



PARLIAMENT  
OF THE REPUBLIC OF SOUTH AFRICA



**5<sup>th</sup> DEMOCRATIC  
PARLIAMENT**

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# National Credit Amendment Bill

2018.03.07



# Where we are in the process

NA Rule	Activity
274(1)(a)	The Committee prepares a <b>draft Bill</b>
274(3)	The Committee must <b>report</b> to the House when it publishes the draft Bill. <ul style="list-style-type: none"> <li>• <i>Interim report with publication dated 2017.11.14 : see ATC 2017.11.29.</i></li> </ul>
276(2)  275(a) and (b)	If a copy of the Bill is published in the <i>Government Gazette</i> , an <b>invitation</b> must be made for interested persons and institutions to submit written representations on the Bill. <b>Interested persons</b> must be given <u>at least three weeks</u> after publication to comment. <ul style="list-style-type: none"> <li>• Government Gazette, 24 November 2017 – Note 922 of 2017</li> </ul> <p>Relevant <b>Department / Organ of State</b> must be given sufficient opportunity to make submissions to the Committee</p>
274(1)(b)	The Committee consults the <b>JTM</b> for advice on classification of the Bill. <ul style="list-style-type: none"> <li>• <u>Signed by JTM</u> on 7 and 8 February 2018: section 76 process; Bill need not be referred to the National House of Traditional Leaders.</li> </ul>



# Period of publication

- *The Committee has thoroughly consulted:*
  - Stakeholders were called on prior to the development of the Bill commencing;
  - Since then the Bill was developed in open meetings (both subcommittee meetings and PC meetings were open to the public);
  - The framework Bill, which talked to criteria and processes were on more than one occasion presented and interrogated in these committees;
  - On 16 August 2016 the PC engaged in radio advertisements and invitations;
  - The NA Rules require a period of at least 3 weeks for comments to be sought (NAR 275(a)). If the Christmas closure is taken out of the equation –we can even start from the 16<sup>th</sup> of December - the PC afforded the public 5 weeks (24 November to 15 December = 3 weeks; 2 to 15 Jan = 2 weeks).
  - Those who requested additional time were given another week.
  - Other submitters were able to secure legal opinions, despite *dies non* (ADRA's concern) – *dies non* applies to the courts and not to attorneys or counsel.
- ADRA's biggest concern was that there was insufficient time to do an impact study – it is not for the public to do an impact study. If the Committee advertised 15 January and provided 4 weeks, there would still not be enough time to do an impact study. *The PC itself has requested this impact study.*



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ADVICE ON NATIONAL CREDIT AMENDMENT BILL (A COMMITTEE BILL) AS A  
SECTION 76 BILL AGREED TO:

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SPEAKER OF THE NATIONAL ASSEMBLY

7.02.18  
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DATE

  
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CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

08.02.2018  
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DATE

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DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY

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DATE

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DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

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DATE



# Where do we go from here

NA Rule	Activity
<b>275(d)</b>	<i>The Committee may make amendments to the draft Bill (deliberations).</i>
275(c)	The Committee consults the <b>JTM</b> for advice on classification of the Bill in the form that it will be introduced (final Bill).
279(4)	The Bill must be <b>certified</b> by the Chief Parliamentary Legal Adviser or a Parliamentary Legal Adviser designated by him or her as being consistent with the Constitution and existing legislation; and properly drafted in the form and style.
279(1) and (3)	The Committee <b>introduces</b> the Bill by submitting a copy thereof and a supporting memorandum to the Speaker.
280(3)	The findings of the <b>JTM</b> as per NA Rule 275(c) is tabled with the Bill when it is introduced.
282(1) 290(2)(b)	The Bill does not have a first reading – in stead it is placed on the order paper for <b>Second Reading</b> . At least three Assembly working days must elapse since the Bill was introduced before the Second Reading.

# Bill as advertised – main features (1)

- **Provides for a debt relief measure:**

- **Criteria:** Citizen/permanent resident; natural person; income of  $\leq$  R7500 pm; no realisable assets; not subject to debt review; on 24 November 2017 has unsecured debt of  $\leq$  R50,000.

- **Process:** Application to NCR  $\rightarrow$  Referral to NCT  $\rightarrow$  NCT considers on motion  $\rightarrow$  NCT makes an order  $\rightarrow$  Credit provider may approach NCT to set order aside.

