



**LAW SOCIETY**  
OF SOUTH AFRICA

**PRESS RELEASE**

**1 March 2013: For immediate release**

**LAW SOCIETY CONDEMNS ABUSE OF GARNISHEE SYSTEM**

'The Law Society of South Africa (LSSA) echoes the concern expressed by Finance Minister Pravin Gordhan in the Budget Speech regarding the abuse of emolument attachment orders that leave workers without money to live on after they have serviced their debts every month. The LSSA condemns any unscrupulous abuse, exploitation and maladministration of the garnishee order system by collection practitioners,' say LSSA Co-Chairpersons Jan Stemmett and Krish Govender.

Collection attorneys work within the regulatory framework provided by the current legislation. Mr Stemmett and Mr Govender stress that the statutory provincial law societies do not hesitate to investigate complaints from the public regarding attorneys that are alleged to be involved in the exploitation of the system, and any attorney found to have abused the processes could face severe sanctions.

The LSSA recognises the severe impact of the abuse of emoluments attachment orders, particular in the low income earning sector of our society. A number of factors contribute to this problem and these include:

- the recklessness with which credit is granted in certain instances,
- the unscrupulous methods adopted by some debt recovery practitioners in securing signatures to written consents to the granting of garnishee orders for amounts which leave little to no income for the debtor employees,
- lack of knowledge and training of the clerks of the courts to pick up abuse and refuse to grant such orders, and
- the legislation which allows for the obtaining of garnishee orders without judicial oversight as well as punitive interest rates and the recovery of excessive legal costs and collection commission.

The LSSA points out that criticism against the law societies for failing to address the problem and allowing the problem to worsen is seriously misplaced. The responsibility to review the credit industry and the relevant legislation lies with the legislature. Current legislation needs to be amended to allow garnishee orders to be issued only with proper judicial oversight. 'The courts must interrogate debtors, applicants and their attorneys

before granting emolument attachment orders. The system is open to abuse because the law is weak,' say Mr Govender and Mr Stemmett.

The LSSA is one of the stakeholders participating actively in the joint task team chaired by Credit Ombud, Manie van Schalkwyk, which will develop a code of conduct in relation to debt recovery. In the meantime, the Department of Justice and Constitutional Development recently sent draft legislation to address this issue and has called for comments on the draft amendments by 26 March 2013. The LSSA will submit its comments accordingly.

The LSSA urges that, if a member of the public suspects that an attorney is abusing the debt-collection process, a complaint be lodged with the relevant provincial law society.

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***ISSUED ON BEHALF OF THE CO-CHAIRPERSONS OF THE LAW SOCIETY OF SOUTH AFRICA, KRISH GOVENDER AND JAN STEMMETT***

by Barbara Whittle

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**Editor's note:**

The Law Society of South Africa brings together its six constituent members – the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces, the Black Lawyers Association and the National Association of Democratic Lawyers – in representing South Africa's 21 400 attorneys and 5 800 candidate attorneys.