
MANUAL IN TERMS OF SECTION 14 OF THE PROMOTION OF ACCESS TO INFORMATION, ACT 2 OF 2000

Introduction

In terms of Section 14(1) of the Promotion of Access to Information Act 2 of 2000, the information officer of a public body must compile in at least three official languages a manual containing certain specified information.

The Council for Debt Collectors derives its powers from the Debt Collectors Act, Act 114 of 1998. The Council for Debt Collectors is a public body as contemplated in paragraph (b)(ii) of the definition of 'public body'; namely an institution exercising a public power of performing a public function in terms of any legislation. The Council for Debt Collectors therefore manages the access to its own records.

Contact details

The Executive Director of the Council is the information officer of the Council.

The offices of the Council for Debt Collectors are situated in the –
Rentmeesterpark Building
West Wing, Ground Floor
74 Watermeyer Street
Val de Grace, Pretoria

The postal address is as follows:

Executive Director
Council for Debt Collectors
P O Box 836
Silverton, 0127

Telephone: (012) 804-9808

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A guide on how to use the promotion of access to information Act 2 of 2000

In terms of Section 10 of the Promotion of Access to Information Act 2 of 2000 the Human Rights Commission must compile in each official language a guide containing such information, in an easily comprehensible form and manner, as

may reasonably be required by a person who wishes to exercise any right contemplated in this Act.

The particulars of the Head Office of the Human Rights Commission are as follows:

Private Bag 2700
Houghton, 2041
Johannesburg

Tel: (011) 484-8300

Fax: (011) 484-1380

Structure and functions of the Council for Debt Collectors

Establishment of the Council for Debt Collectors

The Council for Debt Collectors was established by die Debt Collectors Act, Act 114 of 1998. The Act and Regulations were put into operation with effect from 7 February 2003.

Object of the Council for Debt Collectors

The Council is a juristic person. The objects of the Council are set out as follows in Section 2 of the Act:

Register debt collectors and exercise control over the occupation of debt collectors, including:

- keeping of a register of the names of every debt collector whose application for registration has been approved or whose registration has been withdrawn or disapproved;
- collection of registration fees and annual subscription fees;
- the adoption of a code of conduct which has been published in the Gazette in February 2003;
- the investigation of allegations of improper conduct against a debt collector;
- taking disciplinary steps in cases where it is justified and if found guilty impose one or more of the sentences prescribed in Section 15 of the Act. The hearings are open to the public.

In short the Council for Debt Collectors is a statutory body whose overall goal is to transform the debt collection system in South Africa by monitoring the conduct

and professionalism of debt collectors and promoting a culture of good governance to protect the public at large as well as creditors. The Act also legalizes the recovery of fees or remuneration by registered debt collectors. As from 11 August 2003 no person can act as a debt collector unless registered with the Council. Should a person act without being registered he or she will be committing a criminal offence.

Constitution of Council for Debt Collectors

The members of the Council for Debt Collectors are appointed by the Minister of Justice and shall consist of not more than 10 members.

In terms of Section 3(2) of the Act the Council is constituted as follows:

- any fit and proper person with a suitable degree of skill and experience in the administration of civil matters, as Chairperson;
- as members –
 - a magistrate
 - an attorney nominated by a representative body or bodies
 - at least two but not more than four, debt collectors, two of whom shall be appointed after consultation with organizations representing debt collectors, who are natural persons and who have exercised the occupation of debt collector for at least three years;
 - two persons, who in the Minister's opinion are fit and proper persons to serve on the Council;
 - one person from nominations submitted by institutions representative consumer interests and who, in the opinion of the Minister, is a fit and proper person to serve on the Council;

Committees

Section 5(1) of the Act provides for the appointment by the Council of three of its members as an Executive Committee to between meetings of the Council to perform all the powers and functions of the Council, provided that the majority of the members shall be members of the Council other than those appointed in their capacity as debt collectors. The Executive Committee is not competent to set aside or vary a decision of the Council or to withdraw a certificate or registration.

Any act performed or decision taken by the Executive Committee shall be valid in so far as it is not varied or set aside by the Council.

