

### What do you need to know?

Mounting evidence of reckless behaviour by credit providers and exploitation of consumers by micro-lenders, intermediaries, debt administrators and debt collectors led to the introduction of South Africa's National Credit Act. The new National Credit Act (NCA), which came into effect on 1 June 2006, to be implemented on 1 June 2007, aims to protect you from undue risk and create a fair, transparent and non-discriminatory marketplace for lending. While you will see some changes in the way you apply for and receive credit, the biggest impact will be on credit providers.

The NCA aims to make credit markets work by

- Promoting a fair, transparent competitive and sustainable credit market
- Educating and helping you to make informed choices
- Enforcing affordability checks and calculations in all cases
- Protecting you through the establishment of a National Credit Regulator, a Consumer Credit Tribunal and a debt counselling process

As a responsible lender we welcome the NCA. It aligns to our strategy of ensuring the financial services needs of our customers, and the communities in which we operate, are at the centre of our decision making.

The official date for compliance by all credit providers is 1 June 2007. You will only be affected by the NCA after this date.

### Who is affected by the new NCA legislation?

The NCA affects all personal banking and certain business banking customers (such as sole proprietors and trusts with less than 2 trustees). It also affects all financial institutions that lend money and as a result of the Act have to register as credit providers. This includes banks and micro-lenders.

### How will the NCA affect me as a customer?

- Customers will be required to provide additional information when applying for credit
- Documentation will be easier to understand with a clearer breakdown of costs
- Credit providers are required to ensure that customers understand the risks, obligations and costs associated with every loan that they apply for and take up

### With the introduction of the NCA what will happen to my bad credit record?

The NCA stipulates the periods that adverse or negative customer data may be stored on the bureaux. It also provides for older data to be removed under certain circumstances. It does not mean that all negative data will automatically be removed from the bureaux. Customers may contact the bureau to get a report on their credit record. One free credit report per year will be provided to consumers. Additional reports requested during a year will be charged for. Customers are required to continue paying instalments to credit providers on all loans that they have.

### Will there be any changes to processes and forms when applying for credit?

Yes, we will now require additional information when assessing your loan application. This information includes details of all your income and expenditure and if you are married in community of property you will require the written consent of your spouse before you can apply for a loan.

### Who is allowed to apply for credit?

All consumers have the right to apply for credit. The approval of your application for credit is dependant on your credit history and how much credit you can afford. Credit providers will only approve an application for credit if they believe that the credit extended can be repaid timeously and on the agreed upon conditions of the agreement. Under the NCA, credit may only be granted to a consumer if they have the ability to afford the repayments of the agreement. Credit providers may not lend recklessly, resulting in consumer over-indebtedness.

Your ability to afford credit is measured by using your current financial income and expenses as well as your credit rating as an indicator of your affordability. The structure of your credit agreement also has an effect on your affordability.

Your application may therefore be declined if the opinion of the credit provider is that you can not afford it. If your application is declined then you may request the reasons for the decision. If the decline was due to a poor report by a credit bureau then you may also ask for their contact details to challenge the report.

### **What if my agreement is not subject to the NCA?**

Contract and common law will be used to govern all agreements that fall outside of NCA legislation.

### **The NCA and vehicle and asset finance**

#### **What does the term “private leasing” mean?**

With the introduction of the NCA, any private person can enter into a “private leasing” agreement. This involves paying for the use of a vehicle over a set period of time, as opposed to gaining outright ownership. The structuring of balloon payments or residual values into these agreements allows you to make your monthly payments as affordable as possible. Deposits are now negotiable and you can extend the period of your agreement. This allows you to drive a better car than you may have been able to afford under normal agreements.

#### **How is insurance affected?**

We require that you maintain credit insurance, under NCA legislation. Insurance cover against the vehicle being lost, damaged or stolen protects not only the asset but the debt owed. At anytime during the life of the credit agreement, it is important to note, that the insurance cover cannot exceed the outstanding obligation.

Credit life insurance protects the outstanding debt owed in the event of you suffering a disability, retrenchment or death and we may insist that consumers have this type of insurance.

Comprehensive insurance is linked to the market value of the vehicle being financed and therefore we will require you to maintain this type of insurance for your own protection.

### What types of agreements are now available?

#### Instalment Agreement

This finance facility allows you to buy vehicles, and other assets, and pay for them over an agreed period. Ownership will pass to you automatically once you have made the final payment.

#### Features

- Deposits are negotiable.
- Balloon payments can be structured into the agreement.
- You can finance the vehicle up to a maximum of 60 months.
- We own the asset during the term of the finance agreement; ownership is passed to you automatically once you have repaid us in full.
- You can trade-in the asset once you have repaid us in full.
- Market-related interest rates apply, which may be linked to the prime lending rate or fixed.
- You are required to have the asset comprehensively insured for the period of the contract.

