



Should your spouse apply with you?

If you are married in community of property, you and your spouse must apply for Debt Counselling together, as the law sees your joint estate as one single estate.

If you are married with an ante-nuptial contract, you can apply for Debt Counselling on your own. Your application will only cover your own income, assets and debts, but you must disclose if any of your assets or debts are jointly owned, i.e. not just in your own name.

Traditional African marriages are regarded as being in community of property, while Islamic religious marriages are regarded as being out of community of property.

How will your credit report be affected?

Your credit report will show that you have applied for debt review until a clearance certificate is issued. If you withdraw / your application is terminated / cancelled, this will be shown on your credit record for 6 – 12 months.

When all your debts are paid, a clearance certificate can be issued, and all history of Debt Counselling will be erased from your credit report.

Can you exit Debt Counselling before all your debt is paid up?

Yes. There are four ways that you can exit the process:

- * You can choose to voluntarily withdraw from the process at any time.
- * Your Debt Counsellor can cancel your application if you are dishonest, don't disclose all your financial details or fail to follow instructions or advice.
- * Your Debt Counsellor can also reject your application if your affordability installment is too low to create a reasonable proposal for your credit providers.
- * Your credit providers can terminate debt counselling if you fail to make payments according to the final proposal, if your credit providers are dissatisfied with the amount you can afford to pay or if the requirements of section 86 of the National Credit Act are not met.

NB – Once you have exited the process, your credit providers can immediately take legal action against you for the full outstanding amount owed to them.

Can you access more debt?

No. You cannot and may not apply for any further credit while under Debt Review. This means you cannot use your overdraft, credit cards, retail accounts or any other type of debt. If you apply for further credit while under Debt Review, your application will be cancelled.

Can you skip payments to your credit providers at any time?

No. Although you cannot afford to pay the full installments on all your debts, you must make reduced interim payments to all your credit providers each month to show your commitment to repay your debt. It is your responsibility to make sure that your credit providers receive payment every month, even once the PDA starts making payments on your behalf.

Can you pay more than the amount on the final proposal?

Absolutely. You should continually try to increase your affordability, by increasing your income, reducing your expenses and selling unnecessary assets, to pay off your debt as fast as possible.

If you receive an increase, bonus or any extra income, please let the Debt Counsellor know so that we can pay extra on your debt. This will make your credit providers more likely to consent to your proposal, and will help you to pay off your debt faster.

Can any of your accounts be excluded from Debt Counselling?

If you have received a letter of demand or Summons for a specific account before you sign this Form 16, the credit provider can require the account to be excluded from Debt Counselling. If this happens, you will have to make voluntary arrangements with that credit provider to pay off the debt.

If you have referred the Summons to an attorney, you should inform your attorney that you have applied for Debt Counselling.

Why should you cancel the debit orders that pay your debt?

To avoid double payments when the PDA starts making payments on your behalf.

Also to avoid any of your credit providers deducting more than the amount allocated to them in the final proposal, and not leaving enough for the remaining credit providers. This does not apply to debit orders for debts that cannot be included under Debt Counselling. Please follow up with your bank to make sure that your insurance and other policies will continue to be paid in full.

Why should your salary be paid into a savings account?

To avoid “money grabbing” or “set off” by the bank. While you are under Debt Counselling, you will not be able to access any overdraft facilities. Therefore, if your salary is paid into an account with an overdraft, your salary could be “set-off” to the full amount owed. If your salary is paid into a savings account, you can pay off your overdraft in smaller installments.

Should you keep paying your full insurance premiums?

Your home and vehicle must be insured. This is often a condition of your financing contract. You must keep paying the full installment for insurance and other policies, even while you are under Debt Counselling. The same applies to your rates and taxes as well as maintenance and services for your vehicle.

How long will the whole process take?

According to the National Credit Act, you should have a payment plan and a Court Date within 60 working days (about three months). The actual Court Date will depend on the specific Court.

Paying off all your debt depends on how much you make available to pay. You should be able to pay off your debt between five to seven years if you don't have a house or car, and 10 to 30 years if you do.

What happens when the Court considers your final proposal?

The Court will consider whether all the steps in terms of the National Credit Act were taken. They will also consider whether they feel the final proposal is a reasonable solution for all parties. If your credit providers oppose the Court application, they will have to consider the credit providers' arguments, and request certain changes before they can make an order.

Once the Court has made an order, it will be binding on both you and the credit providers. This means that your credit providers must accept payments as per the Court Order, but it also means that you cannot miss any payments, or your credit providers will immediately be able to get a garnishee order against you or repossess your assets. Once the Court has made an order, you will not be able to withdraw from Debt Counselling.