- **Relief:** *Existing measures:* 1. Consider reckless lending; 2. Consider possible debt review; 3. Consider reduced instalments; *New measures:* 4. Suspension (12 months x 2) and extinguishing the debt (may be a percentage thereof).

- **Consequences:** Applicant may not obtain further credit from date of application; Credit providers may not enforce debt from date of application; NCT may suspend the applicant's right to apply for credit for a maximum of 36 months.

- **Provides for the Minister to prescribe a further debt relief measure**

# Bill as advertised – main features (2)

- Provides for mandatory reporting of reckless lending by Credit Providers and Debt Counsellors
  - The NCR may suspend an agreement if it appears to be reckless, while awaiting the final decision of the NCT
  - Failure to report attracts an administrative fine
  - Reckless lending is made an offence
- Provides for mandatory credit life insurance on all loans of > 6 months and ≤ R50,000
- Creates offences related to registration requirements and actions prohibited by the Act

# Constitutionality

- **Equality:** Concern about the limit to citizens – afford all natural persons access and make provision for persons married in community of property (dti opinion).
  - “Citizen” was included because the definition developed from the definition used by Municipalities for “indigent”: *recommend that the intervention be available to all natural persons to whom the Act applies*
- **Deprivation / expropriation:**
  - A number of legal opinions agree this Bill is not an expropriation Bill.
  - Iro deprivation: Only arbitrary deprivations will be unconstitutional: I.e. if the Bill-
    - does not provide sufficient reason for the particular deprivation in question (**rationale**); or
    - is **procedurally unfair** (First National Bank of SA Limited t/a Wesbank v Commissioner for the South African Revenue Services)

# Constitutionality: Rationale (1)

## Must consider-

- the relationship between the means employed and the ends sought by the legislative scheme;
- the relationship between the purpose of the deprivation (*Summit proposed that the current exclusion of consumers may in fact be unconstitutional*) and the nature of the property;
- the extent of the deprivation;

## Concerns raised in this regard:

- No requirement for the consumer to be over-indebted (i.e no need for assistance)
  - *Intention was for consumers to be over-indebted. During deliberations it was considered that all of these consumers could be over-indebted: The statistics show something different: Recommend that it be included;*
- The role of the consumer (may have been reckless) and the credit provider (may have been 100% responsible lending) are ignored (*See proposal*);
- Possible significant adverse consequences for credit providers, but minimal adverse consequences for the consumer (*See proposal*);
- Using existing means / least restrictive means (*See proposal*);
- The impact of the Bill (*See proposal*);

# Constitutionality: Rationale (2)

- **Least restrictive means + use existing measures;**
  - “A number of measures have recently been put into place and are untested”
  - “If costs to consumers is the problem, then it would be best to review and subsidise these costs as a priority”.
  - NCR v Opperman “Given that the extent of deprivation here is far reaching, the purpose should be stated clearly, and the means chosen to accomplish it must be narrowly framed”.

*The Bill requires the NCR / NCT to first consider existing means (slide 6 numbers 1-3). The concern however lies in whether this can be implemented by the NCR / NCT.*
- **Impact of the Bill - *The Bill must as far as possible limit negative impact***
  - Current financial reforms aim at addressing problems at root cause level;
  - A balance is needed – impact on credit providers (compliance; stability) and consumers (cost; exclusion);
  - Economic and moral hazards;
  - Systems required (*This affects implementation and may require a grace period before the Bill becomes operational*);
  - Various stats received: between Around 9.2 million consumers – if add further limits (in arrears for 9 months +) about 1.5 million consumers.
  - Implementation challenges (Role and capacity of NCR and NCT – *see slide 15*)

# Constitutionality: Rationale (3)

## Retrospectivity

- Bill: “Weak retrospectivity”: it prospectively effects, or changes the consequences for the future of pre-existing transactions and matters.
- Pienaar Brothers v SARS (strong retrospectivity: a Tax Act made operational from a date preceding its promulgation date – found **Constitutional**)
  - [par 85] “In my view, a proper approach would be to judge the legality of retrospective amendments on a case-by-case basis, having regard to the various considerations that I have referred to. The Constitution itself certainly does not prohibit retrospective legislation in civil law.”
    - laws should be reasonably clear, accessible and prospective in their operation, unless the statute provides otherwise or its language clearly shows such a meaning.
    - constitutional validity of retrospective legislation should be judged by applying 1. the “rationality” test (however [par 99]“It is not for a Court to say what a good “reason” is” – if it is connected to a legitimate purpose, no notification is even necessary; and 2. “reasonableness” or “proportionality” - “reasonable and justifiable in an open and democratic society”.

