

NCR DEBT COUNSELLING CIRCULAR

No. 7 OF 2008

The purpose of this Circular is to inform Debt Counsellors about the following matters:

1. NCR's intervention in cases where credit providers intend to repossess a consumer's house despite the fact that the consumer is under debt review and is repaying the debt as proposed by the Debt Counsellor;
2. Progress with the High Court Declarator
3. The appointment of further service providers to do practical training for debt counselors as well as to provide support to registered Debt Counsellors.

1. NCR'S INTERVENTION IN REPOSSESSION OF HOUSES

The NCR has received numerous complaints from consumers and Debt Counsellors about credit providers repossessing consumers' houses whilst consumers are under debt review and repaying their debts as proposed by their debt counsellors.

The NCR has appointed one of its legal advisors to intervene in such matters. We will only intervene in cases where there is proof that the consumer has paid and is continuing to repay the home loan and the Debt Counsellor has made an effort to intervene on behalf of the consumer but has failed in his/her mediation with the credit provider. Such complaints must be forwarded to kkgasi@ncr.org.za. **Please note that this intervention relates instances where consumers stand to lose their houses only**

All other complaints including repossession of vehicles relating to debt counselling should be directed to the Complaints department, through the NCR's Call Centre - 0860 627 627.

2. HIGH COURT DECLARATOR

The NCR has approached the High Court for a declaratory order to provide clarity on the inability of the magistrate Courts to deal with applications for debt restructuring as submitted by debt counselors as well as procedural uncertainty in dealing with such matters. We had hoped that the matter will be finalized by September 2008, but as it stands, the matter will only be heard during March 2009.

We have in the meantime had a meeting with the Departments of Trade and Industry, Justice and Constitutional Development, the Rules Board and Justice College to come up with interim solutions acceptable to all and in particular to magistrates while amendments to the Act and Regulations are being explored.. All the parties agreed on an urgent need to come up with solutions to ensure that consumers do not lose

protection offered by the Act. Further developments on these arrangements will be communicated to Debt Counsellors as soon as progress has been made.

3. PRACTICAL TRAINING AND SUPPORT TO DEBT COUNSELLORS

The NCR has been inundated with enquiries from registered Debt Counsellors on basic operational issues such as how to fill in a Form 16.1 (application for debt review); how to assess whether a consumer is over-indebted or not; how to restructure clients' debts; how to calculate whether there are funds available for distribution to creditors, etc. Debt Counsellors have various levels of qualifications and are from a range of different professional backgrounds. Their level of understanding of applicability of the law is different.

The NCR is of the opinion that good quality debt counselling service delivery can only be achieved by providing practical training and technical support to Debt Counsellors.

To address this, the NCR has appointed 2 debt counselling companies, Octogen and Consumer Protection Excellence, to provide practical training and technical support to Debt Counsellors. The NCR will bear the costs of this initiative. The NCR has already signed an agreement with each of these two companies. The effective date of implementation is 01 November 2008.

Information on how to access their services will be communicated to Debt Counsellors as soon as logistical arrangements have been finalized.

FOR MORE INFORMATION

For complaints relating to repossession of houses, please contact:

Kagiso Kgasi on 011 554 2600/ 2647 or kkgasi@ncr.org.za

For other enquiries including the contents of this Circular, please contact:

Prudence Malakalaka on 011 554 2600/ 2705 or pmalakalaka@ncr.org.za

or

Morris Maluleke on 011 554 2600/ 2789 or mmaluleke@ncr.org.za

or

Mpho Thekiso on 011 554 2600 or mthekiso@ncr.org.za

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