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Credit default listings and debt collection

Information about energy and water credit default listings, the default listings process and debt collection activity.

Energy and water debts

Unpaid energy and water accounts can be sent to collections – either internally within the energy or water company or to an external credit collection agent or credit reporting body (CRB). Importantly, there are rules that energy and water companies, and their agents, must follow for any collection action or default listing, especially for customers experiencing financial difficulty.

What is a default listing?

A default is any debt that is **60 or more days** in arrears. If a customer does not pay an electricity, gas or water bill by 60 days after the due date, their company can report their name and details of their overdue account to a CRB once certain steps are followed.

The three main CRBs in Australia are Equifax, Dun & Bradstreet (DNB) and Experian.

If a consumer applies to a business for a loan or any type of credit, the loan or credit provider may check the consumer's credit file. The credit provider may reject their application if there is a default listing on their file.

Types of default listings

A default may be listed with a CRB under the individual's name or in a company/business name. There are different default listing types for individuals and businesses. However, the most common types of defaults listed with CRBs are "Payment Defaults" (up to five years on credit file) or "Serious Credit Infringements" (up to seven years on credit file).

Need help?

1800 500 509 (Freecall)

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What must a company do before it lists a default?

There are two codes which could apply depending on when the default listing was entered. In general, if the default listing was entered **before 12 March 2014**, the *Credit Reporting Code of Conduct (CRCC)* and section 18(8)(c) of the *Privacy Act 1988 (Cth)* apply.

If the default was listed on or after 12 March 2014 the Privacy Credit Reporting Code (www.oaic.gov.au/privacy/privacy-registers/privacy-codes-register/cr-code-2-2) (*CR Code*) and the *Privacy Act 1988 (Cth)* apply. The minimum amount that can be default listed on or after 12 March 2014 is \$150.

Before a default is listed on a credit file, there are a number of steps outlined in the *CRCC* and *CR Code* that must be followed. If the correct process is not followed, then the default may not be correctly listed.

Credit file access

You can get a copy of your credit report for **free** from a CRB in all of the following circumstances:

- if you have applied for, and been refused credit, within the past 90 days
- where your request for access relates to a decision by a CRB or a credit provider to correct information included in your credit report
- once a year (not counting the above circumstances).

What to do if you think there's been a mistake

If you believe that your energy or water company, or the CRB, has made a mistake with a default listing on your file, contact them in the first instance to raise your concern. If this does not resolve your issue, contact EWOV for assistance.

What is debt assignment/sale of debt

Sometimes energy and water debts are sold or assigned by energy and water companies to a third party (a debt purchaser) for collection. For these debts, this usually occurs for finalised accounts (e.g. when you have moved out). This can mean that if a customer contacts their energy or water company about the debt, they may be advised to contact the collection agent that has bought the debt.

Make sure you keep detailed written records of what is happening – note down the name of any person you speak to, the date and the time, a brief description of what happened and the names of any witnesses. Keep all communication including letters and text messages.

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Debt collector conduct

Debt collectors need to adhere to the relevant laws and rules when collecting energy and water debts, including the Australian Consumer Law (legislation.gov.au/Details/C2015C00327). Additionally, they need to comply with the Australian Competition and Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC) guideline: acc.gov.au/publications/debt-collection-guideline-for-collectors-creditors.

Under Australian law, a debt collector must not:

- use physical force or coercion (forcing or compelling the debtor or a third party, such as a family member, to do something)
- harass or hassle the debtor to an unreasonable extent
- mislead or deceive the debtor (or try to do so) regardless of intention
- take unfair advantage of any vulnerability, disability or other similar circumstances affecting the debtor (this is an example of unconscionable conduct: acc.gov.au/business/selling-products-and-services/unfair-business-practices#toc-unconscionable-conduct).

Rules about debt collector contact

Debt collectors are only allowed to contact debtors at certain times and on particular days. The ASIC website has the details: moneysmart.gov.au/managing-debt/dealing-with-debt-collectors#how.

EWOV's jurisdiction

If an energy or water company has referred or sold a customer's debt to a third-party collection agent, EWOV has jurisdiction to investigate these cases as the agent is considered to be acting on behalf of the energy or water company.

Need more information?

Office of the Australian Information Commissioner (OAIC)

The OAIC has information, fact sheets and links to laws, codes and guidelines on its website: oaic.gov.au

ACCC

The ACCC has information about dealing with debt collectors (acc.gov.au/consumers/dealing-with-debt-collectors/what-debt-collectors-can-cannot-do and acc.gov.au/consumers/dealing-with-debt-collectors), the rules about debt collection (acc.gov.au/publications/debt-collection-guideline-for-collectors-creditors) and links to more resources including an online complaint form (acc.gov.au/consumers/complaints-problems/make-a-consumer-complaint).

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ASIC and MoneyHelp

ASIC's MoneyHelp website has information for dealing with debt collectors: moneysmart.gov.au/managing-debt/dealing-with-debt-collectors.

Consumer Action Law Centre (CALC)

CALC has a debt information and a resource 'tool box' for energy and water consumers: consumeraction.org.au/resources-and-toolkits/i-cant-pay-my-power-or-gas-bill.

Credit Reporting bodies

- Equifax: equifax.com.au or phone: 13 83 32
- Dun & Bradstreet: dnb.com.au or phone: 13 23 33.
- Experian: experian.com.au or phone: (03) 8622 1600

Checklist

Don't know where to start? This checklist may help.

- Talk to your energy or water company in the first instance about the debt collection or default
- EWOV is a free service; you don't have to pay someone to dispute an energy or water default listing.
- Look at the resources and links to the right for tips and advice on how to manage energy and water debts and what to do if you receive collection activity or have had a default listed.
- If you are unable to pay your energy or water account due to temporary or long-term financial difficulty, tell your energy or water company about this and ask for an affordable payment plan and access to your company's financial difficulty program. In Victoria, all energy and water companies must offer financial difficulty programs.
- If you are unable to resolve your complaint directly, contact EWOV on Freecall **1800 500 509** for assistance.

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