

# DEBT COUNSELLORS ASSOCIATION OF SOUTH AFRICA



## Comments on the National Credit Amendment Bill

**The objective of the Debt Intervention Bill is to provide debt relief to over-indebted Consumers who have no other effective or efficient option to extract themselves from over-indebtedness**



# Introductory Comments

- Wide support for proposed Debt Relief to the poor at no cost
- Debt Counsellors requested a simplified process many years ago
- Current view of the DTI Committee: Debt Counsellors do not want to be part of a solution. This is untrue and was never discussed with Debt Counsellors
- DCASA's recommendation for DC's to process applications (at no cost to the Consumer) that solve and refer unsolved applications to the NCR (as set out in Bill) ignored by the DTI Committee



# Debt Intervention: Current status

- **11 June 2018:** DTI Portfolio Committee requested comments on specific issues
- **1 August 2018:** DTI Portfolio Committee. Feedback on further submissions
- **7 August 2018:** DTI Portfolio Committee. Consideration of the National Credit Amendment Bill – sixth draft
- **14 August 2018:** DTI Portfolio Committee to consider National Credit Amendment Bill
- **16 August 2018:** DTI Portfolio Committee plans to formally adopt the draft National Credit Amendment Bill on 16 August 2018 (despite strong opposition)



# Major Outstanding Issues

- **Constitutionality:**
  - Deprivation of property
  - NCR Role (Regulator vs Operator) – independence compromised
  - Ability to amend interest rates
- **Power of Minister to extend the operation of the measures related to extinguishing of debt and to prescribe a debt intervention measure**
- **Treatment of Reckless Credit**
  - Must assess for Reckless Credit
  - Must report Reckless Credit (Failure is criminal offence)
- **Compulsory Credit Life Insurance**
- **Feasibility: Volume vs Capacity vs Cost**
- **Funding and implementation of Financial literacy and capability program**
  - Funded by PDA interest
- **Registered Debt Counsellors are not part of the proposed solution**



# Debt Intervention Concerns

<b>Constitutionality</b>		
<b>Deprivation of property</b>	<b>NCR Role (Regulator vs Operator)</b>	<b>Ability to amend interest rates</b>
<p><b>Adv Trengrove:</b> Debt Relief measure as provided by the Bill constitutes a deprivation of property, but is permissible and lawful under section 25(1) of the Constitution</p>	<p><b>DTI</b> No conflict of interest in NCR undertaking Debt Intervention  NCR wouldn't be deciding, just processing and recommending at no cost to the Consumer, unlike Debt Review</p>	<p><b>DTI</b>  Applicable in Debt Review and Debt Intervention  Proceed but will add criteria to guide implementation</p>
<b>Expect inclusion</b>	<b>Expect inclusion</b>	<b>Expect inclusion with Guidelines</b>



# Debt Intervention Concerns

<b>Power of Minister</b>	
<b>Extend the operation of effective period</b>	<b>Prescribe Debt Intervention measure</b>
<p><b>Adv Trengrove:</b></p> <p>Empowering the Minister to extend the operation of measures related to extinguishing of debt and empowering Minister to prescribe a Debt Intervention measure constitute delegation of plenary powers</p> <p>Adv Trengrove very concerned about <i>free hand</i> to introduce any kind of Debt Intervention for any duration</p>	
Expect exclusion or watered down clause on power of Minister	



# Debt Intervention Concerns

Reckless Credit		
Section 82A DC must report	Section 86A DC must check	Section 161 Penalties
<p>If reasonable grounds to suspect reckless a DC must report to NCR or Magistrate Court</p> <p>Credit Provider <b>must</b> supply information within 7 days when requested</p>	<p>DC who has accepted a Debt Review application must check all agreements for Reckless</p>	<p>If not natural person Director or Prescribed Officer</p> <p>Administrative Fine</p>
Expect no change	Expect no change	Expect no change





