

Newsletter No 4 - December 2005

FROM THE CHAIRMAN

The year 2005 was an exceptionally busy year for the Council, its members as well as the staff of the Council. This is borne out by the fact that the number of registered debt collectors has since 28 February 2005 to 31 October 2005 increased from 8 945 to 12 151. This is more than a 30% increase. All the administration involved with this placed an additional burden on the staff. It is to be noted that the staff during the same period only increased by 2. The Council's expenditure during this period notwithstanding the additional work load only increased by 11.3%. This is an excellent achievement for which the Council and its staff deserve a special acclamation.

The Council during October ran an extensive publicity campaign and the results were overwhelmingly positive.

The disciplinary hearings also increased during the course of the year. The members of the Council also deserve a word of thanks for the contributions they made to ensure that matters were heard on the dates for which they were sat down.

I am convinced that the Council's achievements will with the co-operation of all concerned continue to grow during 2006.

A special word of appreciation is also conveyed to all debt collectors for their co-operation and assistance in bringing about a successful 2005.

In conclusion I wish all concerned peace, love and joy during the festive season and a prosperous and successful 2006.

Adv J J Noeth S.C.
Chairman

FROM THE COUNCIL

Information Sessions

The Council decided to go ahead with the holding of information sessions during 2006. Details of the dates on which it will be held and a registration form are enclosed. As the Council expects of debt collectors to only make a nominal contribution towards the costs of these sessions, it is trusted that many debt collectors will make use of this opportunity to attend.

Amendments to the Act and Regulations

Some amendments to the Debt Collectors Act have been passed by Parliament. As soon as the Act has been signed by the President it will be published in the Government Gazette together with certain amendments to the regulations. The amendments will be available on the Council's website as soon as it is put into operation.

The amendments entail the following:

- (a) An amendment to the definition of a debt collector to make it clear that an agent for an attorney also has to register as a debt collector.
- (b) The amendment to section 20(3) of the Act. In future all interest will have to be paid to the Council and not to the person on whose behalf the money was collected. The Council will in its discretion be empowered to pay back to the debt collector amounts equal or less than the actual bank charges that were incurred by the debt collector.
- (c) The regulations will prescribe a uniform audit certificate. A debt collector will have 4 months within which to submit an audit certificate by a registered accountant or auditor. A failure to comply with this provision may in future result in the person concerned being charged with improper conduct.

The Council will also in future be empowered under certain circumstances to take control over a debt collector's trust account

Investigation of complaints

As stated previously the Council receives many complaints that have to be investigated. Some of the complaints are of a serious nature. So far debt collectors were in 14 cases after investigation of the complaints charged with improper conduct of whom 13 were found guilty. One was found not guilty and in one instance although the debt collector concerned plea guilty to the two charges against him, he was notwithstanding his plea of guilty to the two charges found not guilty on one of the charges. In one instance the debt collector's registration was withdrawn and in the other cases stiff fines were imposed. In one instance the debt collector was charged for having allowed employees to operate under pseudonyms instead of real names. The matter is still part heard.

The most frequent complaints that the Council is investigating are:

- 1) The employment of unregistered persons as debt collectors by registered debt collectors.
- 2) Charging fees not allowed by Annexure B to the Regulations.
- 3) Not notifying the Council of changes of particulars as required by Regulation 2A.
- 4) Not representing the interests of clients.
- 5) Not maintaining a trust account as required by section 20.
- 6) Allowing a trust account to be closed by the bank.
- 7) Furnished particulars of a trust account whilst such an account does not exist.
- 8) Signing of summonses and other court process on behalf of clients.

The Legal staff who must investigate complaints is experiencing excellent co-operation from most of the debt collectors involved. This is greatly appreciated.

A matter of concern

A matter of great concern to the Council is that it has recently been discovered that in a number of instances not all the directors of companies and members of close corporations are registered as required by section 8 of the Act. New directors or members are also not always registering. In some instances it has also been discovered that whilst persons registered as sole proprietors, they are in actual fact doing business as close corporations. It has also come to the Council's attention that employers do not register all staff members who are involved in debt collecting. The Council views the above in a very serious light and action is being taken against those involved.

Conclusion

The staff would like to thank the large number of debt collectors for the co-operation we receive from them. They not only make the task of the staff easier but also assist the Council in not having to spend of its funds and time on matters which can be avoided if everybody co-operates and complies with the Act and Regulations. We also take this opportunity to wish all debt collectors a very happy and prosperous 2006.

Thought for the year

A great woman once said:

“Every new day has its own destination and every new day has its own new opportunities, and it is up to each and every one of us to make today's achievement a significant meaning in our lives”.