
GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

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

No. R. 185

7 February 2003

DEBT COLLECTORS ACT, 1998 (ACT NO. 114 OF 1998)
REGULATIONS

The Minister for 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

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it and, unless the context otherwise indicates -

"day" means any day of the week other than a Saturday, Sunday or public holiday;

"the Act" means the Debt Collectors Act, 1998 (Act No. 114 of 1998); and

"sheriff" means a person appointed in terms of section 2 of the Sheriffs Act, 1986 (Act No. 90 of 1986), and also a person appointed in terms of sections 5 and 6 of that Act as an acting sheriff and a deputy sheriff respectively.

Application for registration as debt collector

2.(1) An application for registration as a debt collector, as contemplated in section 9(1) of the Act, shall correspond substantially with -

(a) Form 1A of Annexure A in the case of a natural person, including an

officer in the employ of a juristic person, a director of a company or a member of a close corporation; and

(b) Form 1B of Annexure A in the case of a juristic person, and be lodged in duplicate with the Council.

(2) An application lodged in terms of subregulation (1) shall be accompanied by an application fee -

(a) in the case of a company or close corporation carrying on business as a debt collector, in the amount of -

(i) R1 000 in respect of a company or close corporation;

(ii) R300 in respect of each director or member of the company or close corporation; and

(iii) R300 in respect of every officer of the company or close corporation who is involved in debt collecting; or

(b) in the case of a natural person, in the amount of R200,

which fee is payable by means of a bank guaranteed cheque and which is not refundable if the application is not granted.

(3) The Council shall notify the applicant if his or her application is not granted and furnish reasons for such decision.

Exemption from disqualifications

3. An application for exemption by a person as contemplated in section 10(2)(a) of the Act, shall correspond substantially with Form 2 of Annexure A.

Certificate of registration

4.(1) The Council shall issue a certificate of registration which corresponds substantially with Form 3 of Annexure A to every person registered as a debt collector.

- (2) A person registered as a debt collector shall -
- (a) prominently display his or her certificate of registration in his or her office;
 - (b) indicate the number of his or her certificate of registration on all correspondence; and
 - (c) produce proof of registration on request of any person approached by him or her in the performance of his or her functions as a debt collector.
- (3) The Council may, under the circumstances it deems fit and upon receipt of-
- (a) a written request of a registered debt collector; and
 - (b) payment of a fee of R100,
- issue a duplicate certificate of registration to the debt collector.

Register of Applications

5.(1) The Council shall keep a register of applications, as contemplated in section 12 of the Act, in which the following particulars shall be entered:

- (a)(i) In the case of a company or close corporation -
 - (aa) the full registered and trading name, registration number and business and registered address;
 - (bb) the full names and identity number(s) of the director(s) or member(s); and
 - (cc) the full names and identity number(s) of the officer(s) who is/are involved in debt collecting.
- (ii) In all other cases, the full names, identity number and business address of the applicant.
- (b) The date on which the application was received.
- (c) The date on which the application and subscription fees were received.
- (d) The financial year end of the debt collector.
- (e) An indication whether the applicant applied for exemption and whether exemption was granted in terms of section 10(2) of the Act.

- (f) The date on which the application was approved or rejected.
- (g) The reasons for the rejection of the application.
- (h) The date of suspension of registration in terms of section 13(2) of the Act.
- (i) The date of withdrawal of registration in terms of section 16 or 17 of the Act and the reason(s) for such withdrawal.

(2) The register referred to in subregulation (1), shall be available for inspection at the registered office of the Council during office hours.

Payment of subscription fees

6. Every person registered as a debt collector shall, in terms of section 13(1) of the Act, pay an annual subscription fee to the Council -

- (a) in the case of a company or close corporation carrying on business as a debt collector, in the amount of -
 - (i) R1 000 in respect of a company or close corporation;
 - (ii) R300 in respect of each director or member of the company or close corporation; and
 - (iii) R300 in respect of every officer of the company or close corporation who is involved in debt collecting; or
- (b) in the case of a natural person, in the amount of R200.

Improper conduct

7.(1) The Council may -

- (a) establish a committee or committees, consisting of at least three members of the Council, one of whom must be suitably qualified in law, and designate one of those members as chairperson of the committee; or
- (b) nominate a person or persons, as and when necessary,

to investigate any allegation of improper conduct as provided for in this regulation.

(2) Any allegation of improper conduct against a debt collector shall be in the form of a written affidavit, stating the date, time and particulars of the incident, the name of the debt collector and the names of any witnesses to the incident, and shall be submitted to the Council as soon as practical after the incident, together with any corroborative documents, if any.

