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**GOVERNMENT NOTICE**  
**GOEWERMENTSKENNISGEWING**

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**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**  
**DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

No. R. 1044

2 November 2007

**DEBT COLLECTORS ACT, 1998 (ACT NO. 114 OF 1998)**  
**REGULATIONS RELATING TO DEBT COLLECTORS, 2003: AMENDMENT**

The Minister for Justice and Constitutional Development has, under section 23, read with sections 12(1), (4) and (5) and 20(3) and (6), of the Debt Collectors Act, 1998 (Act No. 114 of 1998), and after consultation with the Council for Debt Collectors, made the regulations in the Schedule.

**SCHEDULE**

**Definition**

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 185 of 7 February 2003, as amended by Government Notice No. R. 1623 of 7 November 2003 and R. 741 of 29 July 2005.

**Substitution of regulation 5 of the Regulations**

2. The following regulation is hereby substituted for regulation 5 of the Regulations:

**"Register of applications and keeping of records**

5.(1) The register contemplated in section 12(1)(a) of the Act shall contain the following particulars:

- (a) The date on which the application was received.
- (b) An indication as to whether the applicant applied in terms of section 10(2) of the Act for exemption and the date on which the

exemption was granted.

- (c) In the case of a juristic person, company or close corporation—
  - (i) the full registered and trading name, registration number and business and registered address;
  - (ii) the full names and identity numbers of the directors or members; and
  - (iii) the full names and identity numbers of the officers who are involved in debt collecting.
- (d) In all cases other than those referred to in paragraph (c), the full names, identity number and business address of the applicant.
- (e) The financial year end of the applicant.
- (f) The date on which the application was approved.

(2) The register contemplated in section 12(1)(b) of the Act shall contain the following particulars:

- (a) The date on which the application was received.
- (b) An indication as to whether the applicant applied for exemption in terms of section 10(2) of the Act and the date on which the application was disapproved.
- (c) In the case of a juristic person, company or close corporation, the full registered and trading name, registration number and business and registered address.
- (d) In all cases other than those referred to in paragraph (c), the full names, identity number and business address of the debt collector.
- (e) The date on which the registration was cancelled or withdrawn, or the application disapproved, as the case may be.
- (f) The reasons for the cancellation or withdrawal of the registration or the disapproval of the application, as the case may be.

(3) The registers contemplated in section 12(1) of the Act shall be available for inspection—

- (a) from Monday to Friday, excluding public holidays, from 7h30 to 16h00 at the registered office of the Council: West Wing, Ground Floor, Rentmeesterpark 74, Watermeyer Street, Val de Grace, Pretoria; and

- (b) electronically at the following address: [www.debtcollector.co.za](http://www.debtcollector.co.za)."

### **Substitution of regulation 9 of the Regulations**

3. The following regulation is hereby substituted for regulation 9 of the Regulations:

#### **"Payment of interest**

9. The debt collector shall, whenever a payment is made in terms of section 20(3) of the Act—

- (a) make such payment within 30 days after a public accountant's or auditor's report is issued; and
- (b) give an exposition of the money deposited and interest accrued on such money to the Council."

### **Substitution of regulation 10 of the Regulations**

4. The following regulation is hereby substituted for regulation 10 of the Regulations:

#### **"Trust accounts**

10.(1) The trust account contemplated in section 20(1) of the Act, shall be audited annually by a public accountant or auditor within four months following the last day of the financial year of the debt collector.

(2) Upon completion of the audit contemplated in subregulation (1), the public accountant or auditor shall forthwith issue and submit a report, which corresponds substantially with Form 5 of Annexure A, to the debt collector who shall submit a copy thereof to the Council.

(3) Any contravention of this regulation by a debt collector shall constitute improper conduct."

**Amendment of regulation 11 of the Regulations**

5. Regulation 11 of the Regulations is hereby amended by the substitution for the expression "R500" of the expression "R650".

**Amendment of Annexure A to the Regulations**

6. Annexure A to the Regulations is hereby amended by the addition of the following form after Form 4:

**"Form 5****REGULATIONS RELATING TO DEBT COLLECTORS, 2003  
PUBLIC ACCOUNTANTS'/AUDITORS' INDEPENDENT REPORT**

[Regulation 10]

We have audited the trust accounts of .....(*insert the name of the company/close corporation/juristic person/person*) to determine whether those accounts were maintained in compliance with section 20 of the Debt Collectors Act, 1998 (Act 114 of 1998), and regulation 10 of the Regulations relating to Debt Collectors, 2003 for the period from .....(*insert date*) to .....(*insert date*).

The directors/members/partners/proprietor of .....(*insert the name of the company/close corporation/juristic person/person*) is/are responsible for ensuring that the trust accounts are maintained in compliance with the provisions of the Debt Collectors Act, 1998. The directors/members/partners/proprietor is/are also responsible for the implementation of accounting and internal control systems. Our responsibility is to express an opinion on whether the trust accounts were maintained in compliance with section 20 of the Debt Collectors Act, 1998, and regulation 10 of the Regulations relating to Debt Collectors, 2003, for the period .....(*insert date*) to .....(*insert date*) based on our audit.

