



Threatened with Blacklisting – These are your rights

28 September 2022

Being blacklisted can have major repercussions for you and your business especially relating to your creditworthiness and therefore should not be taken lightly. Various credit agreements also contain clauses wherein your entire outstanding debt can be called up should you be blacklisted.

Credit bureaus may receive consumer credit information in respect of a consumer from any person, provided the origin of the source information is one of the following persons:

- An organ of state, a court or judicial officer;
- Any provider of a continuous services;
- A person providing long term and short term insurance;
- Entities involved in fraud investigation;
- Educational institutions; and
- Debt collectors to whom book debt was ceded or sold by a credit provider.

Credit bureau must take reasonable steps to ensure that the information reported to the credit bureau is accurate, up-to-date, relevant, complete, valid and not duplicated and not provide reports containing inaccurate information.

This seems simple enough, but most reporting is done by credit providers, and for the most part debt collectors representing the credit providers and is therefore normally a one sided process.

The National Credit Act, Act 34 of 2005 (“the act”) regulates the blacklisting process and in accordance with the act a person must be afforded 20 business days’ notice by a credit provider, this includes a debt collector, that it intends to report any adverse information concerning the person to a credit bureau, and to make available a copy of the information that it intends to submit to the credit bureau, upon request.

Should the merits and/or the adverse information that the credit provider intends to submit, however, be disputed every person has the right to challenge the accuracy of the information and require the National Credit Regulator to investigate the accuracy of any challenged information, without charge. Therefore the credit provider or its debt collector should be informed that the information is being challenged.

Once you have challenged the information, the credit provider must take reasonable steps to provide evidence in support of the challenged information, and within the 20 business days after the filing of the challenge, must provide a copy of any credible evidence to you and remove the information, and all record of it, from its files, if it is unable to find credible evidence in support of the information.

Should you still be dissatisfied, or dispute the credible evidence, you have the right within 20 business days after receiving the evidence, to apply to the National Credit Regulator to investigate the dispute.

Accordingly, it is of the utmost importance to seek legal advice if you are threatened with being blacklisted.

By Danie Jacobs | Director : Litigation Department

Disclaimer:

This article is for the purpose of general information only and does not constitute nor must it be construed as legal advice. Specialist legal advice must be sought in respect of a specific legal matter. We accept no liability, damage, loss and/or responsibility, whether direct or consequential, for any actions taken or failure to take any actions, based on the content contained herein.

© 2022 Klagsbrun Edelstein Bosman Du Plessis Inc. All rights reserved.