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## GOVERNMENT NOTICES

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### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 623

10 August 2012

#### 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, R. 1044 of 2 November 2007, as corrected by Government Notice No. R. 1093 of 23 November 2007 and amended by Government Notices Nos. R. 1120 of 27 November 2009 and R. 162 of 1 March 2011.

##### Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the insertion of the following definition before the definition of "day":

"auditor", means a registered auditor as contemplated in the Auditing Profession Act, 2005 (Act No. 26 of 2005);".

##### Amendment of regulation 10 of the Regulations

3. Regulation 10 of the Regulations is hereby amended by the substitution for subregulations (1) and (2) of the following subregulations:

"(1) The trust account contemplated in section 20(1) of the Act, shall be audited annually by an 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 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."

### **Substitution of Form 5 of Annexure A to the Regulations**

4. Form 5 of Annexure A to the Regulations is hereby substituted for the following Form:

**"FORM 5  
REGULATIONS RELATING TO DEBT COLLECTORS, 2003  
REGISTERED 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*):

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(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 Auditors  
Address:  
Date:

### Notes:

1. The auditor must be registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005).
2. If the registered auditor is unable to furnish an unqualified report the fact thereof and the reasons therefore 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 registered auditor.

\* Delete whichever is not applicable".

### Substitution of Annexure B to the Regulations

5. 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 R736, 00, whichever is the lesser.**

Item	Description	Amount
1.(a)	Necessary ordinary letter, registered letter, facsimile or e-mail:	R15,00 (and in the case of a registered letter, the costs of the registration fee to be added).
1.(b)	Registered letter (section 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 Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa.
1.(c)	Necessary electronic communication, other than facsimile or e-mail, (per electronic communication):	R2,00 (maximum of ten electronic communications per

Item	Description	Amount
		month).
2.	Necessary phone call, which is not a consultation (per call):	R15,00.
3.	Other necessary expenses not specifically provided for, a total amount of:	R15,00.
4.(a)	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 Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa.
4.(b)	Original documents signed by the debtor under item 4(a) at the debtor's residence or place of work:	R150,00.
4.(c)	Necessary registered credit bureau search:	R10,00 (maximum of four searches per month).
5.	At the request of the debtor, the drawing up and furnishing of a settlement account, other than the six monthly settlement account:	R30,00.
6.	Correspondence received and attended to:	R7,00.
7.	Necessary consultation with debtor:	R37,00.
8.	Attending taxation:	R59,00.
9.	On receipt of an instalment (one or more) in redemption of the debt inclusive of instalments made directly to the client:	A fee of 10% of the instalment received, subject to a maximum amount of R368,00. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment."