

No. R. 1120 27 November 2009

DEBT COLLECTORS ACT, 1998

REGULATIONS RELATING TO DEBT COLLECTORS, 2003: AMENDMENT

The Minister of Justice and Constitutional Development has, under section 23 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 Notices Nos. R. 1623 of 7 November 2003, R. 741 of 29 July 2005 and R. 1044 of 2 November 2007, as corrected by Government Notice No. R. 1093 of 23 November 2007.

Insertion of regulation 4A in the Regulations

2. The following regulation is hereby inserted after regulation 4 of the Regulations:

"Cancellation of registration as debt collector

4A. When a debt collector applies in writing for the cancellation of his or her registration in terms of section 16A of the Act, he or she shall submit to the Council—

- (a) proof that the trust account contemplated in section 20(1) of the Act has been closed;
- (b) a report contemplated in regulation 10(2), covering the financial year in question up to and including the date of the closing of the trust account; and
- (c) the original certificate of registration issued to him or her under section 11 of the Act."

Amendment of regulation 7 of the Regulations

3. Regulation 7 of the Regulations is hereby amended by the substitution for the word "summons" wherever it appears in subregulations (15)(b) and (16) of the word "subpoena".

Insertion of regulation 7A in the Regulations

4. The following regulation is hereby inserted after regulation 7 of the Regulations:

"Recusal of member of committee

7A. (1) A member of a committee, referred to in section 15(2) of the Act, may recuse himself or herself during the course of the investigation contemplated in regulation 7—

- (a) of his or her own accord; or
- (b) at the request of a party to the investigation.

(2) In the event of a recusal contemplated in subregulation (1), the investigation may be proceeded with only if—

- (a) one of the remaining members is suitably qualified in law; and
- (b) the committee then comprises not less than two members."

Amendment of regulation 11 of the Regulations

5. Regulation 11 of the Regulations is hereby amended by the substitution for the expression "R630" of

the expression "R697".

Amendment of Annexure A to the Regulations

6. Annexure A to the Regulations is hereby amended by the substitution for Form 4 of the following Form:

**"FORM 4
REGULATIONS RELATING TO DEBT COLLECTORS, 2003
SUBPOENA
[Regulation 7(15)(b)]**

INQUIRY INTO A CHARGE OF IMPROPER CONDUCT INSTITUTED BY THE COUNCIL FOR DEBT COLLECTORS
AGAINST:

(Full names and surname)

TO:

Surname:			
Full names:			
Address where subpoena must be served:			
Contact numbers:	Residence	Business	Cellular

You are hereby instructed to appear in person before the Council at: _____

on the _____ day of _____ 20____ at _____ h _____ for above-mentioned inquiry and to—

(mark with "X")

	give evidence	produce books	produce documents	produce Items
1	BOOKS/DOCUMENTS/ITEMS TO BE PRODUCED			
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Signed at _____ this _____ day of _____ 20_____

Official of the Council for Debt Collectors

RETURN OF SERVICE

I, _____, certify that I have—

* delivered a copy of the subpoena to _____ personally;

or

* offered a copy of the subpoena for delivery to _____ personally;

or

* delivered a copy of the subpoena to _____ a person apparently not younger than the age of 16 years and apparently residing or employed at the *residence/place of employment/place of business of _____, since the latter could not conveniently be found;

or

* affixed/placed a copy of the subpoena *to/in the *outer/principal door/security gate/post box of the "residence/place of employment/place of business of____, since *he/she prevented the service by keeping *his/her "residence/place of employment/place of business closed.

Signed at ____ this ____ day of ____ 20 ____

*Sheriff/____

* Delete whichever is not applicable".

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 R697, 00, whichever is the lesser.

Item	Description	Amount
1.(a)	Necessary ordinary letter, registered letter, facsimile or e-mail:	R14,00 (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 No. 32 of 1944)):	The amount as prescribed from time to time in item 8 of Annexure 2, Table A, Part II of the Rules of Court of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)
2.	Necessary phone call, which is not a consultation (per call):	R14,00
3.	Other necessary expenses not specifically provided for: a total amount of:	R14,00
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 the Rules of Court of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)
5.	At the request of the debtor, the drawing up and furnishing of a settlement account, other than the six monthly settlement account:	R28,00
6.	Correspondence received and attended to:	R7,00
7.	Necessary consultation with debtor:	R35,00
8.	Attending taxation:	R56,00
9.	On receipt of an instalment in redemption of the debt:	A fee of 10% of the instalment received, subject to a maximum amount of R348, 00. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment."

Commencement

8. These Regulations commence on 1 December 2009.