

Amendment of section 152 of Act 34 of 2005, as amended by section 121 of Act 68 of 2008

24. Section 152 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) at the end of paragraph (e) of “and”; and
- (b) by the insertion in subsection (1) after paragraph (e) of the following paragraphs:
 - “(eA) a credit provider;
 - (eB) a consumer; and”.

Insertion of sections 157A, 157B, 157C and 157D in Act 34 of 2005

25. The following sections are hereby inserted after section 157 of the principal Act: 10

“Offences related to debt intervention

157A. (1) Any person who intentionally submits false information related to debt intervention, or who presents information related to debt intervention in a manner that is intended to mislead the National Credit Regulator or Tribunal, is guilty of an offence. 15

(2) Any person who intentionally alters his or her financial circumstances, or persons who intentionally alter their joint financial circumstances, in order to qualify for debt intervention, is guilty of an offence.

Offences related to credit agreements generally

157B. (1) A credit provider who intentionally— 20

- (a) participates in an unlawful credit marketing practice contemplated in section 74(2) and (3), section 75(1) or section 91;
 - (b) does not comply with the limitations to entering into a credit agreement at a private dwelling contemplated in section 75(2);
 - (c) does not comply with the limitations related to visiting or entering into a credit agreement at a person’s place of employment contemplated in section 75(3); 25
 - (d) enters into an unlawful agreement contemplated in section 89(2) with a prospective consumer;
 - (e) includes an unlawful provision contemplated in section 90 in a credit agreement with a prospective consumer; or 30
 - (f) offers or demands that a consumer purchases or maintains insurance that is unreasonable, at an unreasonable cost, or is to cover a risk that reasonably cannot arise in respect of that consumer, as contemplated in section 106(2)(a) or (b) respectively, 35
- is guilty of an offence.

(2) Any person who intentionally sells a debt under a credit agreement to which this Act applies and which debt has been extinguished by prescription under the Prescription Act, 1969 (Act No. 68 of 1969), as contemplated by section 126B(1)(a), is guilty of an offence. 40

(3) Any person who intentionally continues the collection of, or attempts to re-activate a debt under a credit agreement to which this Act applies under the circumstances contemplated in section 126B(1)(b), is guilty of an offence.

Offences related to registration 45

157C. (1) Any person who intentionally gives him or herself out to be—

- (a) a credit provider, without having been registered under section 39 or section 40, as may be applicable;
- (b) a credit provider of developmental credit, without having been registered under section 41; 50
- (c) a credit bureau, without having been registered under section 43;
- (d) a debt counsellor, without having been registered under section 44;
- (e) a payment distribution agent, without having been registered under section 44A; or