#### Example

	With Balloon Payment	Without Balloon Payment
Cost of Vehicle	R140 000	R140 000
Period of Agreement	60 months	60 months
Deposit	Nil	Nil
Interest Rate	13%	13%
Balloon Payment	R56 000 (40%)	R0 (0%)
Repayments	R2 518	R3 185
Final Payment	R56 000	Nil

### Rental agreement

FinRent Consumer is a rental agreement that gives you a reduced monthly payment on a vehicle. The low payment is made possible through the introduction of a residual value. This means that each month you pay for the portion of the vehicle you expect to use.

### Features

- The finance agreement is between us as the rentor and you as the rentee
- Deposits are negotiable.
- You can finance the vehicle up to a maximum of 60 months.
- Rentals are calculated on the basis of the residual value at the end of the period.
- You pay for the portion of the vehicle you expect to use, based on kilometres and the contract period.
- For all vehicles financed, under FinRent Consumer, the maximum mileage is 27 000km per annum or 135 000km over 60 months.
- If the agreed maximum kilometres are exceeded, the agreement provides for a penalty payment for each additional kilometre.
- You are required to have the vehicle comprehensively insured for the period of the contract.
- At the end of contract you must return the vehicle to us. You may negotiate to buy it from us at market value.
- You are therefore not responsible for the residual value at the end of your agreement.

	<b>With Residual Value</b>
<b>Cost of Vehicle</b>	<b>R140 000</b>
<b>Period of Agreement</b>	<b>60 months</b>
<b>Deposit</b>	<b>Nil</b>
<b>Residual Value</b>	<b>R56 000 (40%)</b>
<b>Repayments</b>	<b>R2 518</b>
<b>Final Payment</b>	<b>Nil</b>

### Lease agreements

This finance facility gives you the use of an asset while you are paying for it over the agreed term. Ownership does not pass to you automatically but is one of the options available to you at the end of the contract.

### Features

- Deposits are negotiable.
- Balloon payments can be structured into the agreement.
- You can finance the vehicle up to a maximum of 60 months.
- We own the asset. Once all payments have been made you may return the asset to us, negotiate to become the legal owner or renew the contract at an annual rental.
- Flexible payment structures can be negotiated.
- Market-related interest rates apply, which may be linked to the prime lending rate or fixed.
- You are required to have the asset comprehensively insured for the period of the contract.

### What are the consequences of me handing back the asset during the cooling off period?

You may return the vehicle, within 5 business days of signing your agreement, to us. This is subject to your agreement not being signed on our registered premises. You will be charged a punitive rental for the use of the vehicle during the cooling-off period (the 5 days), which is currently set at 20% of the purchase price.

***Please note that if you signed your agreement on our registered premises then you may not exercise this option.***

### **Can I settle my agreement before the end of the term?**

If you choose to pay more than your required monthly payment then you will pay off your credit agreement quicker. This will also mean that you will pay less interest which would make your total amount owing to us less too. You may also settle your agreement in full at any time. This works as follows:

- Initial deal size less than or equal to R250 000 at time of signing your agreement:
  - The settlement amount would include the outstanding capital amount, any arrear interest and outstanding costs that you may have accrued over the period of your agreement.
- Initial deal size greater than R250 000 at time of signing your agreement:
  - The settlement amount would include the outstanding capital amount, 90 days interest and any outstanding costs that you may have accrued over the period of your agreement. If you give us 90 days notice of your settlement then you will not be subject to any penalties.

### **How often will I receive statements?**

This is up to you and you may choose to receive your statements every two or three months via the post.

### **How can I get more information on the NCA?**

For more information on the NCA log onto [www.ncr.org.za](http://www.ncr.org.za).

Alternatively call us on 0860 121 010.

### Interesting Facts

#### Improved disclosure

The NCA obliges a credit provider to give customers a quotation and pre-agreement statement before they enter into a credit agreement. The quotation must be valid for five business days and must disclose the full cost of the credit. Customers will also receive a copy of the document that records the agreement and the agreement must be in clear, concise and plain language.

#### Impact on credit Bureaux information

The NCA places obligations on credit bureaux regarding the accuracy and retention periods of credit information. These include:

- The Bureaux must ensure that information held about customers is accurate, up to date and confidential.
- The retention of subjective adverse data changes from three years to one year.
- When a consumer lodges a dispute/query with a registered credit bureau pertaining to the information that appears on the Bureau, the Bureau will need to investigate the dispute to establish the validity of the dispute within twenty days. A credit provider cannot decline the customer's application for this reason.

#### Unsolicited selling

The NCA specifically prohibits credit providers from harassing customers to apply for credit or to enter into a credit agreement. A credit provider will not be able to increase the limits on a customer's credit card, overdraft or any other credit facility without conducting affordability assessments, except where a customer has consented to one annual limit increase as calculated in line with a restrictive formula prescribed by the NCA. There are also limitations regarding a customer entering into a credit agreement in a private dwelling or their place of employment.

### **Marketing practices**

The NCA sets out requirements for advertisements with the intention of removing misleading, fraudulent or deceptive marketing. It requires that if an advertisement refers to the cost of credit, it must disclose the instalment amount, the number of instalments, the interest rate that is applicable, and the residual or final amount payable, where applicable.

