

NCR GUIDELINE ON CREDIT PROVIDER DEBIT ORDER AND PAYROLL DEDUCTION CANCELLATIONS WHEN CONSUMERS APPLY FOR DEBT COUNSELLING



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1. INTRODUCTION

- 1.1. Due to the complex nature of debt counselling, it is important that all the role-players in the debt counselling process adhere to the operational arrangements in place to ensure an effective and efficient process to the benefit of the consumer.
- 1.2. One such operational process is the prompt cancellation of debit order deductions as well as the cancellation of payroll deductions by the credit provider to ensure that the consumer has sufficient funds, early in the debt counselling process for the payment of fees and insurance related to the debt counselling process. The second process is the industry arrangements on the dispatch of documents to credit providers by debt counsellors to facilitate such debt order and payroll cancellations.
- 1.3. This guideline aims to highlight the process to be followed by debt counsellors and credit providers dealing with debit orders and payroll deductions when a consumer applies for debt counselling.

2. NATIONAL CREDIT ACT AND CURRENT NCR GUIDELINES

- 2.1. The National Credit Act ("NCA") as well as the NCR Task Team Agreement Guidelines ("TTA") published as such under Guideline 1 of 2015, prescribes the current process to be followed when a consumer applies for debt counselling, what actions the debt counsellor must take, and when a credit provider is required cancel a debt order or payslip deduction.
 - 2.1.1. Section 86(1) and Regulation 24(2) of the NCA prescribe that when a consumer applies to a debt counsellor to be declared over indebted, the debt counsellor must dispatch a Form 17.1 to all credit providers within five (5) business days of application by the consumer to obtain balances and other information relating to a specific credit agreement.
 - 2.1.2. Regulation 24(6) requires that the debt counsellor must within thirty (30) business days from accepting the consumer's application, make a determination as contemplated in Section 86(6). This is done by dispatching to all credit providers a debt rearrangement proposal in accordance with the minimum requirements of the debt restructuring guidelines as contained in Annexure "D" of the TTA.
 - 2.1.3. In terms of Annexure A, paragraphs 2.3.10. of the TTA, the credit provider upon receipt of the debt rearrangement proposal that meets the requirements of the Act, and debit order and stop payment cancellation instructions, must:
 - 2.1.3.1. Cancel all debit orders and salary deductions in respect of the debt repayments subject to the debt review; and
 - 2.1.3.2. Refrain from applying set-off against credit balances or salary and any other credits to the consumer's bank account.

3. THE PROVISIONS OF THE NCA AND TTA

There are two issues which the NCR wishes to highlight for the purposes of this guideline:

- 3.1. Both the Forms 17.1 and 17.2 must be dispatched by the debt counsellor to the **credit providers**. There are no provisions that state that these forms should be dispatched to any other party (i.e.) Human Resources at the consumers place of work, payroll administrators, the consumer's bank or any other third party) and debt counsellors must refrain from doing so.
- 3.2. The credit provider is obliged to cancel all debit order payments as well as any payslip deductions that might be applicable to that consumer on receipt of the Form 17.2 and proposal by the debt counsellor. This will include any payslip deduction for "pay-day loans" that are small credit agreements with payment dates equal or less than thirty-one (31) days or within one salary cycle. It is reiterated that such pay-day loans do not have preference over any other credit agreements and must form part of the debt counselling process.
- 3.3. The credit providers attention is further drawn to Section 86(5) of the NCA, where it is made compulsory for a credit provider to comply with any reasonable request made by a debt counsellor to assess the consumer's state of indebtedness and to participate in good faith, in the review and negotiations designed to result in responsible debt rearrangement.

4. INTERIM PROVISIONS FOR NON-COMPLIANCE BY CREDIT PROVIDERS TO THIS GUIDELINE

- 4.1. The provisions of this guideline are interim provisions, and subject to further notice, or amendments by the NCR.
- 4.2. In the event that it is reported to the NCR that a credit provider does not adhere to any of the provisions of this guideline within three (3) days from receipt of a Form 17.2 and a reasonable rearrangement proposal, the NCR will dispatch an official notification to the credit provider as well as the payroll administrator, human resources department or any other party responsible for such cancellation of the debt order or payslip deduction with an instruction to cease such deductions within a specified period.
- 4.3. In addition, each of the notification as stated above will be referred for NCR enforcement action through its internal processes and procedures, considering the impact and delay such non-compliance may have had on the debt review process.
- 4.4. Debt counsellors are requested to report any non-compliance to **complaints@ncr.org.za** if confirmation of the cancellation of debit order or payroll deductions was not received and completed within the timeframe stated above. Such report must include copies of the issued Form 17.1 and all responses, Form 17.2 and proof of sending, the repayment proposal and proof of sending, together with the debt counsellor's instructions requesting the cancellation of the debit order or payroll deduction.

FURTHER INFORMATION

Please contact **Timmy Van Der Grijp** on **011 554 2817**, **tvandergrijp@ncr.org.za** should you have any queries.

Disclaimer:

While the NCR has taken reasonable care to ensure the factual accuracy of this guideline, it cannot guarantee such accuracy, especially with regards to future events. Accordingly, NCR does not accept any liability for damages incurred by any party as a result of decisions or actions taken pursuant to this guideline.