

Newsletter No 3 of 2005

GOOD NEWS!!!!

In the previous newsletter it was mentioned that the Council recommended an increase in the fees contained in Annexure B of the Regulations to the Minister of Justice. The Council has just been informed that the Minister has approved the recommended increases. The new fees will, however, only be valid once it has been published in the Gazette. Every effort is being made to have it published on 29 July 2005. Although the new fees will be made available on the Council's website, a copy of the new Annexure B is enclosed for your convenience. According to information the fees referred to in items 1 (b) and 4 are respectively R 17.00 and R 45.00 for an acknowledgement of debt and R 45.00 for consent to judgment. It is suggested that debt collectors check these figures with their local magistrate.

Kindly take note that the format of the application forms has been changed. The new forms will also be published in the Gazette. It is trusted that the new forms will be less confusing and more user friendly. There will now be three separate forms namely:

- Form 1 A to be completed by an officer in the employ of a juristic person, a director of a company or a member of a close corporation.
- Form 1 B to be completed by a juristic person / company / close corporation / trust.
- Form 1 C to be completed by a person other than an officer in the employ of a juristic person, a director or a company or a member of a close corporation or trust.

ANNUAL FEE

Attention is once again drawn to the fact that the annual fee is payable in advance once a year on or before the date of registration which appears on the certificate of registration. In terms of a Council decision a debt collector is issued with a new certificate on receipt of the annual fee. This certificate is only valid for 12 months. If the annual fee is not paid timeously the registration will be suspended and may be withdrawn. In cases where the registration is suspended the person concerned may not act as a debt collector until the suspension is lifted. Should the registration be withdrawn and the person wishes to continue as a debt collector, such person will have to re-apply for registration and will again have to pay a registration fee. With regard to the payment of annual fees, an appeal is made to debt collectors to furnish the Council with the necessary proof of payment and also to indicate clearly on whose behalf a payment is made. Without this information it is very difficult and sometimes impossible to allocate the money received correctly.

REGISTRATIONS

The number of registrations approved up to 29 February 2005 totalled 8 845. The present total is 10 025. Despite the steady stream of new applications for registration there appears not to be a marked increase in the number of registered debt collectors presently in the industry. Up to 22 July 2005, 801 registered debt collectors requested cancellation of their registration as they are no longer involved in debt collecting. A substantial number, although still registered, are apparently no longer collecting debt, but have failed as required by the Regulations to notify the Council of their change in status. These cases, which are mostly persons who registered as employees of debt collectors, have to be followed-up to ensure that the register of debt collectors is up to date and reflects a true picture of active debt collectors. In 1 365 cases the registration of debt collectors were withdrawn due to their failure to pay the prescribed annual fee.

NOT SO GOOD NEWS!!!

Since the beginning of the year five debt collectors have been charged with improper conduct and found guilty. The charges related to:

- (i) Not complying with the provisions of section 20 of the Act, which deals with the opening and management of a trust account
- (ii) Using unregistered persons to do debt collecting, and
- (iii) Charging fees which are not allowed by the Act and Regulations.

In case (i) the debt collector's registration was withdrawn and in the other cases stiff fines were imposed.

It has also already been decided to charge a further eleven (11) debt collectors with improper conduct for variable contraventions of the Act, Regulations and Code of Conduct. These cases will be heard soon.

Compiled by:

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**“Don't ever take a fence down until you know why it was put up”
(Robert Frost – 1874-1963)**

“I don't know the key to success, but the key to failure is to try to please everyone” (Bill Cosby)