

LAWLERT!

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Blacklisted? Credit Info Amnesty on the Way

On 26th February 2014 the Department of Trade and Industry published in the Government Gazette a notice entitled "The removal of adverse credit information and information relating to paid up judgments".

What is this about?

This notice provide for regulations that will compel credit bureaus to remove from their records certain information within 2 months from the date that the Regulations take effect. This information includes those that:

1. Classify a consumer as delinquent, defaulter, slow payer, absconder or not contactable. This is called adverse classification of a consumer's behaviour.
2. Classify a consumer, undergoing enforcement action by a credit provider, with words such as "legal action", "write-off" or "handed over for collection/recovery". This is called adverse classification of enforcement action.
3. Indicate by a mark, symbol or sign in any form adverse consumer credit information; as well as
4. Relates to a paid-up default judgement (a judgement obtained where the consumer did not defend the credit provider's claim at all or fully).

How does it benefit anyone?

Most credit providers, such as banks and money lenders registered with the National Credit Regulator, use this information to decide whether or not to borrow an applicant money. They do so to consider the risk of recovery that they take in providing a particular consumer credit. Many home loan applications failed because of this blacklisting. These records are kept by a credit bureau for long periods. For example:

- 1 year for adverse classification of consumer behaviour;
- 2 years for adverse classification of enforcement action; and
- 5 years at most for default judgements.

Ordinarily a default judgement could also be removed. This is done by means of an application to court to have it set aside, after payment of the debt. However, when the High Court granted a default judgement you would not be able to apply to have it set aside even after the debt is paid up.¹ In other words any poor soul who had a default judgement against him/her in The High Court had to wait 5 years before he/she would be eligible for credit.

Conclusion

Today, it is hardly possible to start a business, buy a home, car or furniture without credit. Having been blacklisted makes this a near impossible achievement. To many this would be a welcome relief. It is however likely that credit providers will find other means of evaluating the risk that they take with a particular consumer in extending credit. Nevertheless, these regulations are effective as of 1st April 2014. Credit bureaus have 2 months to clean their records but may apply for an extension. It is advisable to contact a credit bureau as of June to confirm whether your record has been cleared.

¹ *Lazarus v Nedcor Bank and Lazarus v ABSA Bank* 1999 (2) SA 782 (W)

