



# NOTICE TO REGISTRANTS: UPDATE ON NATIONAL CONSUMER TRIBUNAL (NCT) JUDGMENTS REGARDING DEBT COUNSELLING

## CIRCULAR 01 OF 2025

1. The National Credit Regulator (“the NCR”) is mandated under Section 15 of the National Credit Act (“the NCA”) to enforce the Act by monitoring the credit industry to ensure that prohibited conduct is prevented and/or detected and prosecuted. This includes referring matters to the National Consumer Tribunal (“the NCT”) and appearing before the Tribunal.
2. The purpose of this circular is to provide an overview of recent judgments issued by the NCT involving debt counsellors and a Payment Distribution Agency (PDA). It highlights actions taken by the NCR against non-compliant entities and individuals in the debt counselling industry.
3. On the strength of evidence collected during the introduction of the NCR Withdrawal Guidelines 01 of 2021, the NCR detected prohibited conduct by four debt counsellors. These debt counsellors were found to be updating the Debt Help System (“the DHS”) with false and misleading information, specifically regarding clearance certificates and court orders stating that certain consumers were no longer over-indebted. As a result, the NCR referred these matters to the NCT for adjudication.
4. In a separate matter, the NCR issued a compliance notice against CollectNet PDA, a registered Payment Distribution Agency (“PDA”), for failing to adhere to their conditions of registration on a continuous basis and for contravening provisions of the NCA and its regulations. CollectNet failed to comply with the requirements set out in the compliance notice, and the matter was subsequently referred to the NCT for adjudication.

### **4.1. National Credit Regulator vs. CollectNet PDA (PTY) LTD - NCT/267892/2023/55(6)**

CollectNet PDA (“the PDA”) was found to have contravened several conditions of its registration, including conditions 1, 2, 4, 6, 7, 8.2, 9, 17, 21, 22 and 28as well as section 52(5)(c) of the Act, and regulations 10A(9)(a),(b),(e),(f) and (g). The matter arose from an investigation initiated by the NCR in 2022 which investigated the respondent's possible non-compliance with its legal obligations. The findings of the investigation revealed that the respondent was non-compliant in various aspects, and the NCR accordingly issued a compliance notice in terms of section 55(1)3 and (3) on 12 July 2022.

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**The Tribunal issued the following order:**

- The contraventions of registration conditions numbers 1, 2, 4, 6, 7, 8.2, 9, 17, 21, 22 and 28 in terms of section 52(5)(c) of the Act, together with regulations 10A(9)(a),(b),(e),(f) and (g), are deemed prohibited conduct.
  - The PDA's registration is cancelled.
  - The PDA was ordered to pay a fine of R100,000.00, which is imposed under Section 151.
  - The PDA was further ordered to cooperate with the NCR within 10 (ten) days of the order, to enter into and comply with the draft winding-up agreement.
5. In addition to the case against CollectNet PDA, the NCR referred further prohibited conduct by four Debt Counsellors to the NCT for the purpose of prosecution. These debt counsellors were found to have updated the DHS with false and misleading information regarding consumers' over-indebtedness status. The NCT, after conducting hearings into the prohibited conduct as alleged by the NCR, issued the following judgments:

**5.1. National Credit Regulator vs. Matea Gladness Maota - NCT/277089/2023/57(1)** The debt counsellor ("the DC") was found to have contravened her conditions of registration number 2, 4, 5, 11 and B1, (failing to utilise a Payment Distribution Agent) in terms of Section 52(5)(c) of the NCA, by updating numerous consumer statuses on the DHS, falsely indicating that these consumers were no longer over-indebted and had obtained court orders and clearance certificates, without supporting documentation to this effect. The DC transferred consumers under debt review onto her profile and changed their statuses shortly thereafter, often on the same day or the following day, and accepted payments from consumer directly.

**The Tribunal issued the following order:**

- The contraventions of registration conditions numbers 2, 4, 5, 11, and B1 in terms of Section 52(5)(c) of the NCA, are deemed prohibited conduct.
- The Debt Counsellor's registration is cancelled.
- The Debt Counselor was ordered to pay a fine of R100,000.00, which is imposed under Section 151.
- An interdict is issued against similar prohibited conduct under the National Credit Act.
- The Debt Counsellor is required to cooperate in transferring consumers to a new Debt Counsellor.