(3) The Council shall keep record of each allegation lodged with it in terms of subregulation (1), and of the outcome thereof.

(4) The Council shall within 14 days after receipt of the allegation referred to in subregulation (1) bring the allegation to the attention of the debt collector concerned.

(5) On receipt of the allegations, the debt collector may, within five days, respond in writing to the allegations in the manner the Council requests.

(6) The Council may require the particulars it deems necessary regarding any aspect of the allegations from any person in the manner determined by the Council.

(7) The Council shall consider the allegations and deal with it in the manner it deems fit.

(8) If the Council decides to charge a debt collector with improper conduct, the Council shall -

(a) charge the debt collector concerned by notice in writing, stating all the charges against the debt collector; and

(b) appoint a person to lead evidence in the investigation.

(9) The debt collector must furnish the Council with a written admission or denial of the charge within 14 days of the service of the written notice referred to in subregulation

(8).

(10)(a) The written notice referred to in subregulation (8) shall be served personally on a debt collector by a person designated by the Council or a sheriff.

(b) Such person or sheriff shall, within seven days after receipt by such person or sheriff of the written notice report in writing to the Council regarding the service.

(c) If the debt collector avoids personal service of the written notice, the Council may forward the notice by registered post to the last known address of the office of the debt collector and such service shall be deemed to be sufficient notice.

(d) The fees payable to a sheriff to serve any document in terms of these regulations, are the fees prescribed for sheriffs in the Magistrates' Courts Rules.

(11) If the debt collector charged admits that he or she is guilty of the charge the Council shall deal with the matter as contemplated in section 15(3) of the Act.

(12) The Council shall investigate the charge of improper conduct at such time and place as the Council may determine and shall give the debt collector concerned at least 14 days' notice in writing of the time and place so determined.

(13) The provisions of subregulation (10) shall apply, with the necessary changes, in respect of the written notice referred to in subregulation (12).

(14)(a) The Council may authorize a person who has an interest in the investigation, to -

- (i) attend the investigation instituted in terms of subregulation (12);
- (ii) adduce evidence and arguments in support of the charge; and

- (iii) cross-examine any person who has given evidence in rebuttal of the charge.
- (b) At the investigation the debt collector concerned shall have the right to be present, to be assisted or represented by a legal practitioner, to give evidence and, either personally or through the legal representative -
- (i) to be heard;
 - (ii) to call witnesses;
 - (iii) to cross-examine any person called as a witness in support of the charge; and
 - (iv) to have access to documents admitted in evidence.
- (c) The failure of the debt collector, on whom the notice referred to in subregulation (12) was served, to attend the investigation shall not invalidate the proceedings.
- (d) The Council shall keep a record of the proceedings and of the evidence given.
- (15)(a) For the purposes of an investigation in terms of subregulation (12), the Council may -
- (i) summon any person who may be able to give material information concerning the conduct in question, or who is believed to have in his or her possession or custody or under his or her control any book, document or object which has any bearing on that conduct, to appear before the Council;
 - (ii) call upon and administer an oath to, or accept an affirmation from any person present at the investigation who was or could have been summoned under subparagraph (i); and

- (iii) interrogate or require any person who was called under subparagraph (ii) to produce a book, document or object referred to in subparagraph (i) for the duration of the investigation.
- (b) A summons for the appearance of any person before the Council shall correspond substantially with Form 4 of Annexure A.
- (c) The law relating to privilege in civil cases is applicable in respect of the interrogation of, or the production of a book, document or object by any person referred to in paragraph (a)(iii).
- (16)(a) The original summons referred to in subregulation (15)(b) and one copy thereof shall be forwarded by the Council to a person designated in writing by the Council for that purpose, or to a sheriff, for service on the person who is summoned.
- (b) The copy of the summons shall be served by such person or sheriff on the person concerned personally or by delivering it to his or her place of residence, business, or employment, to any other person who apparently is not less than 16 years of age and who apparently resides or is employed there.
- (c) If a person on whom a summons is to be served, keeps his or her residence or place of business closed and so prevents the service of the summons on him or her or otherwise makes service impossible, the summons shall be served by affixing a copy of the summons to the outer or principal door of such residence or place of business.
- (d) The person or sheriff serving a summons shall, if the person on whom it is being served so demands, exhibit the original summons to him or her.
- (e) The person or sheriff serving a summons shall make a return of service by

entering the mode of service on the original summons or on a document attached thereto.

(f) The person or sheriff serving a summons shall immediately after the summons was served, forward to the Council the return of service.

