



ALERT TO CONSUMERS AND DEBT COUNSELLORS: UNAUTHORISED USE OF REGISTRATION CREDENTIALS OF DEBT COUNSELLORS BY UNREGISTERED PERSONS

CIRCULAR 1 OF 2024

1. INTRODUCTION

The National Credit Provider (NCR) has noted a trend where unregistered persons are using registration credentials of debt counsellors and holding themselves out to the public as debt counsellors offering and engaging in debt counselling services whilst not registered as such. This conduct is prohibited and is inconsistent with the purpose and requirements of the National Credit Act (NCA). In terms of section 44 of the NCA, any person who wishes to engage in, or offer debt counselling services to, the public is required, if they satisfy all the requirements of registration, to be registered as debt counsellor with the NCR.

2. PURPOSE

The purpose of this circular is to notify consumers and debt counsellors of the serious consequences that may be faced by debt counsellors who knowingly allow unregistered persons to use their registration credentials to conduct debt counselling services.

3 SUMMARY OF RELEVANT CASE LAW

3.1. The NCR wishes to bring to the attention of consumers and debt counsellors a judgment in the matter of *National Credit Regulator v Dennis Lesiba Rachoene and Thabiso Baakedi Ntsoane NCT/2477/2/2022/57(1) (26 March 2023)* issued by the National Consumer Tribunal (NCT), where the First Respondent (debt counsellor) knowingly allowed the Second Respondent (unregistered person) to use his registration certificate to conduct debt counselling services to consumers in a manner that was not consistent with the NCA. Consumers suffered damages as a result of this conduct.

3.2. Despite the First Respondent denying any involvement in the business nor signing up any consumers, and indicating that he merely allowed Second Respondent to use his registration certificate, the NCT found him to be in contravention of the NCA and declared his conduct to be prohibited in terms of the NCA and ordered him to pay a fine and his registration to be cancelled. The Second Respondent was also found to be in contravention of the NCA and ordered to refund consumers and pay a fine.

4. OBLIGATIONS OF DEBT COUNSELLORS IN TERMS OF THE NCA

4.1. Debt counsellors have a statutory obligation to comply with the NCA and their registration conditions and operate their businesses in a manner that is consistent with the purpose and requirements of the NCA and to act in the best interests of consumers. The above judgment re-emphasises the fact that it remains the responsibility debt counsellors to safeguard information relating to their practice and ensure that it is not improperly used by unauthorised and unregistered persons.

4.2. Consumers are encouraged to verify debt counsellors' details when engaging in their services by checking their registration numbers and statuses on the NCR website in order to avoid falling victim to these types of schemes. A list of registered debt counsellors is accessible on **www.ncr.org.za**. Any consumer unable to verify the details of a "debt counsellor" offering debt counselling services to them, must immediately notify the NCR for the matter to be investigated.

4.3. Any person involved in this activity (posing as a debt counsellor) which requires registration with the NCR, is hereby instructed to desist from this misleading and deceptive practice. Furthermore, debt counsellors who allow unregistered persons to use their registration credentials to conduct debt counselling business are hereby instructed to desist from this prohibited conduct.

4.4. The NCR will take appropriate enforcement action against any persons and debt counsellors who continue to engage in the above prohibited conduct.

FOR MORE INFORMATION OR TO REPORT ANY OBSERVED PROHIBITED CONDUCT

Please contact Enica Mpete on **0860 627 627** or **complaints@ncr.org.za** for more information or to file a complaint regarding this conduct.