# Constitutionality: Rationale (4)

## Retrospectivity (continued)

- A retrospective deprivation of property could be seen as a more severe form of deprivation. Thus, the Bill must have a compelling justification.
  - National Credit Act came into operation retrospectively:
    - Section 86 (in Part D of Chapter 4 - Debt Review) became operational on 1 June 2007.
    - Schedule 3:
      - “4 Application of Act to pre-existing agreements**
      - (1) This Act applies to a credit agreement that was made before the effective date, if that credit agreement would have fallen with the application of this Act in terms of Chapter 1 if this Act had been in effect when the agreement was made, subject to subitems (2) to (5).
      - (2) The provisions of this Act referred to in the first column of the following table apply to a pre-existing credit agreement only to the extent indicated in the second column of the table.”
      - Chapter 4 - Part D: Applies to a pre-existing agreement only to the extent that it does not concern reckless credit.”
      - Accordingly section 86 (the right of the consumer to apply for debt review) applies to pre-existing credit agreements.
- *Recommend that the Committee ensures that the Bill is rational, reasonable and proportionate – and then it can still apply retrospectively: Propose that no cut off date be given, but that Schedule 3 above be copied – see proposal*
- *Proposal by the Department to take the date back to 2007 is not clear. This would exclude all agreements entered into the last 10 years.*



# Constitutionality: A fair process (1)

- Need clear guidance on the role of credit providers: during evaluation and adjudication (at least written submissions); as well as when reviewing the suspension and when extinguishing (NT opinion).
- Administrative justice may fill in the blanks, but prefer that the Bill spells it out (dti opinion).
- The possibility of reconsideration (88C(9)) and rescission (88D(7)(a)) somewhat ameliorates the absence of an opportunity to credit providers, however ... it is not sufficient to cure the procedural unfairness, particularly because that application may only be heard long after a creditor provider's rights have been extinguished (dti opinion).
  - *The Bill is not giving all the details of each process – it would be impossible for the NCR / NCT to evaluate / adjudicate without engaging the credit provider.*
  - *However, the Bill is perceived by the public as excluding the credit provider from the process.*
  - *The “rule nisi” process that was included in 88C(9) to avoid the credit provider delaying the process, is criticised for not providing sufficient opportunity to make the process fair.*
  - *It is necessary that the law be clear: Recommend that the requirement of hearing both sides of the case, is clearly incorporated into the Bill at every stage, so that there is no room for incorrect perceptions.*

# Constitutionality: A fair process (2)

- “The NCT needs a discretion when making an order”
  - (NCR v Opperman – “This Court indicated in Mohunram that a lack of discretion on the part of a court to forfeit property would result in an arbitrary deprivation of property.”);
  - *This was the case in the first few drafts of the Bill, but as the Bill developed, it was recommended that the discretion be limited to avoid arbitrary decisions.*
  - *However, taking this case into account, it is recommended that the NCT’s discretion be revived in the Bill: The concern about arbitrary decisions is more at the level of officials of an administration, not iro judicial bodies.*

# Implementation challenges

- Concerns about NCR's role as administrator v regulator
  - “The skills required may well require NCR staff to be registered as Debt Counsellors” (affordability assessments, validation of information with Credit Providers; constructing recommendations including a repayment plan (or zero repayments), maximum interest, fees and other charges for defined period and possible reckless credit recommendations.
  - NCR will be placed in a conflicting and compromised position to perform functions normally done by a NCR Registrant.
  - NCR will de facto become a processing centre within an industry for which they are the Regulator. This will place Credit Providers with no recourse on process disputes with regard to the Debt Intervention process.
- Capacity of NCR/NCT (footprint; systems; human resources);
  - “A Debt Counselling firm which employs around 50 people can successfully and consistently handle around 400 applicants for debt review every month. They can support around 5000 consumers in total.”
  - Dti presented on the NCR's statistics of 1.7 million: Taken over 3 years, they will need 295 debt counsellors
  - “Who will be monitor Debt Interventions?”

