

KREDCOR COMMERCIAL DEBT RECOVERY
WHITE PAPER 7

The B2B Creditor's Guide to Prescription

When South African Commercial Debt Expires — and Exactly How to Stop It

A comprehensive legal and commercial analysis of the Prescription Act 68 of 1969 as it applies to B2B commercial creditors in South Africa — including how to interrupt prescription, manage your aged debtor book, and never lose a collectable claim to the clock again.

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Executive Summary

Prescription is one of the most legally consequential — and most neglected — concepts in South African commercial credit law. Under the Prescription Act 68 of 1969, a debt that is not collected, acknowledged, or litigated within **three years** of becoming due is extinguished by operation of law. It does not become harder to collect. It ceases to exist as an enforceable obligation.

Yet the 2026 Kredcor Annual Survey found that **64% of South African businesses have lost at least one commercial claim to prescription** in the past five years. The total estimated value of prescribing B2B debt in South Africa exceeds **R4.7 billion per year** — virtually all of it avoidable.

3 years	64%	R4.7bn	42%
General B2B prescription period	of SA businesses have lost a claim to prescription	in B2B debt prescribes in SA annually (est.)	of prescribed claims fail due to no AOD obtained

This white paper provides South African credit managers, CFOs and SME owners with a definitive guide to understanding prescription, interrupting it lawfully, and building systems that ensure no collectable debt is lost to the clock.

Key finding: The most common cause of prescription is not missing the deadline by days — it is a structural failure to obtain written acknowledgement of debt at the point of first default. This is fixable with one sentence added to your credit application terms.

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1.

The Legal Foundation — Prescription Act 68 of 1969

South African prescription law is codified primarily in the **Prescription Act 68 of 1969**. This Act replaced the older Prescription Act of 1943 and consolidated South African law in line with common-law principles, providing a single framework for the extinction of obligations through lapse of time.

Key provisions relevant to B2B creditors:

Section 11(d)	Establishes the general prescription period of three years for all debts not falling within the longer categories (mortgage bonds — 30 years; judgment debts — 30 years; bills of exchange and notarial bonds — 6 years).
Section 12(1)	Prescription begins to run when the debt becomes due — not when the creditor discovers the debt, unless the debtor has wilfully prevented the creditor from obtaining knowledge (Section 12(3)).
Section 13	Delays completion of prescription in special circumstances, including where debtor is outside the Republic, or where parties are in litigation.
Section 14	Prescription is interrupted by an acknowledgement of liability by the debtor. The period starts afresh from the date of acknowledgement.
Section 15	Prescription is interrupted by service of process — i.e., when a summons is served on the debtor by the Sheriff of the Court.
Section 17	A court may not mero motu raise prescription — but in practice, SA courts have held since <i>Van Zyl v New Urban Properties Ltd</i> that prescription extinguishes the debt ipso jure (by operation of law itself).

Practical implication: A debt does not become "more difficult to collect" when it prescribes — it becomes impossible to enforce. No court will entertain a claim on a prescribed debt, regardless of how clear the evidence of liability is.

2.

The B2B Distinction — Why Commercial Creditors Face Unique Risks

The National Credit Act 34 of 2005 (NCA) applies primarily to consumer credit agreements. **Most B2B commercial credit falls outside the NCA**, particularly where the debtor is a juristic person (company, CC, trust) and the credit exceeds the NCA juristic person threshold. This distinction carries significant implications for prescription.

For consumer (B2C) debt, the NCA imposes additional procedural requirements before collection can commence. For B2B debt, no such procedural buffer exists — but neither does the NCA's protection against aggressive pursuit. The Prescription Act applies to B2B debt in its pure form, with none of the NCA's procedural interruptions that might inadvertently slow the prescription clock.

Factor	B2C (Consumer)	B2B (Commercial)
NCA applicability	Generally applies	Often excluded (juristic entity)
Prescription period	3 years (general)	3 years (general)
Section 129 notice	Required before legal action	Not required
Debt counselling risk	Debtor may apply	Not applicable to businesses
In duplum rule	Applies strictly	Common law version applies
Acknowledgement rules	NCA adds requirements	Prescription Act alone governs

3.

When Does the Prescription Period Begin to Run?

This is one of the most litigated questions in South African prescription law, and the answer is not always as simple as "the invoice date." Section 12(1) of the Prescription Act states that prescription begins to run when the debt is "**due.**" The courts have interpreted this to mean when the creditor has a complete cause of action against the debtor.

