4)(a) Investigation into fraud, corruption or theft, provided that the SAPS or any other statutory enforcement agency conducts such an investigation;

18(4)(b) Fraud detection and fraud prevention services;

18(4)(c) Considering a candidate for employment in a position that requires trust and honesty and entails the handling of cash or finances (consent is required);

18(4)(d) An assessment of the debtor's book for purposes of:

- (i) the sale of the business/debtor's book;
- (ii) any other transaction that is dependent upon determining the value of the business/ debtor's book

18(4)(e) Setting a limit in respect of the supply of goods, services, or utilities (consent is required)

18(4)(f) Assessing an application for insurance (consent is required)

18(4)(g) Verifying educational qualifications and employment (consent is required)

18(4)(h) Obtaining consumer information to distribute unclaimed funds, including pension funds and insurance claims

18(4)(i) Tracing a consumer by a credit provider in respect of a credit agreement entered into between the consumer and credit provider

18(4)(j) Developing a credit scoring system by a credit provider or credit bureau

18(6)(d) A credit bureau may report in respect of a consumer, information that is not related to and not intended for the purpose of providing consumer credit, provided that the consumer's consent has been obtained to use the information for such purpose and to submit, compile and report such information

Reg23A Conducting an Affordability Assessment pursuant to Regulation 23A of the NCA Regulations

Reg24(1)(b)(vii) Application for debt review (consent required)

Section 134 Alternative dispute resolution

Section 72(1)(b) Request for personal credit report (with/without charge)

Consumer credit information requested in terms of other national legislation

Section 68: For another purpose with the consent of the consumer. For example (i) Account management (For existing base. May be positive or negative. E.g. credit worthiness assessment) or Marketing for cross selling, pre-vetting a consumer to determine whether or not to extend **an offer of credit** to such consumer.

### Permissible data sources under the National Credit Act, 34 of 2005

Regulation 18(7) states that a registered credit bureau may receive consumer credit information in respect of a consumer from any person, provided the originating source of the information is one of the following persons:

- (a) An organ of the state, a court or judicial officer;
- (b) Any person who supplies goods, services or utilities to consumers whether for cash or on credit;
- (c) A person providing long term and short term insurance;
- (d) Entities involved in fraud investigation;

- (e) Educational institutions;
- (f) Debt collectors to whom a book was ceded or sold by a credit provider;
- (g) Other registered credit bureaux.

**Section 70(2) says A registered credit bureau must:**

- (a) accept the filing of consumer credit information from any credit provider;
- (b) accept without charge the filing of consumer credit information from the consumer concerned for the purpose of correcting or challenging information otherwise held by the credit bureau concerning that consumer;
- (c) retain any consumer credit information reported to it for the prescribed period, irrespective of whether that information reflects positively or negatively on the consumer.

**Regulation 18(6)(d) states** that in addition to the consumer credit information contemplated in section 70, a registered credit bureau may receive, compile and report on only the following information in respect of a consumer:

- (a) Status and history of outstanding obligations and payments in respect of goods, services or utilities supplied to consumers;
- (b) Information that is relevant for the purpose of credit fraud detection and prevention;
- (c) Payments made by a consumer in respect of a debt, where the debt has been ceded or sold by the credit provider to another party;
- (d) Information that is not related and not intended for the purpose of providing consumer credit, provided that the consumers consent has been obtained to use the information for such purpose and to submit, compile and report such information.

Regulation 19(13) obliges data contributors (which includes credit providers and qualifying service providers) to report their consumer credit information in a manner and form as prescribed by the National Credit Regulator. The Guidelines to the Regulations require qualifying data contributors (all credit providers and defined data providers) including nonregistered providers to submit information to the NCR approved data hosting credit bureaux, of which Experian is one. You can read more about this [here](#).

## Regulation 17 Display Periods under the National Credit Act, 34 of 2005

Categories of Consumer Credit Information	Description	Period for which Information must be retained from date of commencement of the event
Details and results of disputes lodged by consumers.	Number and nature of complaints lodged and whether complaint was rejected.  No information may be displayed on complaints that were upheld.	6 months
Enquiries	Number of enquiries made on a consumer's record, including the name of the entity / person who made the enquiry and a contact person if available.	1 years
Payment Profile	Factual information pertaining to the payment profile of the consumer.	5 years
Adverse classifications of enforcement action	Classifications related to enforcement action taken by a credit provider.	1 year or within the period prescribed in section 71A
Adverse classifications of consumer behaviour	Subjective qualifications of consumer behaviour.	1 year or within the period prescribed in section 71A
Debt Restructuring	As per section 86 of the Act, an order given by the Court or Tribunal.	Within the period prescribed in section 71(1) of the Act or until a clearance certificate is issued
Civil court judgments	Civil court judgments including default judgment.	The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider in terms of section 86 of the Magistrate's Court Act, 32 of 1944 or within

		the period prescribed in section 71A of the Act
Maintenance judgments in terms of the Maintenance Act 99 of 1998	As per the court judgment.	Until the judgment is rescinded by a court
Sequestration Order	As per the court order.	5 years or until rehabilitation order is granted
Rehabilitation Order	As per the court order.	5 years
Administration Order	As per the court order	5 years or until order is rescinded by court

Credit bureaus may hold credit data in an archived form for longer (typically between 5 – 10 years) than the periods described above for activities such as research and development, compliance with legal requirements (including supporting third parties with such requirements and data quality purposes), audit, and the establishment, exercise or defense of legal claims.

Where the table above does not provide a specific retention period, the credit bureaus retain data for a period which is appropriate taking into account factors such as the period for which the data is expected to remain relevant, accurate and necessary to achieve the aims for which it is being held; any contractual restrictions imposed by the relevant data suppliers; regulatory requirements; industry practice; and any limitation periods set out in law.

### **Section 72 and Regulation 20 Disputes Process under the National Credit Act, 34 of 2005**

The National Credit Act allows the consumer the right to challenge the accuracy of information that is reported to it. The information set out below explains process.

#### **Submitting the Dispute to the Credit Bureau**

Section 69 of the National Credit Act sets out the consumer's the right to confidential treatment. For this reason, the consumer is required to submit a copy of their identity document and proof of address as a minimum standard to establish proof of identity and to ensure that the credit bureau does not share or discuss the consumer's consumer credit information with another person.

In order to correctly understand the consumer's challenge and to investigate it effectively, the consumer is requested to submit certain documents to the credit bureau which will then be verified with the data supplier.

### **Seeking Credible Evidence**

Once the consumer's identification verification and dispute documents have been received, the credit bureau will engage the data supplier with the view to either verify the correctness of the consumer's dispute, or obtain credible evidence that refutes the consumer's dispute and supports the correctness of the disputed information.

This process may take a maximum of 20 business days. If the data supplier has not responded to the dispute request within this period, the disputed information must be updated or removed in favour of the consumer.

Once the process has been completed, the consumer will be provided with an updated credit report where the dispute has been resolved in their favour, or they will be provided with the credible evidence in support of the information.

Where the consumer is not satisfied with the credible evidence that has been provided, they may refer the matter as follows:

#### **Bank account information:**

- [Banking Ombudsman](#) – 0860 800 900
- [National Credit Regulator](#) – 0860 627 627

#### **Retail and other non-bank information:**

- [National Credit Regulator](#) – 0860 627 627
- [Credit Ombudsman](#) – 0861 662 837