*Agree with this concern: See proposal*

# *Proposal to amend the debt relief measure*

1. Relief measures 1, 2 and 3 (slide 6) dealt with through the existing debt review system. Q: Cost of debt counsellors:
  - Fund with NCR/dti to subsidise lower income consumers to participate in debt review (within e.g. 6 months; in consultation with Minister Finance;
    - Criteria to qualify to be prescribed by Minister Trade and Industry – income can remain R7500 or as prescribed (linked to the gap); debt involved can be linked to administration (R50,000); and / or
  - A “division” of NCR to act as Debt Counsellors.
2. Any consumer who cannot solve (i.e. insufficient income to cover debt within a reasonable period (prescribed)) qualifies for the debt intervention measure.
  - Retain retrospective application.
  - Proposed changes to the measure:
    - Make the measure permanent (allow a period before Act becomes operational in which to develop systems);
    - Longer suspension period (5 years);
    - Shorter review periods (every 6 months) through debt counsellors/ credit providers / DCRS type system;
    - Taking the role of the consumer and attempts to improve financial circumstances into account before extinguish a debt; and
    - Extinguish a debt only after 5 years of no improvement, with discretion to NCT – criteria to be considered could be prescribed.

# *Proposal resolves the concerns raised*

- Constitutionality (Using existing measures first; Impact of the Bill lessened significantly; The role of the consumer taken into account; The process provides for more engagement);
- Impact of the measure (Balanced; Moral hazard minimised; Impact lessened; Consumer's role considered; More consequences for consumer to avoid abuse; Time to create systems);
  - Impact: [Consider Eighty20 stats](#).
- Implementation challenges (NCR remains regulator; Capacity available in debt counsellors, NCR could create a division of debt counsellors).



# Impact if considering Eighty20 stats

People who cannot solve:

- Starting point: R0-R1 500 income: +- 1.6 million consumers
- Some R1 000 – R1 500 consumers-
  - may not be in arrears at all and will thus not require debt review (49-57%);
  - are currently making some payments and may thus solve (31%);
- 21% are in arrears on all accounts for more than 3 months = 735,000 consumers / R7.6 billion
  - These will still go through the debt review process and only if they cannot solve, will debt intervention in the form of suspension be considered by the NCT, taking their personal circumstances into account;
  - At this stage, the Debt Counsellor and Credit Providers will already have had discussions; realisable assets will have been sold to pay debt – the consumer will thus really be a NINA
  - Using the Department’s calculations, they will require about 150 permanent debt counsellors (which need could fluctuate as the credit landscape changes)
- Some would be consumers with changed circumstances, for example retrenchment, where a 12 months suspension, reviewed after 6 months, may be sufficient to allow them to get back on their feet – i.e. no extinguishing required.

# Clause by clause consideration (1)

- *Drafting recommendations – see separate document*
- *Reckless lending and credit life insurance dealt with on slides 28 - 30*
- New: proposals for definitions of “debt intervention”; “prohibited conduct”; “total outstanding balance”; “unsecured debt” *Could be considered*
- **Clause 2:** making the measure applicable to incidental credit agreements (“ICA”)
  - The Act has limited application to ICAs and the measure should not be applicable to it either
  - The objects of the Bill relate to the promotion of a change in the borrowing and spending habits of an over-indebted society: i.e. “credit-active consumers” in a “debt trap”. This is not applicable to incidental credit receivers
  - *Agree that ICAs could be excluded: especially as these agreements cannot be included in the statistics to determine the impact, and if we remove the reference to minors in section 88A it is not necessary to include (see slide 22)*



# Clause by clause consideration (2)

- Clause 3: Proposal that trusts, stokvels and sole proprietors should be excluded from applying for debt intervention.
  - *Intention was not to assist businesses - these should only be able to apply if they are able to apply for debt review*
- New: S54: Proposal to add a function to the NCR: “refer any offence in terms of this section to the National Prosecuting Authority and/ or any prohibited conduct to the Tribunal.”
  - *This could be considered*
- Clause 8: Questions raised on whether a register is in fact necessary
  - *Credit Bureaux Association indicated that there are ways to report, who it should be reported to (only approved bureaux) etc. Recommend further discussions with the Association (e.g. when drafting amendments) to ensure the Bill correctly reflect the reporting practices and that no unnecessary registers etc. are created.*
  - *Thus also apply to clauses 6, 9 and 10*