Common trigger dates in B2B transactions:

- Standard invoice:** When payment terms expire (e.g. 30 days from invoice date). Not the invoice date itself.
- Demand required:** Where the contract requires a demand before payment is due, prescription runs from the date of demand.
- Conditional debt:** Where the obligation is subject to a condition precedent, prescription runs only when the condition is fulfilled.
- Tacit agreement:** Where no payment terms are agreed, common law implies payment is due on demand — be careful: this means prescription may start running from the first demand you make.
- Credit notes / contra:** Where a credit note is applied against an invoice, the prescription of the remaining balance runs from the original invoice due date.
- Unliquidated claims:** Damages claims run from when the damage became ascertainable, not when the loss occurred — see *Truter v Deysel* 2006.

Warning: Many South African businesses date prescription from the invoice date rather than the due date — effectively giving themselves 30 days less collection time on every 30-day account. Audit your ERP / accounting software settings to confirm which date your aging report uses as its baseline.

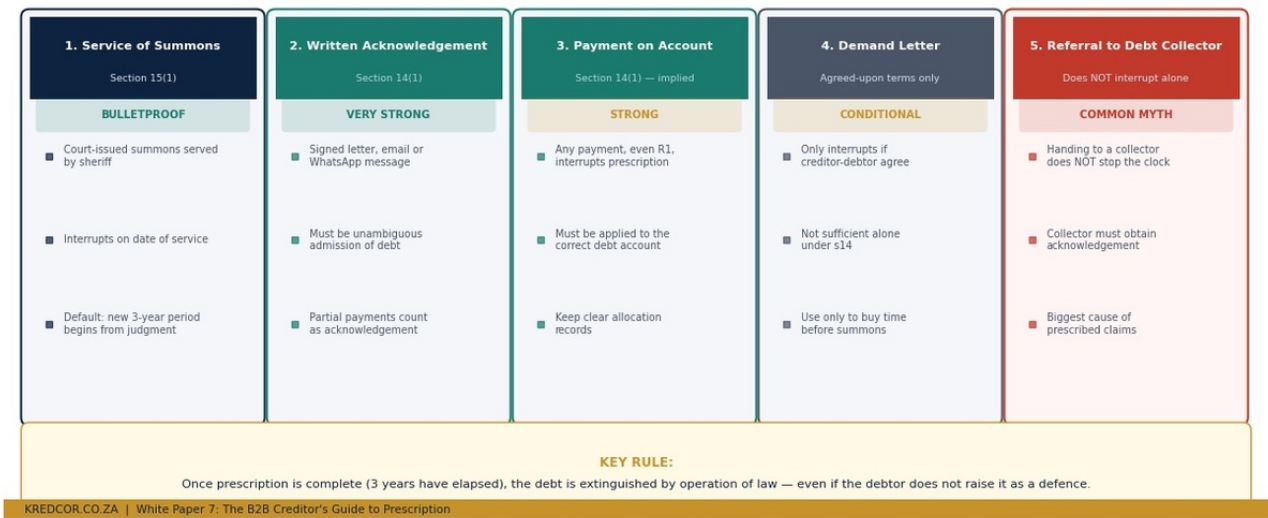
4.

Five Ways to Interrupt Prescription

Interruption of prescription is the legal mechanism by which the three-year clock is stopped and reset. When prescription is interrupted, the full three-year period begins running again from the date of interruption. There are two primary categories: interruption by the debtor (acknowledgement) and interruption by the creditor (service of process).

5 WAYS TO INTERRUPT PRESCRIPTION IN SOUTH AFRICA

B2B Creditors — what works, what is risky, and what is legally bulletproof



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Figure 1: The five methods of interrupting prescription — relative strength and legal basis.

1. Service of summons (Section 15)

The gold standard. Prescription is interrupted when a summons (or other process) is served on the debtor by the Sheriff of the Court. The key requirement is **service** — not merely issue. A summons issued but not served does not interrupt prescription. Once judgment is obtained, the debt is converted into a **judgment debt**, which prescribes only after 30 years under Section 11(a).

2. Written acknowledgement of debt (Section 14)

Any express or tacit admission of liability interrupts prescription. This includes a formal Acknowledgement of Debt (AOD), a signed repayment arrangement, an email stating "I know I owe you this money," or a WhatsApp message promising payment. The courts are relatively liberal in what constitutes acknowledgement — see *Absa Bank v Janse van Rensburg* — but the admission must be unambiguous and directed at the specific debt.

