

Blacklisting - What you need to know

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INTRODUCTION

The term “blacklisting” is a vicious threat used by credit providers to scare consumers into making payment of their overdue accounts.

Even if you have defaulted on your payments, you are still protected by the **National Credit Act** (“the NCA”). Below are the most important terms and provision a consumer should be aware of when facing threats of being blacklisted or listed with a credit bureau.

WHAT IS BLACKLISTING AND WHAT ARE THE EFFECTS?

Blacklisting or more correctly, credit listing, is the process by which credit providers report adverse information about a consumer to a credit bureau. This will occur when a consumer has failed to make timely payments, or where the credit provider (or any other creditor) has obtained judgement against a consumer.

The biggest consequence of being credit listed is the effect that it can have on a consumer’s ability to apply for credit or loans in the future. Furthermore, it could also lead to higher interest rates, reduced credit limits and an adverse effect on a consumer’s creditworthiness.

It could also impact the debtor’s ability to find a job in industries dealing with finance/accounting, or the debtor’s ability to find rental housing.

CREDIT BUREAUS IN SOUTH AFRICA

There are four main credit bureaus in South Africa. The most commonly used credit bureaus are:

1. TransUnion;
2. Compuscan;
3. Experian; and
4. Xpert Decision System.

There are many more credit bureaus, so it is very important to check whether the credit bureau is registered with the National Credit Regulator.

NOTICE OF BEING LISTED

The NCA provides that a credit provider must give a consumer 20 days written notice that you are in default and that you run the risk that the default will be reported to a credit bureau. If this notice is not given, it is not lawful to list you.

DEFAULT LISTING

It is a credit provider’s choice which bureau they wish to report to. There are two ways in which a creditor can classify or report a consumer namely by default listing or judgement listing.

A default listing is recorded against a consumer’s name when they have failed to make payment against their credit account or made “slow” or late payment of a monthly instalment due in terms of a credit account.

The listing will reflect against the consumer’s profile until payment is made. A credit bureau is only allowed to keep record of a default listing for 12 months regardless of whether payment is subsequently “made up” or not.

Not every default on every type of agreement can result in a listing on a credit bureau. It is very important to understand that you can only be listed through the “default” listing system, if you have defaulted in payment in terms of a credit agreement that falls within the ambit of the NCA. For example, if you fail to pay your rent for a residential property, this is not a failure to comply with the payment terms of a credit agreement and therefore you cannot be lawfully listed for this type of default.

In the case of rent specifically, there are other default listing networks specifically for bad-payers. The most popular one is known as TPN (Tenant Profile Network) but this is not a credit bureau regulated by the NCA.

HOW TO REMOVE A DEFAULT LISTING

If the consumer has made payment of the account, the credit provider must inform the credit bureau so that they can remove the default listing from the consumer's profile.

A consumer can also lodge an internal dispute with the credit bureau if they feel that they have been wrongly listed. The credit bureau must then inform the credit provider of the dispute and launch an investigation. If they find that you were in fact wrongly listed, the credit bureau will remove the listing.

JUDGEMENT LISTING

A judgement listing reflects against a consumer's profile when the credit provider had successfully launched legal proceedings against a consumer and obtained a judgement against them. A judgement listing will reflect against a consumer's profile for a period of 5 years.

However, it is important to note that a judgement debt is enforceable for a period of up to 30 years so even if it no longer reflects against a consumer's profile it might still be enforceable.

If a consumer becomes aware of a judgement debt against their name, they should contact the credit provider or attorneys who obtained the judgement in order to pay the judgement debt or otherwise, if judgment was wrongly taken, then to rescind or appeal the judgment.

The consumer will be able to provide the credit bureau with the court order obtained in the rescission of judgement application to have the judgement listing removed from their profile.

A credit provider is only obligated to notify the consumer of possible listing in terms of default information. In terms of judgement information, the credit provider is not obligated to inform the consumer of the listing.

FURTHER PROVISIONS IN TERMS OF THE NCA

A consumer is entitled to a free credit report once every 12 months, if ordered by court, or within a reasonable period of time if they successfully challenged information relating to their credit profile.

If a consumer is successful in proving that incorrect information was reported on their profile, they are entitled to compensation for the cost of correcting the information by the person who reported the incorrect information.

LOGGING A DISPUTE OR QUERY

Each credit bureau will have its only process to log a dispute or query, but most provide either for an online submission through their website, alternatively there will be a contact number which you can phone in order to log a dispute. It is a free service, and any person can log a dispute.

Always be careful of debt collectors that claim that they can remove listings for an upfront fee. This practice is illegal, and you could end up paying for a service that you could have done yourself.

Should you have any further queries or require assistance, please contact our offices.



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