# Clause by clause consideration (3)

- Clause 12: Courts to refer matters to the NCR: Concerns about rights of consumers and delays in court; proposal that the court should simply be able to make the order
  - *Recommend that the Court give the consumer an option to be referred (National Credit Regulator v Shoprite Investments Ltd)*
  - *Recommend that matters before a court not be excluded from the debt intervention measure: Intention was to not interfere with the powers of a court – but these can be included in debt review in any event.*
  - *The court making the order is a good option: especially as the case is before the court.*
- Clause 10 and 14 (88C(7))
  - Retention of information on the credit bureaux' databases:
    - recommendations for period to be 5 years (*recommend that the committee considers this*);
    - recommend that provision is made for retention of this record where the consumer defaulted on the NCT's order (*recommend that guidance is given in the Bill how these situations should be dealt with*)

# Clause by clause consideration (4)

Clause 14: 88A - E: Concerns were raised about:

- Process (role of credit provider); accessibility of the NCR, verification, timeframes, determining interest rates and instalments; following up after the suspension; appeals; etc.

*These concerns speak to the issues of implementation and have been dealt with*

- The inclusion of “disabled person, a minor heading a household, or a woman heading a household” caused confusion. Some asked why other groups were not included; the inclusion of a minor was questioned as minors do not qualify for credit; others asked whether these groups have different criteria applicable to them.

*Recommend that the Committee consider the proposal that these groups rather be mentioned in relation to a discretion. The groups can be deleted here and rather added to the discretion that the NCT is given when making its orders*

- *Recommend that the* proposals iro joint estates, household income, joint debt *to be considered and included*

# Clause by clause consideration (5)

Clause 14: 88A – E: Concerns were raised about: (Continued)

- Realisable assets: How the value will be determined, what is swiftly, how will this be verified? What about assets under lease? Not all assets can be converted to cash; “Consumers unfortunately might also sell assets because they have a gambling problem but they can still hold down a job and service their debt obligations... More effective to assess the consumer’s ability to service his/her debt obligations”

*Recommend that assets be taken out of the criteria. If the process is to be an adjusted debt review process, then we can rather strengthen that process by making some provision for the need to consider assets that can be realised when considering the repayments to be made.*

- The requirement of over-indebtedness; the role of the consumer  
*Given the information received from NT, recommend that “over-indebtedness” as requirement be reinserted; see proposal iro the role of the consumer*
- Once off nature: Proposals for the measure to be available more than once (*see proposal*);
- The cut off date: proposals for no cut off date; for the criteria to apply on the cut off date and on application; caution about 24 November being a date in the distant past when this Bill at last comes into operation (*see proposal*);

# Clause by clause consideration (6)

Clause 14: 88A – E: Concerns were raised about: (Continued)

- Proposals for agreements and processes to be excluded and included (*if the process is done by way of debt review, these exclusions / inclusions are no longer applicable*);
- Need third parties to assist applicants (and proposals that no third party should be allowed) and include debt collectors (*if the process is done by way of debt review, this issue is also dealt with*)
- Single Tribunal member (*recommend that a single tribunal member can do the application. NCT can guide the Committee more on this aspect*)
- Prescription (*recommend that when an agreement is suspended, prescription also be suspended*)
- Legal effect of extinguishing a debt (*recommend that this be clearly spelled out, taking into account claims for enrichment etc.*)
- Rehabilitation: The consumer should repay all the outstanding debt before rehabilitation (*This is a policy decision*)
- Budget and financial literacy: (*NT indicated that such a programme is already provided for (not sure if it is operational)*) List of accredited institutions and programmes – proposal that NCR should prescribe (*Concerned about constitutionality of NCR prescribing*)

# Clause by clause consideration (7)

## Clause 14: S88F Criticism:

- It is too broad a delegation and starts to resemble Parliament's plenary powers (may not be delegated):
  - 88F(3)(c) and (d) could result in the Minister suspending or extinguishing all the debts in 1 province (dti opinion);
  - 88F(5)(c), which allows the Minister to request permission to exceed the limits set by 88F(1), (2) and (3) further broadens the discretion: (Executive Council, Western Cape Legislature v President of the Republic of South Africa – if a delegation is unconstitutional, the existence of controls by the legislature will not rescue it;
- 88F introduces a high level of uncertainty for credit providers in assessing risk → could further curb risk appetite iro certain segments of the market and increase the cost of lending to those segments;
- Better measures are available;
- Vague criteria – especially 88F(2)(c);
- “The delegation of legislative power will normally be permissible when ... there is a special need for speed in dealing with the matter concerned... These circumstances appear to us to be covered by the proposed sections 88F(2)(a) and (b)...” (NT opinion)
  - If a definition is added to define these circumstances, that would guide the Minister's discretion and these subsection may then pass constitutional muster (dti opinion)

