

NATIONAL CREDIT REGULATOR INTENSIFIES ITS EFFORTS AGAINST UNREGISTERED LENDERS IN THE NORTHERN CAPE VIOLATING THE NATIONAL CREDIT ACT

SEPTEMBER 2024

Johannesburg – A joint operation to clamp down on unscrupulous credit providers employing illegal bullying tactics against vulnerable and unsuspecting consumers took place on 2 September 2024 in De Aar, Northern Cape. The operation was jointly undertaken by the National Credit Regulator (NCR), South African Police Service (SAPS) and South African Social Security Agency (SASSA) resulting in 7 arrests and the confiscation of 81 bank cards, 7 Sassa cards, 41 ID books, 9 loan books, and a total cash of R71 506,40 from the suspects. In a similar operation on 6 August 2024 in Loxon, Northern Cape, the NCR, SAPS and *Directorate for Priority Crimes – HAWKS* delivered 3 arrests and the confiscation of 18 bank cards, 4 Sassa cards, 2 ID books, and 1 SAPS identity card from the suspects.

These operations primarily targeted both registered and unregistered credit providers who unlawfully retain prohibited instruments in terms of the National Credit Act, 34 of 2005 which renders a criminal offence for any person to retain personal instruments such as ID, banks cards, licence to secure repayments in terms of credit agreements reported Tebogo Ntsimane, Manager for Investigations & Enforcement at the NCR. “This is a contravention of the National Credit Act (NCA)” she added.

Ntsimane said such operations are part of the NCR’s ongoing strategy to ensure compliance to the provisions of the NCA by all credit providers, irrespective of where they conduct business. “The exploitation of vulnerable and unsuspecting consumers, especially pensioners by credit providers will not be tolerated,” says Ntsimane.

CONTRAVENTIONS OF THE ACT BY THE SUSPECTS

- **Failure to register as a credit provider-** Section 40(1) provides that a person must apply to be registered as a credit provider if the total principal debt owed to that

credit provider under all outstanding credit agreements, other than incidental credit agreements, exceeds the threshold prescribed in terms of section 42(1).

- **Failure to conduct proper affordability assessments-** In terms of Section 81(3), a credit provider must not enter into a reckless credit agreement with consumers. In terms of Section 80(1)(a), a credit agreement is reckless if, at the time that the agreement is made, the credit provider failed to conduct an assessment as required by Section 81 (2) irrespective of what the outcome of such assessment might have concluded at the time.
- **Reckless credit granting-** As the suspects failed to conduct proper affordability assessments, they have extended credit recklessly to consumers and has consequently repeatedly contravened Section 81(3), read together with Section 80(1)(a).
- **Failure to provide consumers with credit agreements in the prescribed form-** Section 93(1) prescribes that a credit provider must deliver to the consumer, without charge, a copy of a document that records their credit agreement in a paper form or a printable or electronic form.
- **Overcharging of interest-** Section 100(1)(c) prohibits the credit provider from charging or imposing an interest charge under a credit agreement exceeding the amount that may be charged consistent with the NCA.
- **Unlawful possession of consumers' instruments-** Section 133(1)(a) prohibits the credit provider from making use of any document or instrument mentioned in Section 90(2)(1) when collecting on or enforcing a credit agreement. Section 133(2) provides that a credit provider must not, when collecting money owed by the consumer under a credit agreement or when seeking to enforce the agreement, rely on any document, instrument, or contract provision referred to in Section 90(2)(1).

Ntsimane concludes that the NCR conducts proactive and reactive monitoring credit providers monitoring through onsite investigations and responding to consumer complaints about NCA contraventions. In terms of Section 54 of the NCA, the NCR has the authority to issue notices to unregistered credit providers engaging in credit provision activities, directing them to stop engaging in those activities. Consumers are advised to lodge a complaint with the NCR should they be a victim of card retention or any other illegal practice by a credit provider at complaints@ncr.org.za

ENDS

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ABOUT THE NATIONAL CREDIT REGULATOR

The National Credit Regulator is tasked with regulating the South African credit industry, ensuring fair practices, promoting responsible lending, and protecting consumer rights under the National Credit Act.