# NCR Plays the role of “Debt Counsellor”

***Debt Intervention Officer must be employed by the State***

***NCR will issue Debt Intervention Officer with a Certificate.....this means that Debt Intervention Officer is deemed to have been registered as a Debt Counsellor”***

- Consumers with income of R7 500 or less and total unsecured debt of R50 000 or less
- Aim is to repay Debt in less than 60 months
- NCR to follow process similar to Debt Review
- Applicant and Credit Providers’ role are the same as in the Debt Review process
- Consumer may not enter into more Credit Agreements
- Applicant to attend a financial literacy program
- Process allows for Applicant to apply for rehabilitation



# Effect of proposed interest rate reductions

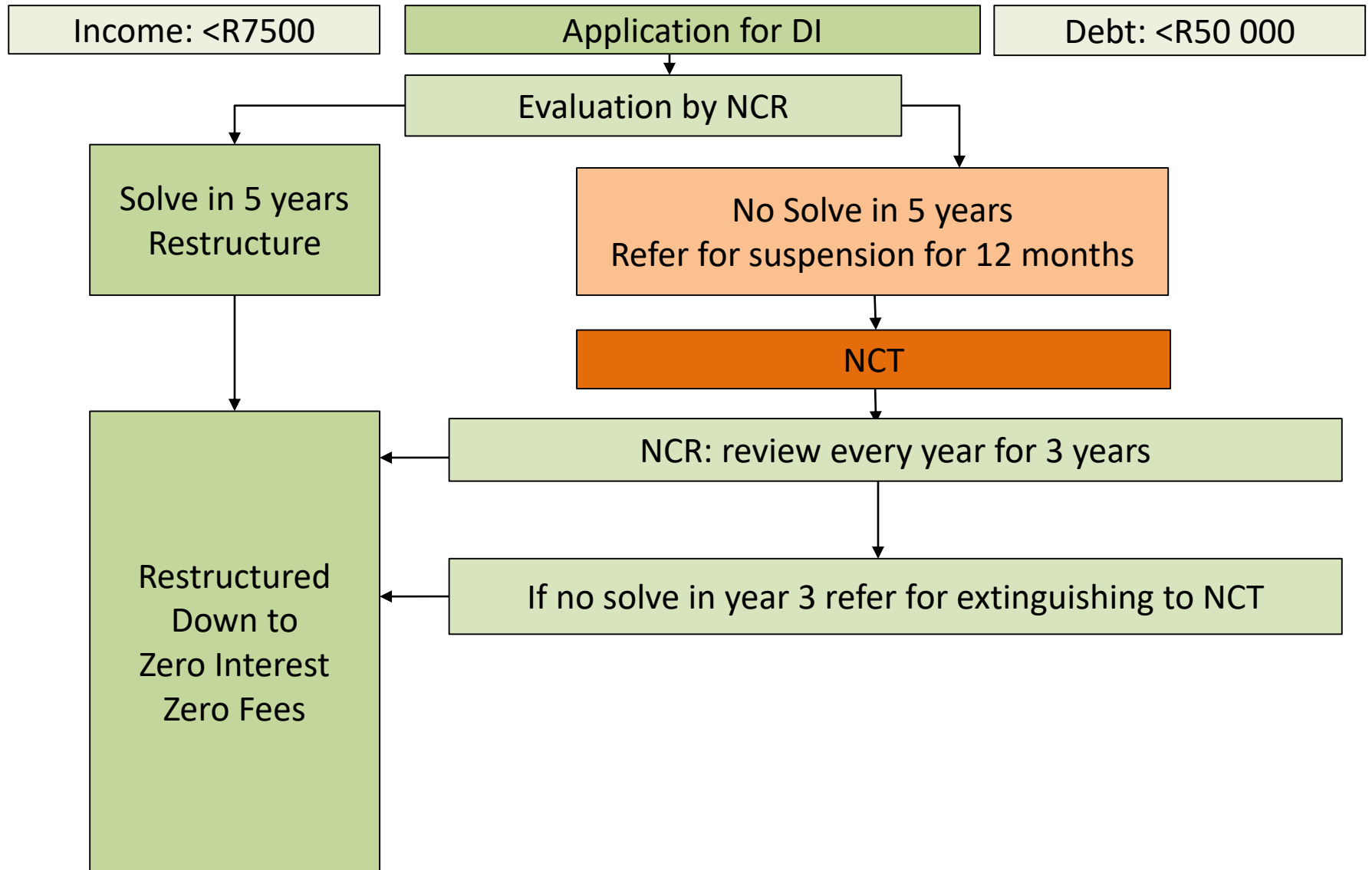
- Consumers with income of R7 500 or less and debt of R50 000 or less
- If aim is to repay debt in less than 60 months
- Affordability amount required to repay debt at Zero interest over 60 months
- **19%** of income required to solve majority repayment plans (repay debt in 60 months)
- If propose repayment period is less than 60 months payment of interest is possible