(17) The Council may reimburse any person summoned in terms of subregulation (15)(a)(i) for expenses incurred in respect of the attendance of the investigation as the Council may deem fit.

Maximum amount of fine

8. The Council may, for the purposes of section 15(3)(c) of the Act, impose a fine not exceeding an amount of R100 000.

Payment of money and interest

9. The debt collector shall, whenever a payment is made in terms of section 20(3) of the Act, give an exposition of the money deposited on behalf of the person and the interest accrued on such money to the person to whom the payment is made.

Trust accounts

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

(2) A debt collector shall, within 90 days from the date of completion of the audit, forward a certificate from the accountant or auditor to the Council, stating that payments made in terms of section 20(3) of the Act, were duly made to persons on whose behalf money was deposited in the trust account.

Expenses and fees

11. The expenses and fees which a debt collector may recover from a debtor, as contemplated in section 19(1)(b) of the Act, are contained in Annexure B: Provided that 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 R500, whichever is the lesser.

Fees for taxation and documents of Council

12.(1) The debtor shall give at least 10 days' written notice before the date of taxation or assessment as contemplated in section 19 of the Act, to the debt collector in any manner he or she deems fit, and keep proper record of the manner in which the notice was given.

(2) The fee for taxation or assessment of any account or statement of costs, interest and payments claimed to be owed by a debtor to a debt collector or his or her client, contemplated in section 19(2) of the Act, is R20.

(3) The fee for taxation or assessment referred to in subregulation (2), in the case of taxation or assessment by the clerk of a magistrate's court, is payable by means of revenue stamps.

(4) A person may obtain a copy of a document in the possession or under the control of the Council at the payment to the Council of an amount of R1,10 for every A4-size page or part thereof.

Offences

13. Any -

- (a) person who willfully furnishes information which he or she knows to be false or does not know or believe to be true, in an application -
 - (i) for registration as a debt collector contemplated in section 9(1) of

- the Act; or
- (ii) for exemption from the disqualifications contemplated in section 10 of the Act; or
- (b) debt collector -
- (i) who recovers any money from any debtor in addition to the amounts prescribed in regulation 11; and
 - (ii) who fails to appear at the time and place as notified by the Council in terms of regulation 7(12); or
- (c) person who fails to -
- (i) appear before the Council as summoned by the Council in terms of regulation 7(15)(a);
 - (ii) take the oath or affirmation; or
 - (iii) produce a book or documentation,

shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding three months.

Value Added Tax

14. Value added tax may be added to all expenses and fees in respect of which value added tax is chargeable.

Short title

15. These regulations shall be called the Regulations relating to Debt Collectors, 2003.

ANNEXURE A

FORM 1A

REGULATIONS RELATING TO DEBT COLLECTORS, 2003

APPLICATION FOR REGISTRATION AS DEBT COLLECTOR BY NATURAL PERSON

(INCLUDING AN OFFICER IN THE EMPLOY OF A JURISTIC PERSON, A DIRECTOR OF A COMPANY OR A MEMBER OF A CLOSE CORPORATION)

[Regulation 2(1)]

(Please note: In the case of a person who has in the preceding 10 years been convicted of an offence of which violence, dishonesty, extortion or intimidation is an element, this application will only be considered upon receipt of proof of exemption by the Minister for Justice and Constitutional Development in terms of section 10(2) of the Debt Collectors Act, 1998 (Act No. 114 of 1998). This form must be completed in block letters.)

I,.....(full names), hereby apply for registration as a debt collector and furnish the following particulars:

A. PERSONAL PARTICULARS

- 1. Date of birth:.....
- 2. Nationality:.....
- 3. Identity number:.....
- 4. Residential address:.....Postal code:.....
- 5. Telephone number:.....
- 6. Postal address:.....Postal code:.....
- 7. Occupation:.....
- 8. Work address:.....Postal code:.....
- 9. Telephone number:.....
- 10. E-mail address:.....
- 11. Cellular number:.....
- 12. Fax number:.....

13. Are you on trial for an offence of which violence, dishonesty, extortion or intimidation is an element or have you in the preceding 10 years been convicted of such offence? *Yes/No. If so, give details and, in the case of a conviction, indicate whether an application for exemption in terms of section 10(2) has been lodged with the Minister for Justice and Constitutional Development:

.....
.....
.....

14. Have you ever, in terms of section 15 of the Act, been found guilty of improper conduct? *Yes/No. If so, give details:

.....
.....
.....
.....

15. Have you ever been declared or certified by a competent authority to be of unsound mind? *Yes/No. If so, give details:

.....
.....
.....
.....