# Clause by clause consideration (8)

## Clause 14: S88F

- *The Committee was from the outset concerned about delegating this power (initial proposal from the Department was only a clause that delegated powers to the Minister)*
- *The Committee has set out such a detailed process that it borders on the introduction of a Bill*
- *Recommend that the Committee considers deleting this section – the Minister can still introduce legislation to achieve the same: even urgency can be dealt with by way of legislation*
  - *Taking into account the impact of this Bill, which was thoroughly consulted, any urgently developed measure should in any event be very carefully approached*
- *Alternatively, should the Committee resolve to retain this section, it is recommended that only the circumstances under section 88G(2)(a) and (b) be retained.*

# Clause by clause consideration (9)

- Clauses 15 and 16: The power to declare credit agreements unlawful in terms of section 89 of the NCA, should be reserved for courts (*NCT to advise the Committee*)
- Clause 23 & 24 – Offences and penalties:
  - administrative sanctions may be easier to enforce; some matters are already punished in the Act (*Recommend that each offence be carefully unpacked and if the Committee is satisfied that it is not sufficiently provided for in the Act, then only should it be retained as an offence*)
  - The proposed penalties appear to be very harsh and not in proportion with the nature of the offences set out in sections 157A – C. In comparison section 33(2) of the Legal Practice Act, 2014, provides that no person other than a legal practitioner may hold himself or herself out as a legal practitioner or make any representation or use any type or description indicating or implying that he or she is a legal practitioner. The penalty for this contravention is a fine or imprisonment for a period not exceeding two years or both. (*Recommend that the Committee considers the penalties again*)
- New clause: Transitional provisions (*recommended that either the operational dates of the various clauses be after a period of time to allow for systems etc. to be developed, alternatively that transitional provisions be drafted*)



# Proposals iro reckless lending (1)

- New clause: Section 81(4): provide factors to be taken into account by a court or the Tribunal when determining the materiality of consumer's failure to disclose.
  - *This involves a lot of research – recommend that this be deferred to the review process*
- Clause 11 & 13: may be self-incriminating; may be anti-competitive; concerns about uncertainty in determining reckless lending; concerns about time (2x as long), cost (2x as costly) and accessibility of information to determine reckless lending (credit providers and debt counsellors) – may have unintended consequences; debt counsellors encountering uncompromising / difficult credit providers if they report suspected reckless lending (ask for punitive costs orders; delay in providing documents); consumers may be in a worse off position if the NCT finds the agreement was not reckless.
  - *Disagree with the Department – recommend that this whole clause be deleted so that the Department can first consider practicalities and impact and then can address this in their review of the Act)*
- The problems with reckless lending seems to be related to the “Affordability assessment regulations”; the inadequacy of the minimum expense norms table to reflect true affordability levels; the different calculation methods applied in practice; different interpretations in courts of section 83
  - *Some of these are matters that the Department can speedily address through regulations*



# Proposals iro reckless lending (2)

- Clause 11: The power of the NCR to suspend was a concern (similar to concerns raised in *slide 15*)
- Clause 13: Proposal: Rather provide that any consumer may approach a debt counsellor for reckless credit intervention (*PC may consider this*)
- *If retained, the following amendments needs to be considered :*
  - *Role of Credit Providers to be made clear (hearing both sides);*
  - *Clear definitions for the terms used (“reasonable suspicion” etc.);*
  - *Rule out self-incrimination;*
  - *Clear processes for reporting, referral to the NCT etc. + measures to require cooperation by credit providers to provide information (will have to consider possible competition implications);*
  - *NCR not to suspend agreements (it is recommended that additional powers to the NCR be further considered by the Department and addressed in the review of the Act);*
  - *Any suspension should then be fully subject to section 83;*
  - *The related offence to be deleted (because of the uncertainties around reckless lending).*

# Proposals iro credit life insurance

- *Agree that the wording must be corrected – intention was never to force credit providers to be insurers*
- Concerns that a product may not be available, thus effectively stopping all credit that is >6 months and ≤R50,000
  - *Propose that the wording be cleaned up and provision is made for the clause to be made operational at a different time than the rest of the Bill: this will allow the Minister to confirm that a product is available first.*
- Other concerns:
  - When in arrears, credit life insurance is cancelled;
  - What should the risks insured against be (*need to clearly indicate this*);



# Thank you