### **Reckless credit**

The NCA has mechanisms to deal with debt and to create a safety net for those with too much debt. Reckless credit will be prohibited under the NCA.

Reckless credit is defined as the following:

- Providing credit without first assessing a customer's ability to take on further credit
- The customer becomes over indebted, after taking on new credit
- The customer signed the credit agreement but did not generally understand the costs, risks or obligations of the agreement

### **Dispute resolution**

The National Consumer Tribunal was launched on 1 September 2006. The tribunal will act as an informal court to sort out problems that customers experience with credit transactions, credit bureaux and credit providers.

### **Interest rates**

The NCA states that a credit provider may charge customers an interest rate that varies during the term of the agreement, but only if the variation is linked to a reference rate. The NCA also caps charges and interest owed under the credit agreement when customers fall into arrears on their loan or credit agreements. The NCA states that all costs and interest may not exceed the unpaid balance of the principal debt under the credit agreement at the time a customer goes into default. Furthermore customers will be notified in writing five days in advance of any changes to interest or credit fees or charges. The NCA also lays down maximum initiation fees and interest rates depending on the type of credit agreement.

### **Fees**

The NCA specifies that customers may be required to pay the following as part of the principal debt:

- An initiation fee
- The cost of any extended warranty agreement
- Connection fees, levies or charges
- Taxes, licence or registration fees
- Credit insurance
- Service fees

### Jargon Buster

Here is a jargon buster to help you make sense of some of the terms with regards to the NCA.

#### **At arm's length**

Any dealings or agreements in which the parties are independent of each other and strive to obtain the utmost possible advantage (i.e. profit) out of the transaction. An example would be a consumer doing business with Standard Bank. An example not considered "at arms length" would be a more informal agreement whereby a brother would lend money to his sister.

#### **Credit provider**

The credit provider is the party that provides goods and services under a discount transaction, credit agreement or instalment agreement by extending credit, under a credit facility, to the consumer. All credit providers must be registered with the National Credit Regulator.

#### **Credit agreements**

Credit agreements are defined as one of or a combination of a credit facility, a credit transaction and a credit guarantee. They are classified according to the size of the agreement:

- Small agreements are less than R15 000
- Intermediate agreements are those that fall between R15 000 and R250 000
- Large agreements are greater than R250 000

In relation to vehicle and asset finance credit agreements, the credit provider undertakes to purchase the asset on the consumer's behalf and then places that asset in the possession of the consumer in exchange for repayments of the credit provided. The consumer either buys the asset by paying it off or leases it by paying monthly for it.

#### **Credit rating or creditworthiness**

This is a reference to your credit history. All credit transactions are recorded at credit bureaux. The manner in which you conduct your credit purchases affects your credit rating at these credit bureaux and will influence your ability to receive credit from different credit providers.

#### **Credit bureaux**

An agency that compiles and distributes credit and personal information to creditors. This information may include payment habits, number of credit accounts, etc .

### **National Credit Register**

A single national register of all existing credit agreements based on the information provided by credit providers (i.e. Standard Bank) and credit bureaux.

### **Differences between a query, complaint and dispute**

Query: To express doubt or to have a question about something

Complaint: A statement to express dissatisfaction

Dispute: Occurs when a complaint is not resolved to the satisfaction of one of the parties involved.

### **Debt counsellor**

A person who assists consumers when they become over indebted, or when they fear that they might be over-indebted, in rescheduling their debt.

### **Due date**

This is the date on which you choose to make your monthly payment to the credit provider under the conditions agreed to in your credit agreement. This date may be changed, but you would need to contact the credit provider to make the necessary arrangements.

### **Going into arrears**

Consumers go into arrears when they miss a payment that is due and owing to their credit provider. This is not good for the consumer. Penalty interest may be charged to the consumers account and the behaviour reported to the credit bureaux. This would negatively affect the consumer's credit rating and therefore their ability to gain further credit.

### **Interest and interest rate**

Interest is the cost of lending, which is passed onto the consumer, by the credit provider. It is the cost that the credit provider charges for the extension of credit. This charge is determined by the credit provider and agreed to by the consumer before entering into an agreement. It is added to the principal debt and payable by the consumer over the period of the agreement. Interest rates can be fixed or linked. A fixed rate means that the consumer's repayments will not vary and will remain consistent throughout the period of the agreement. A linked rate is linked to the prime rate of interest. If the consumer chooses to enter into a linked rate agreement, their repayments may vary as the prime rate moves up or down.

### **Over-indebtedness**

A consumer is over-indebted if most of the available information, at the time when a determination is made by a debt counsellor, indicates that the consumer is, or will be unable to pay/fulfil their obligations under all the credit agreements which they have made, taking into account certain factors.

### **Principal debt**

The principal debt is the amount of credit that is transferred to you under your credit agreement, by the credit provider. The principal debt is used to calculate the interest for the period of your agreement. The consumer is liable for these amounts deferred onto them.