This report covers the accounting records relating to the debt collector's trust accounts and does not extend to the financial statements of the business of .....(*insert the name of the company/close corporation/juristic person/person*) taken as a whole.

Our audit was conducted in accordance with International Standards on Auditing applicable to special purpose audit engagements. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the trust accounts are free of any material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts, and assessing the accounting principles used by management.

We believe our audit provides a reasonable basis for our opinion.

### **Qualification**

*The report is subject to the following qualifications (if none, state NIL).....*

*(Any contravention of section 20 of the Debt Collectors Act, 1998, and regulation 10 of the Regulations relating to Debt Collectors, 2003, relating to trust accounts is regarded as material and should be reported. If the report is qualified then the next heading is to be changed to "Qualified opinion" and the wording is to change to "In our opinion, except as noted above, the ...)*

### **Opinion**

In our opinion, the debt collector's trust accounts of..... *(insert the name of the company/close corporation/juristic person/person)* for the period from..... *(insert date)* to..... *(insert date)* were maintained in compliance with section 20 of the Debt Collectors Act, 1998, and regulation 10 of the Regulations relating to Debt Collectors, 2003.

### **Supplementary information**

Our audit procedures indicated the following:

1. The debt collector's trust account for the period reported on has been updated.....*(indicate how regular)*.

2. The debt collector's trust account for the period subsequent to the period being audited, was last inspected by us on..... *(insert date of last inspection)*, has been written up to .....*(insert date)* and the trial balance was last balanced at .....*(insert date)*.
3. The debt collector provided us with the following changes in the composition of the business which occurred during the period from..... *(insert date)* to..... *(insert date)* –  
.....*(insert changes)*
4. The debt collector's principal place of business is at.....  
*(insert full physical address)*.

The following information was extracted from the audited trust account:

1. Reconciliation of interest earned on the debt collector's trust account from the beginning of the period..... *(insert date)* to the end of the period..... *(insert date)*:

Amount brought forward from the previous financial year in respect of interest earned on monies deposited in terms of section 20 of the Debt Collectors Act, 1998, is	
Amount earned during the current period on monies deposited in trust banking accounts in terms of section 20 of the Debt Collectors Act, 1998 is	
Amount incurred during the current period in respect of bank charges (excluding VAT) is	
Amount already paid over to the Council for Debt Collectors	

during the period under review in terms of section 20 of the Debt Collectors Act, 1998, is	
Amount carried over to the next financial year in respect of interest earned on monies deposited in terms of section 20 of the Debt Collectors Act, 1998, is	

2. The ratio as a percentage of total bank charges (excluding VAT) incurred during the current period to the total of interest earned during the year was.....
  
3. Trust liabilities/creditors and trust funds available at the year end .....(insert date) and on one other date .....(insert date), were as follows:

	At year end	Other date selected
Trust liabilities/creditors		
Trust funds available in terms of:		
Section 20 trust money		
Trust surplus/ (deficit)		

**Use of the report**

This report is intended solely for the use of the debt collector and the Council for Debt Collectors.

Name

Registered Accountants and Auditors

Chartered Accountants (SA)

Address

Date

*Notes*

1. The public accountant/auditor must be registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act 80 of 1991).
2. If the public accountant/auditor is unable to furnish an unqualified report the fact thereof and the reasons therefor shall be set out fully in the report transmitted by him/her which shall otherwise be as far as possible in the above form.
3. All alterations must be signed by the public accountant/auditor.”.

**Substitution of Annexure B to the Regulations**

7. The following Annexure is hereby substituted for Annexure B to the Regulations:

**“ANNEXURE B  
Expenses and fees  
[Regulation 11]**

**Note: The total amount to be recovered from the debtor in respect of items 1 to 7 of the Annexure shall not exceed the capital amount of the debt or R630, whichever is the lesser.**

Item	Description	Amount
1.(a)	Necessary ordinary letter, registered letter, facsimile or e-mail:	R12,60 (and in the case of a registered letter, the costs of the registration fee to be added)
1.(b)	Registered letter (Sec 57 of the Magistrates' Courts Act, 1944 (Act 32 of 1944))	The amount as from time to time prescribed in item 8 of Annexure 2 Table A, Part II of the Rules of Court of the Magistrates Courts



		Act 32 of 1944
2.	Necessary phone calls, which is not a consultation (per call):	R12,60
3.	Other necessary expenses not specifically provided for: a total amount of:	R12,60
4.	Acknowledgement of debt and undertaking to pay debt in terms of section 57 or section 58 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) (including the necessary consultation with debtor):	The amount as prescribed from time to time in items 9 and 10 of Annexure 2, Table A, Part II of Rules of Court of the Magistrates Courts Act 32 of 1944
5.	On request of the debtor, the drawing up and furnishing of a settlement account, other than the six monthly settlement account:	R25,20
6.	Correspondence received and attended to:	R6,30
7.	Necessary consultation with debtor:	R31,50
8.	Attending taxation:	R50,40
9.	On receipt of an installment (one or more) in redemption of the debt, inclusive of installments made directly to the client:	A fee of 10% of the installment received subject to a maximum amount of R315,00. No additional fee shall be charged for any attendance in connection with the receipt or payment of any installment."