**5.2. National Credit Regulator vs. Mandisa Perseverance Balungile Mthembu NCT/276714/2023/57(1)**

The DC was found to have contravened her conditions of registration (numbers 1, 2, 4, 5, 6, and 11) in terms of Section 52(5)(c) of the NCA. Whilst employed at a debt counselling company and under the instruction of her employer, the DC updated consumers' statuses to reflect conditions that were not factually accurate. Most consumers were updated to be no longer over-indebted, without any supporting documentation to justify the updates. The DC further failed to provide her correct physical office / work address. The Tribunal emphasized that the actions of a particular DC, not the business, are under scrutiny. Each DC is accountable for their own conduct, following an employer's instructions does not excuse violations of the NCA.

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**The Tribunal issued the following order:**

- The contraventions of registration conditions numbers 1, 2, 4, 5, 6, and 11 in terms of Section 52(5)(c) of the NCA are deemed prohibited conduct.
- The Debt Counsellor's registration is suspended for a period of 2 years.

**5.3. National Credit Regulator vs. Christopher Sethole - NCT/276596/2023/57(1)**

The Tribunal, found that the DC had engaged in prohibited conduct, constituting repeated contraventions of Section 52(5)(c) read with his conditions of registration (numbers 1, 2, 3, 4, 5, 7, 8, 9 and 11), in terms of Section 52(5)(c) and Section 71 of the NCA. The DC issued clearance certificates for consumers when the consumer's debt was not paid up. The DC obtained and acted upon paid-up letters received from an unrelated third party, which had no connection to the credit providers. These paid-up letters were subsequently utilised to issue the clearance certificates to the credit bureaus. No connection or mandate existed between the third party and the credit providers, thus bringing their validity into question. The DC updated the consumers' status on the DHS on a fraudulent basis, as a result, consumers were issued a clearance certificate irregularly, and credit bureaus were misled.

**The Tribunal issued the following order:**

- The contraventions of Section 52(5)(c), read with registration conditions numbers 1, 2, 3, 4, 5, 7, 8, 9, and 11, and Section 71 are deemed prohibited conduct.
- The Debt Counsellor's registration is cancelled.
- The Debt Counsellor must employ and pay for a complete audit, along with providing a full refund to consumers.
- The Debt Counselor was ordered to pay a fine of R25,000.00, which is imposed under Section 151.
- The Debt Counsellor is required to cooperate in transferring consumers to a new Debt Counsellor.

**5.4. National Credit Regulator vs. William Choshi - NCT/276740/2023/57(1)**

The DC was found to have contravened Section 52(5)(c) read with his conditions of registration number 1, 2, 3, 4, 5, 6, 8, 9 and 11, Section 86(4), (6), (7) and Regulation 24(2), (5), (6), (9) and (10). The DC made incorrect status updates on the DHS, with status codes G, A1, F1 or F2 to defraud relevant parties, by having them believe that consumers had voluntarily withdrawn from the debt review process prior to being declared over-indebted or had paid up all their debts and obtained court orders to be removed from the process, when, in fact, that was not the case. No documentation was to be found to support the status updates made and subsequent release from the debt review process.

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**The Tribunal issued the following order:**

- The contraventions of Section 52(5)(c), read with registration conditions numbers 1, 2, 3, 4, 5, 6, 8, 9, and 11, Section 86(4), (6), (7), and Regulation 24(2), (5), (6), (9), and (10), are deemed prohibited conduct.
- The Debt Counsellor's registration is cancelled.
- The Debt Counsellor must employ and pay for a complete audit, along with providing a full refund to consumers.
- The Debt Counsellor is required to cooperate in transferring consumers to a new Debt Counsellor.

6. The NCR wishes to highlight the comments by the NCT that *"It goes without saying that a debt counsellor is expected to be a person of high moral and ethical standards. It is for this very reason that the NCR requires debt counsellors to comply with all legislation applicable to the operation of the business of a debt counsellor, including but not limited to the NCA, and that debt counsellors must perform their business in a manner that is consistent with the purpose of the NCA, by imposing conditions of registration to these effects."*

7. The NCR reiterates the importance of debt counselling registrants to understand and follow their conditions of registration. Furthermore, the NCR warns all debt counsellors that all prohibited conduct by debt counsellors will be thoroughly investigated and prosecuted in terms of the NCA without fear, favour, or prejudice.

**FOR MORE INFORMATION OR QUERIES**

Please send an email to **Louise Page** [lp@ncr.org.za](mailto:lp@ncr.org.za) or contact her by telephone on **011 554 2814**.

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