3. Part payment (Section 14 — implied)

A partial payment on a debt constitutes an implied acknowledgement of liability for the balance. The payment must be properly allocated to the correct debt on your records. Best practice: send a remittance confirmation showing the payment applied and the balance outstanding, and keep the debtor's bank reference.

4. Agreed demand (contractual interruption)

Some credit agreements provide that delivery of a written demand by the creditor interrupts prescription. This is valid if agreed to in the original credit terms, but courts scrutinise such clauses carefully. This mechanism is supplementary — it buys you time, but should never be your only tool.

5. Referral to a debt collector (does NOT interrupt)

This is the single most dangerous misconception in South African credit management. Handing a debt to a registered debt collector does not interrupt prescription. The collector must obtain an acknowledgement of debt from the debtor, or serve process. Until one of those events occurs, the prescription clock runs unimpeded. Instruct your debt collector explicitly to obtain an AOD within 30 days of mandate.

5.

The Acknowledgement of Debt — Your Most Powerful Tool

For most B2B creditors, obtaining a written Acknowledgement of Debt (AOD) is the most practical and cost-effective way to interrupt prescription and secure your legal position. Unlike a summons — which requires a lawyer, a filing fee, and a Sheriff — an AOD requires only a signature.

What must an AOD contain to be legally valid:

- Identification of the creditor and debtor (full legal entity names and registration numbers)
- The specific amount acknowledged as owing
- The nature of the debt (invoice numbers, services rendered, goods delivered)
- The date of signature
- A clear, unambiguous statement of liability — "I/We acknowledge that we owe the above amount"
- Signature of an authorised representative of the debtor entity
- For companies: confirmation that the signatory has authority to bind the company (resolution or power of attorney)

What is *not* sufficient as an acknowledgement:

- A verbal promise to pay (even witnessed)
- A payment plan discussion without a signed agreement
- An email that disputes the amount but acknowledges some obligation
- A debit order authority alone (unless combined with a balance admission)
- A request for a statement of account (this implies dispute, not acknowledgement)

Practical tip: Include a pre-populated AOD as part of your 30-day overdue communication sequence. When a debtor's payment is 30 days late, send a statement with an AOD attached. Many debtors will sign it without question — and you have just reset the prescription clock by three years.

6.

Prescription and Business Rescue / Liquidation

When a debtor enters business rescue or liquidation, creditors often assume the prescription clock pauses. **This assumption is incorrect and extremely dangerous.** The commencement of business rescue proceedings does not, by itself, interrupt prescription of the creditor's claim.

Section 133 of the Companies Act 71 of 2008 imposes a general moratorium on legal proceedings against a company in business rescue. However, this moratorium prevents the creditor from *servicing process* — the most reliable method of interrupting prescription — without leave of court or the Business Rescue Practitioner (BRP).

The courts have not definitively resolved whether the Section 133 moratorium itself suspends prescription under Section 13 of the Prescription Act. Until this is settled, the safest course is to either:

- Obtain written acknowledgement from the BRP on behalf of the company in rescue; or
- Apply for leave of court to interrupt prescription notwithstanding the moratorium.

In liquidation: file your proof of claim with the liquidator as soon as possible. The lodging of a claim in the liquidation generally constitutes acknowledgement of the debt for prescription purposes — but do not rely on this alone. File early and keep acknowledgement correspondence on record.

7.

Special Debt Types: Different Prescription Periods

Not all commercial obligations prescribe in three years. Credit managers must be aware of the full spectrum of prescription periods to manage their debtor books correctly.

Debt Type	Prescription Period	Section	Key Note
General commercial debt (invoices, services)	3 years	S 11(d)	Most B2B trade credit
Bills of exchange (cheques, promissory notes)	6 years	S 11(c)	Dishonoured cheques
Notarial bonds	6 years	S 11(b)	Over movable property
Mortgage bonds	30 years	S 11(a)(i)	Immovable property security
Judgment debts (court orders)	30 years	S 11(a)(ii)	After judgment granted
Rent (commercial lease)	3 years	S 11(d)	Each month separately
SARS tax debts	Special rules	Tax Admin Act	Not subject to Prescription Act

The practical significance of obtaining a judgment is enormous: a judgment debt prescribes only after 30 years, compared to 3 years for an ordinary commercial invoice. If you have doubt about whether a debt can be acknowledged or is approaching prescription, instruct your debt collector or attorney to issue summons immediately. A judgment converts a fragile 3-year claim into a virtually permanent one.

8.

POPIA and Debtor Tracing — the Data Constraint

The Protection of Personal Information Act 4 of 2013 (POPIA) intersects with prescription in a specific and increasingly important way: the debtor that cannot be traced cannot be served, and prescription continues to run.