		Debt												
		5 000	7 500	10 000	12 500	15 000	17 500	20 000	25 000	30 000	35 000	40 000	45 000	50 000
<b>Income</b>	R 7 250	4	5	7	9	11	13	15	18	22	25	29	33	36
<b>Income</b>	R 6 500	4	6	8	10	12	14	16	20	24	28	32	36	40
<b>Income</b>	R 5 500	5	7	10	12	14	17	19	24	29	33	38	43	48
<b>Income</b>	R 4 500	6	9	12	15	18	20	23	29	35	41	47	53	58
<b>Income</b>	R 1 950	13	20	27	34	40	47	54	67	81	94	108	121	135

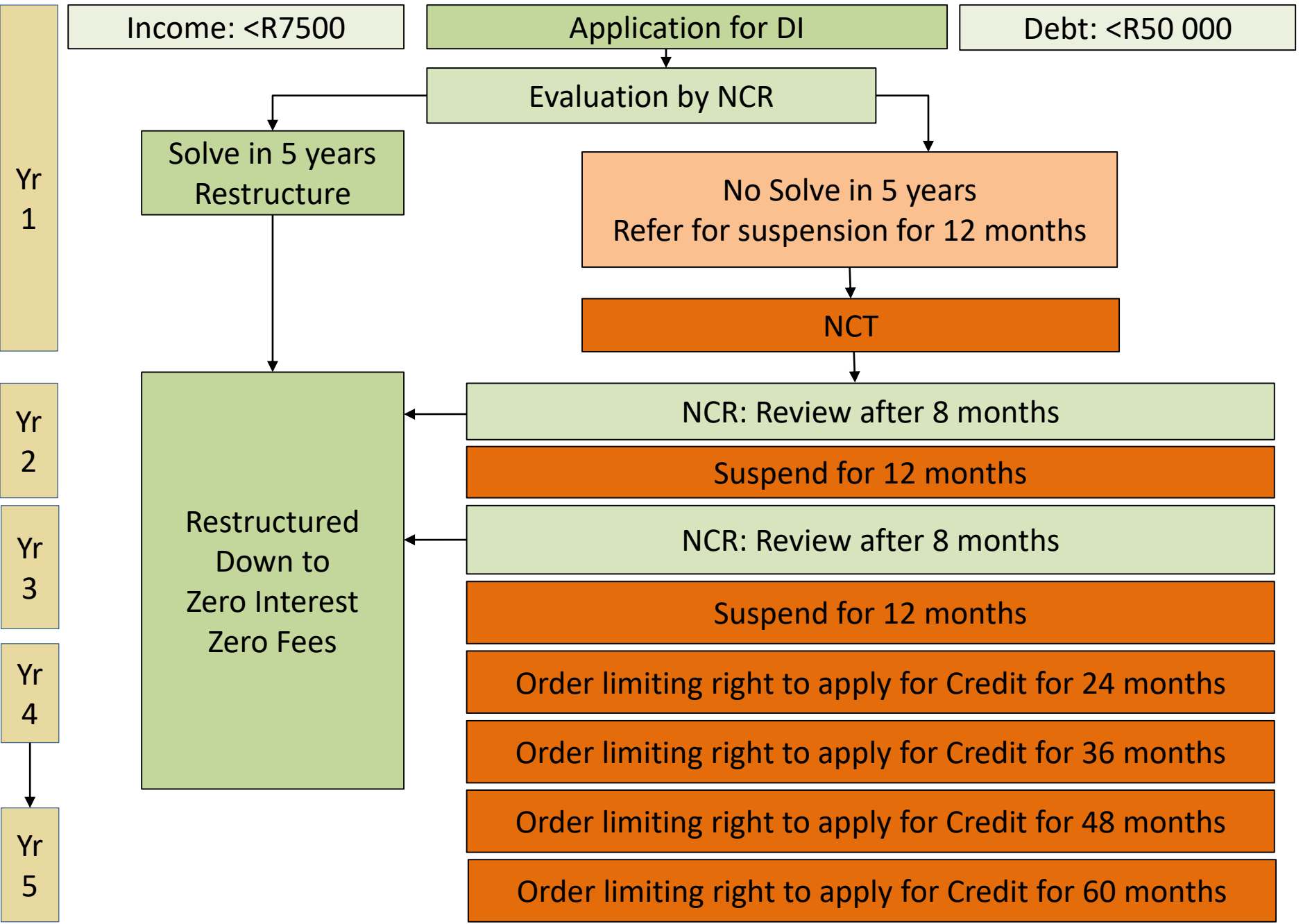
Consumers normally can afford on average **12%** of income to service debt