16. Are you an unrehabilitated insolvent? *Yes/No. If so, give details:

.....
.....
.....

17. Were you previously the holder of a debt collector's certificate which has been withdrawn? *Yes/No. If so, give details:

.....
.....
.....

B. LANGUAGE PROFICIENCY

State language(s) in which you are proficient and indicate level of proficiency as "Good", "Fair" or "Poor" in the appropriate space.

Language					
Speak.....					
Read.....					
Write.....					

C. EDUCATIONAL QUALIFICATIONS

1. Highest standard passed at school.....
 2. Year in which passed.....
 3. Certificates, Name of educational Year obtained
 diplomas, or institution or centre
 degrees obtained
-
-
-
-

D. EXPERIENCE

State experience, if any, relating to the functions of a debt collector:

.....

.....

.....

.....

E. PARTICULARS OF BUSINESS/COMPANY/CLOSE CORPORATION

PART I (To be completed by an officer of a juristic person/director of a company/member of a close corporation)

1. Name of *company/close corporation:.....
 2. Date of registration:.....
 3. Registration number:.....
 4. Full names and identity numbers of *directors/members:.....
-
-
-

- 5. Address of main place of business:.....
.....Postal code:.....
- 6. Postal address:.....
.....Postal code:.....
- 7. Registered address:.....
.....Postal code:.....
- 8. Telephone number:.....
- 9. Nature of business:.....

PART II (To be completed by a natural person other than an officer of a *juristic person/director of a *company/member of a close corporation)

- 1. Name under which business will be conducted:.....
- 2. Business address:.....
.....Postal code:.....
- 3. Business telephone number:.....
- 4. Particulars of trust account:
Bank:.....Branch code:.....
Account number:.....
- 5. Particulars of registered accountant or auditor:
Full name:.....
Address:.....
.....Postal code:.....

F. OTHER PARTICULARS

Financial year:.....to.....

I declare that the particulars furnished by me are in all respects complete and correct.

Signed atthis.....day of20.....

.....
Signature of Applicant

Remarks:

- 1. In terms of the Regulations relating to Debt Collectors, 2003, it is an offence to furnish false or misleading particulars or information or make a false or misleading statement.
- 2. A *curriculum vitae* and two recent identical passport size photographs must accompany the application.

*Delete whichever is not applicable

FORM 1B

REGULATIONS RELATING TO DEBT COLLECTORS, 2003

APPLICATION FOR REGISTRATION AS DEBT COLLECTOR BY JURISTIC PERSON

[Regulation 2(1)]

(Please note: In the case of a director/member of a company/close corporation who has in the preceding 10 years been convicted of an offence of which violence, dishonesty, extortion or intimidation is an element, this application will only be considered upon receipt of proof of exemption by the Minister for Justice and Constitutional Development in terms of section 10(2) of the Debt Collectors Act, 1998 (Act No. 114 of 1998). This form must be completed in block letters.)

I,(full names) representative of.....(name of *company/close corporation), hereby apply on behalf of the aforementioned *company/close corporation for registration as a debt collector and furnish the following particulars:

A. PARTICULARS OF *COMPANY/CLOSE CORPORATION

- 1. Date of registration:.....
- 2. Registration number:.....
- 3. Full names and identity numbers of *directors/members:.....
.....
.....
- 4. Address of main place of business:.....
.....Postal code:.....
- 5. Postal address:.....
.....Postal code:.....
- 6. Registered address:.....
.....Postal Code:.....
- 7. Business telephone number:.....
- 8. E-mail address:.....
- 9. Fax number:.....
- 10. Nature of business:.....
- 11. Period in business:.....

12. Are any of the *directors/members on trial for an offence of which violence, dishonesty, extortion or intimidation is an element, or has any of the directors/members in the preceding 10 years been convicted of such offence? *Yes/No. If so, give details and, in the case of a conviction, indicate whether an application for exemption in terms of section 10(2) has been lodged with the Minister for Justice and Constitutional Development:.....

13. Has any of the *directors/members ever in terms of section 15 of the Act been found guilty of improper conduct? *Yes/No. If so, give details:.....

14. Has any of the *directors/members ever been declared or certified by a competent authority to be of unsound mind? *Yes/No. If so give details:.....

15. Is any of the *directors/members an unrehabilitated insolvent? *Yes/No. If so, give details:

16. Was the *company/close corporation or any of its *directors/members the holder of a debt collector's certificate which has been withdrawn? *Yes/No. If so, give details:.....

B. OTHER PARTICULARS

1. Particulars of trust account:
 Bank:.....Branch code:.....Account number:.....
2. Particulars of registered accountant or auditor:
 Full name:.....