Disciplinary Committee

The Council may in terms of the Regulation 7 of the Regulations published in Government Gazette, No. 24351 of 7 February 2003:

- 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
- nominate a person or persons, as and when necessary, to investigate any allegation of improper conduct as provided for in this regulation.

Personnel

The Council appoints such personnel as it may deem necessary for the efficient performance of its functions and management of its administration.

Finances

The Council generates its own income through the registration and annual subscription fees to be paid by persons applying to register and registered debt collectors.

Publication of register

In terms of Section 12(2) of the Act, the Council shall keep a register which register shall:

- be published in the Gazette annually;
- be updated every second month by the Council;
- be available for inspection by the public at the offices of the Council for Debt Collectors;
- be submitted to the Parliament within 14 days after the publication thereof in the Gazette.

The Council also keeps the register on their computers, to which the public have access.

From time to time and when deemed necessary the Council will do press releases.

Records of the Council for Debt Collectors

All records of the Council are kept at the offices of the Council.

The Council keeps the following records:

- a record of all applications received from debt collectors to register with the Council;
- a record of all the applications that were approved;
- a record of all the applications that were rejected;
- a record of all complaints received from members of the public and debt collectors and of disciplinary hearings held;
- a record of all enquiries received from members of the public and debt collectors;
- all the minutes and agendas of the meetings of the Council and the Executive Committee;
- financial records of the Council;
- various administrative records.

Records that is automatically available to either employees only or the general public

The following records are automatically available to all employees and need not be requested in terms of Section 18 of Act 2 of 2000:

- Personal records are available to the employee whose file it is;
- Records of disciplinary hearings and related matters are available to the employee concerned;
- The Council's code of conduct applicable to employees is available to all employees.

The following records are automatically available to the general public and all employees and need not be requested in accordance with the procedure set out in Section 18 of Act 2 of 2000:

- Perusal of the register of registered debt collectors at the Council's offices or obtaining information contained in the register by telephone, e-mail, post and/or fax.
- Should the person require a copy of the register or part thereof it can be obtained against payment of the prescribed fees.

All other records are not automatically available to the public without a request in terms of Section 18 of Act 2 of 2000.

Services available to members of the public

In terms of Regulation 7(2) of the Regulations a member of the public, or a debt collector, can lodge a complaint at the Council against a registered debt collector.

The complaint should be in the following form:

It should be an affidavit containing the following information –

- a short history of the matter;
- the particulars of the specific incident which the complainant is complaining about;
- the full particulars of the debt collector;
- statement by any witnesses, if any;
- verifying documentation, if any;

The Council will then inform the Debt Collector of the allegations. The Debt Collector then has 5 days to react to the complaints. The Council will then consider the allegation and the reaction thereto, and deal with it in the manner it deems fit, which can include charging the Debt Collector with improper conduct.

If found guilty the Debt Collector can in terms of Section 15(3) of the Act be given the following sentence or punishment:

- withdraw his or her registration as a debt collector;
- suspend his or her registration for a specified period or pending the fulfillment of a condition or conditions;

- impose on him or her a fine not exceeding the prescribed amount, which fine shall be payable to the Council;
- reprimand him or her;
- recover from him or her the costs incurred by the Council in connection with the investigation;
- order him or her to reimburse any person who the Council is satisfied has been prejudiced by the conduct of such debt collector and to furnish the Council within a specified period with proof of such reimbursement; or
- combine any of the above penalties.

Furthermore the Council makes available the register of the registered Debt Collectors to members of the public at the Council's offices. The public or debt collectors can also do telephonic enquiries in to the status of a specific debt collector.

The Council however, does not give general legal advice or assist the public with legal problems relating to payment of debts.

The policy of the Council

The policy of the Council is determined by the Council. The Debt Collectors and members of the public are however, more than welcome to make suggestions.

Meetings and minutes of meetings

In terms of Section 4(1) of the Act the Council shall meet for the first time at the time and place determined by the chairperson and thereafter at least three times every financial year at the time and place determined by the chairperson or, in his or her absence, the vice-chairperson.

The quorum for a meeting of the Council shall be a majority of its members.

Proper minutes of the Council meetings as well as the meetings of the Executive Committee shall be held and kept at the offices of the Council for Debt Collectors.