POPIA does not prohibit tracing a debtor for collection purposes — but it imposes constraints on how debtor data may be obtained and used. Key POPIA principles applicable to prescription management:

- **Lawful basis for processing:** Collection of a legitimate commercial debt constitutes a lawful basis for processing debtor personal information under POPIA Section 11(1)(f) (legitimate interests).
- **Data minimisation:** Only the data necessary to locate and contact the debtor should be processed. Social media surveillance beyond what is necessary to establish contact details is likely to exceed this principle.
- **Cross-border tracing:** If the debtor has relocated outside South Africa, any transfer of their personal information to a tracing agent in another country is subject to POPIA Section 72 (transborder information flows), which requires adequate protection in the destination country or debtor consent.
- **Section 13 delay:** Where a debtor has deliberately obstructed tracing by suppressing their address or hiding outside the Republic, Section 13(1)(g) of the Prescription Act may delay completion of prescription. Document all tracing attempts carefully.

9.

Building a Prescription Management System

The businesses that lose claims to prescription are almost never caught out by a single catastrophic oversight. They are caught out by the absence of a system. A prescription management system does not require expensive software — it requires discipline, clear ownership, and three core processes.

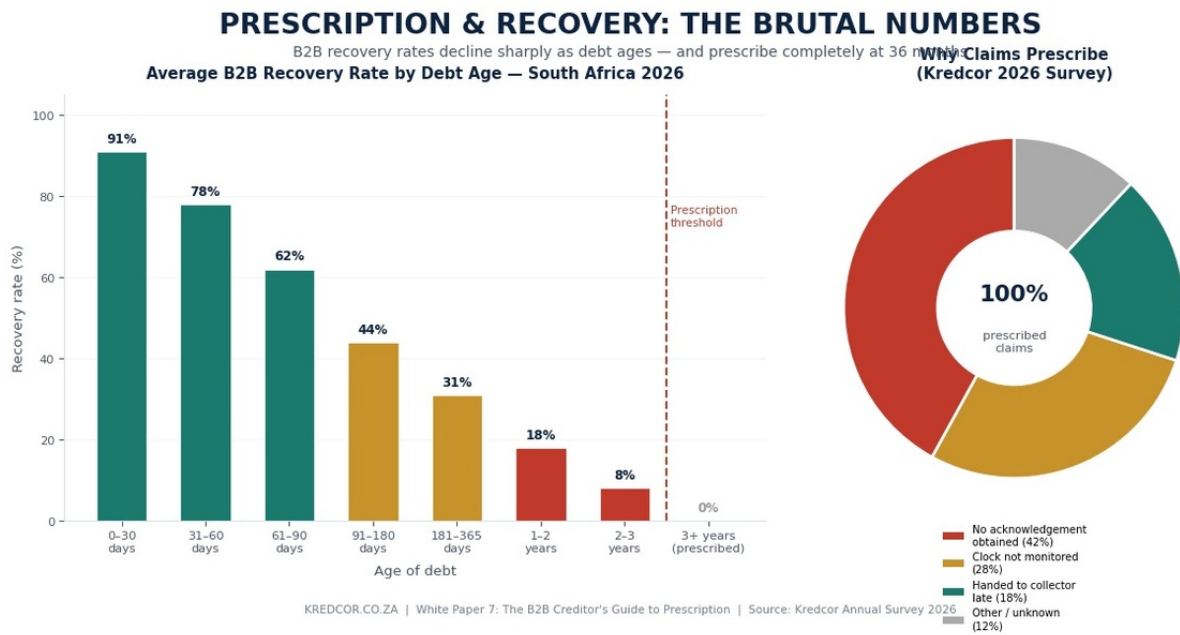


Figure 2: B2B recovery rates by debt age and root causes of prescription in South Africa (Kredcor 2026 Survey).

<p>Process 1: Debt Dating Discipline</p>	<p>Every debt in your ERP must be dated from its legal due date — not the invoice date, not the date it was handed to a collector. Configure your accounting system's aging buckets accordingly. Assign a "prescription date" field (due date + 3 years minus 60 days as a warning trigger) to every debtor balance over your materiality threshold.</p>
<p>Process 2: Acknowledgement at First Default</p>	<p>The moment a debtor misses a payment by more than 30 days, your credit team's first communication should include an AOD for signature. Build this into your ERP workflow as a non-negotiable step. The cost of sending an AOD is zero. The cost of missing it can be the entire debt.</p>

Process 3: 24-Month Escalation

Any debt that has not been acknowledged, partially paid, or litigated within 24 months of its due date must be automatically escalated to senior management and to your external debt collector with a clear instruction: obtain an AOD or issue summons within 60 days. This gives you a 9-month buffer before the 33-month point — the absolute latest at which summons should be issued to ensure service before prescription completes.