Address:.....

.....Postal code:.....

3. Financial year:.....to.....

I declare that the particulars furnished by me are in all respects complete and correct.

Signed atthis.....day of20.....

.....

Signature of representative

Remarks:

- 1. In terms of the Regulations relating to Debt Collectors, 2003, it is an offence to furnish false or misleading particulars or information or make a false or misleading statement.

*Delete whichever is not applicable

FORM 2
REGULATIONS RELATING TO DEBT COLLECTORS, 2003

APPLICATION FOR EXEMPTION

[Regulation 3(1)]

I,(full names), *a director/member of
(name of *company/close corporation)
 hereby apply to be exempted from the disqualification contemplated in section 10(1)(a)(i)
 of the Debt Collectors Act, 1998 (Act No. 114 of 1998), and in support of this
 application submit the following information:

1. Identity number or date of birth:.....
2. Nationality:.....
3. Residential address:.....

Postal code:
4. Telephone number:
5. Postal address:.....
Postal code:
6. Work address:.....

Postal code:
7. Telephone number:.....
8. E-mail address:.....
9. Cellular number:.....
10. Fax number:.....
11. Full particulars of offence(s) of which violence, dishonesty, extortion, or
 intimidation is an element, convicted of in the preceding 10 years.
 Particulars of charge(s) convicted of:.....
 Date(s) of conviction(s):.....
 Particulars of sentence(s):.....

12. The above-mentioned conviction(s) should not be a disqualification for exercising the occupation of debt collector as the circumstances relating to the commission of the offence were as follows:

.....
.....
.....
.....

I declare that the particulars furnished by me are in all respects complete and correct.

Signed atthis.....day of20.....

.....

Signature of Applicant

*Delete if not applicable

Remarks:

In terms of the Regulations relating to Debt Collectors, 2003, it is an offence to furnish false or misleading particulars or information or make a false or misleading statement.

**FORM 3
VORM 3**

**REGULATIONS RELATING TO DEBT COLLECTORS, 2003
REGULASIES BETREFFENDE SKULDINVORDERAARS, 2003**

**DEBT COLLECTOR'S CERTIFICATE
SKULDINVORDERAARSERTIFIKAAT**

[Regulation 4]
[Regulasie 4]

NO. OF CERTIFICATE:.....
NO. VAN SERTIFIKAAT:.....

Full names
Volle name

Identity number/Registration number

Address
Adres

This is to certify that the debt collector whose name appears on this certificate is registered to hold a debt collector's certificate.

Hierby word gesertifiseer dat die skuldinvorderaar wie se naam op hierdie sertifikaat verskyn, geregistreer is om 'n skuldinvorderaarsertifikaat te hou.

.....
Date of issue/Datum van uitreiking

.....
*Chairperson: Council for Debt Collectors
Voorsitter: Raad vir Skuldinvorderaars*

This certificate shall only be valid if it bears the seal of the Council for Debt Collectors

Hierdie sertifikaat is slegs geldig indien die seël van die Raad vir Skuldinvorderaars daarop aangebring is.

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

Inquiry into a charge of improper conduct instituted by the Council for Debt Collectors against:

To:

- 1.
.....(full names and surname)
.....
.....(address)
- 2.
.....(full names and surname)
.....
.....(address)
- 3.
.....(full names and surname)
.....
.....(address)
- 4.
.....(full names and surname)
.....
.....(address)

You are hereby instructed to appear in person before the Council at
on theday of20.....at.....
for above-mentioned inquiry and to *give evidence/produce books, documents or things set out in the list hereto.

Signed atthisday of
20.....

.....
Chairman of the Council of Debt Collectors

RETURN OF SERVICE

I,, certify that I have -
* delivered a copy of the notice to
.....personally;
or
* offered a copy of the notice for delivery to

.....personally;

or

* offered a copy of the notice 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 notice 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 atthis.....day of.....20.....

.....
*Sheriff /.....

* Delete whichever is not applicable

ANNEXURE B
Expenses and fees

[Reg 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 R500, whichever is the lesser.

1. Necessary correspondence:
 - (a) Ordinary letter: R10
 - (b) Registered letter: R10
(Plus registration fee)
 - (c) Registered letter (Sec 57 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)): R14
2. Necessary phone calls (per call): R10
3. Other necessary expenses not specifically provided for: a total amount of: R10
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): R30
5. On request of the debtor, the drawing up and furnishing of a settlement account, other than the six monthly settlement account: R20
6. Correspondence received and attended to: R 5
7. Necessary consultation with debtor: R25
8. Attending to taxation: R40
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 R250.