# Debt Intervention: Proposed process



# Debt Intervention: Proposed process



# Debt Intervention Cost

- Bill Debt Intervention application can only be processed by **NCR**
- Debt Intervention cost to Consumer is **Zero**
- Government to fund the process
- Staff compliment envisaged: **80 to 100**
- Number of Applications according to **DTI** calculations: **1 700 000**
- Process not clearly defined in Bill but aligned to Debt Review process
- Modelled Debt Intervention process based on Debt Review process
- Used a 30% decline rate in the model



# Estimated Staff and Process Cost

Applications over 5 years (30% decline rate)	Applications per month		Y1	Y2	Y3	Y4	Y5
88 000	1 467	Staff	99	131	158	185	206
		Cost per annum	R 12 m	R 15.2 m	R 19.3 m	R 22, 8 m	R 25, 8
500 000	8 333	Staff	832	1086	1326	1549	1754
		Cost per annum	R 97. 9 m	R 123, 6 m	R 155.8 m	R 185.9 m	R 213.8 m
1 700 000	28 333	Staff	2812	3682	4496	5252	5952
		Cost per annum	R 329.6 m	R 417. 2	R 526.9 m	R 629.1 m	R 724.1 m



# Is NCR being set up for failure?

## **In Debt Intervention**

- If the Debt Intervention process is similar to the Debt Review process 100 staff might be able to process, at best, 88 000 applications per annum.

## **In Debt Review**

- During the last 12 months 1 551 Debt Counsellors and their 7 755 staff (say average of 5 per DC) (Total 9 306 ) added just over 160 000 Debt Review applications.



# Unresolved Concerns

- **Conflict of interest:** NCR (Regulator vs Operator). Expect continued opposition
- **Constitutional Concerns:** Contradictions and lack of clarity in current Bill may invite constitutional challenges
- **Powers of Minister:** Expect amendment to Debt Intervention Bill
- **Ability to amend interest rates:** Expect implementation
- **Reckless Credit:** Expect implementation
- **NCR Capacity:** The devil is in the detail not defined yet. Cost impact assessment may be required.
- **NCR Representation for Consumers Debt Intervention:** NCR to appoint agents?
- **NCT Capacity:** Need to upscale
- **Research required:** Possible increase of cost of credit to low income earners
- **Possible unintended consequence:** Increased use of loan sharks





# Thank you