10.

The Prescription Trap Checklist

THE PRESCRIPTION TRAP CHECKLIST FOR B2B CREDITORS

12 actions every credit manager and CFO must take to ensure no debt prescribes on your watch

<div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Date your debtor ledger from the date debt fell due, not the invoice date</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Set a calendar alert at 24 months for every debt over R10,000</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Obtain a written acknowledgement of debt (AOD) at first payment default</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Allocate every partial payment clearly to the correct invoice on your system</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Issue summons before 33 months — never wait until month 35</div> <div style="background-color: #ffe0b2; padding: 5px; margin-bottom: 5px;">! Do NOT assume handing debt to a collector interrupts prescription</div> <div style="background-color: #ffe0b2; padding: 5px; margin-bottom: 5px;">! Do NOT treat a verbal promise to pay as an acknowledgement</div>	<div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Require your debt collector to report receipt of any AOD within 48 hours</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Train credit staff on Section 14 — every email from a debtor is evidence</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Include a prescription interruption clause in your credit application T&Cs</div> <div style="background-color: #ffe0b2; padding: 5px; margin-bottom: 5px;">! Do NOT ignore prescription when the debtor is in business rescue</div> <div style="background-color: #ffe0b2; padding: 5px; margin-bottom: 5px;">! Do NOT confuse prescription (Prescription Act) with limitation periods in other statutes (e.g. Labour Relations Act)</div> <div style="background-color: #e0f2f1; padding: 5px; margin-bottom: 5px;">✓ Audit your entire aged debtor book annually for near-prescribed claims</div>
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CRITICAL:
A debtor does not need to actively raise prescription — since 1943 SA courts have held that a prescribed debt is extinguished ipso jure.

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Figure 3: The 12-point prescription trap checklist for South African B2B creditors.

11.

Conclusion and Kredcor Recommendation

Prescription is not an obscure legal technicality. It is an operational risk that silently erodes the balance sheets of South African businesses every day. The three-year period is unforgiving — and it runs whether or not you are paying attention to it.

The good news is that prescription is almost entirely preventable. A structured approach to debt dating, a consistent AOD discipline at first default, and a 24-month escalation trigger will eliminate the vast majority of prescription losses for any B2B creditor.

What Kredcor recommends for every South African B2B creditor:

Immediate audit: Pull your aged debtor book and identify every balance that is older than 24 months with no AOD or judgment on file. These are your most urgent prescription risks.

Credit application update: Add a contractual prescription interruption clause and a pre-authorized AOD to your standard credit application. This is the highest-leverage single action available to you.

ERP configuration: Confirm that your accounting software ages debt from the contractual due date. If it ages from the invoice date, reconfigure it.

Collector instruction: Ensure every debt collection mandate includes an explicit instruction to obtain an AOD or issue summons within 60 days of mandate acceptance.

Staff training: Every member of your credit team should understand what Section 14 requires — specifically, that an email from a debtor acknowledging a debt is as powerful as a formal signed document.

Ready to protect your debtor book from prescription?

Kredcor offers a complimentary aged debtor book prescription audit for qualifying businesses. Contact us at kredcor.co.za or call 010 500 4640.

Legal References and Cases Cited

- Prescription Act 68 of 1969 (as amended)
- Companies Act 71 of 2008 — Chapter 6 (Business Rescue)
- National Credit Act 34 of 2005
- Protection of Personal Information Act 4 of 2013
- Insolvency Act 24 of 1936
- Van Zyl v New Urban Properties Ltd 1924 AD 444 — prescription extinguishes debt ipso jure
- Absa Bank Ltd v Janse van Rensburg 2010 (3) SA 649 (ECG) — acknowledgement of debt
- Truter v Deysel 2006 (4) SA 168 (SCA) — when does a cause of action arise?
- Standard Bank of SA Ltd v Oneanate Investments (Pty) Ltd 1998 (1) SA 811 (SCA) — in duplum and prescription
- McKenzie v Farmer's Co-operative Meat Industries Ltd 1922 AD 16 — tacit acknowledgement
- Drennan Maud & Partners v Town Board of the Township of Pennington 1998 (3) SA 200 — Section 13 delay

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