GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 816 **27 JULY 2020**

DIRECTIONS REGARDING AUCTIONS AND SALES IN EXECUTION CONDUCTED BY SHERIFFS OF THE COURT

I, Ronald Ozzy Lamola, Minister of Justice and Correctional Services, hereby issue the Directions set out in the Schedule in terms of regulation 4(10) read with regulation 37(1)(*h*) of the Regulations issued by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), and published in Government Notice No. R. 480 of 29 April 2020, as amended by Government Notice No. R. 608 of 28 May 2020, Government Notice No. R. 714 of 25 June 2020 and Government Notice No. R. 763 of 12 July 2020.

RO LAMOLA, MP
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES
DATE: 23 July 2020

SCHEDULE

1. Definitions

In these Directions any word or expression to which a meaning has been assigned in the Regulations bears the meaning so assigned and unless the context otherwise indicates—

"designated area" means an indoor or outdoor area designated by the sheriff to hold a sale in execution for movable and immovable property;

"Disaster Management Act" means the Disaster Management Act, 2002 (Act No. 57 of 2002);

"employee" means an employee of a sheriff;

"Magistrates' Courts Rules" means the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa issued in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985) and published on 23 August 2010 in Government Notice No. R. 740 of Government *Gazette* No. 33487;

"Regulations" means the Regulations issued in terms of section 27(2) of the Disaster Management Act and published on 29 April 2020 in Government Notice No. R.480 of Government *Gazette* No. 43258 as amended;

"sale in execution" means the sale of property of a judgment or execution debtor by a sheriff by public auction pursuant to attachment of such property by the sheriff in terms of a warrant of execution issued by the registrar or clerk of a court;

"sheriff" means a person appointed in terms of section 2 of the Sheriffs Act, 1986 (Act No. 90 of 1986), and includes—

(a) an acting sheriff appointed in terms of sections 5 of the said Act;

(b) a deputy sheriff appointed in terms of section 6 of the said Act;

"Uniform Rules of Court" means the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa issued in terms of section 43(2)*(a)* of the Supreme Court Act, 1959 (Act No. 59 of 1959) and published on 12 January 1965 in Government Notice No. R. 48 of Government *Gazette* No. 999.

2. Purpose

The purpose of these Directions is to regulate sales in execution conducted by sheriffs as allowed by the Regulations.

3. Application

These Directions apply to sales in execution conducted by a sheriff in terms of the Magistrates' Courts Rules and the Uniform Rules of Court, read with section 45 of the Consumer Protection Act, 2008 (Act No. 68 of 2008) and its regulations, which must be complied with by all persons participating in such sales in execution.

4. Conditions for conduct of sales in execution

4.1 No persons other than a sheriff or employees, and a bidder registered by a sheriff, shall be permitted to be present at a sale in execution.

4.2 The number of persons permitted to be present in the designated area shall not, at any time, before or during the sale in execution, exceed 50: Provided that the sheriff may—

(a) limit the number of persons entering the designated area to less than 50 persons, based on the floor space of the designated area to ensure compliance with the requirement relating to physical distancing of 1.5 metres between persons;

(b) direct that the number of persons in the designated area be reduced to comply with safety measures and physical distancing requirements; and

(c) refuse entry into the designated area to any person who, in the 14 days before the date of the sale in execution, has been in contact with, or exposed to, another person who has tested positive for COVID-19, until such person seeking entry has tested negative.

4.3 In the event that the sale in execution is conducted indoors, the sheriff shall ensure that it is conducted in a well-ventilated space.

4.4 A sheriff who conducts a sale in execution must—

(a) clearly display signage at the designated area to inform attendees of the risks associated with COVID-19 and the compulsory measures required to mitigate such risks;

(b) ensure that the safety measures prescribed in these Directions are put in place and are observed by attendees;

(c) screen all attendees and employees, including, but not limited to, taking the person's temperature, before permitting access to the designated area and refer any attendee or employee that shows any symptoms of COVID-19, for testing by the relevant authorities;

(d) deny entry to the designated area to any attendee or employee who shows any symptoms of COVID-19;

(e) keep a register of all attendees, including employees, which register shall include the identity number, physical address and telephone number of every person who enters the designated area;

(f) ensure that physical distancing of 1,5 metres between persons at the designated area is strictly adhered to;

(g) ensure that goods offered for sale are sanitised;

(h) ensure that attendees sanitise their hands before and after examining goods for sale, in instances where examination is necessary;

(i) ensure compliance with health protocols by—

(i) providing hand sanitisers which must be strategically placed outside and within the designated area;

(ii) ensuring that all attendees and employees sanitise their hands at the entrance to the designated area;

(iii) ensuring that physical distancing of 1,5 metres between all attendees at a sale in execution is maintained for its entire duration;

(iv) ensuring that all employees and attendees wear a cloth face mask, homemade item, or another appropriate item that covers the nose and mouth; and

(v) ensuring that the designated area is cleaned before and after a sale in execution.

4.5 Any person who refuses or fails to comply with these Directions must be refused entry to the designated area, or must be removed from the designated area.

5. **Commencement**

These Directions come into effect on the date of publication in the Government *Gazette*.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 816 **27 JULIE 2020**

VOORSKRIFTE AANGAANDE VEILINGS EN UITWINNINGSVERKOPINGS DEUR BALJU'S VAN DIE HOF GEHOU

Ek, Ronald Ozzy Lamola, Minister van Justisie en Korrektiewe Dienste, reik hierby die Voorskrifte luidens die Bylae uit ingevolge regulasie 4(10) gelees met regulasie 37(1)*(h)* van die Regulasies uitgereik deur die Minister van Samewerkende Regering en Tradisionele Sake ingevolge artikel 27(2) van die Wet op Rampbestuur, 2002 (Wet No. 57 van 2002), en afgekondig in Goewermentskennisgewing No. R. 480 van 29 April 2020, soos gewysig deur Goewermentskennisgewing No. R. 608 van 28 Mei 2020, Goewermentskennisgewing No. R. 714 van 25 Junie 2020 en Goewermentskennisgewing No. R. 763 van 12 Julie 2020.

R O LAMOLA, LP
MINISTER VAN JUSTISIE EN KORREKTIEWE DIENSTE
DATUM:

BYLAE

1. **Woordomskrywing**

In hierdie Voorskrifte het enige woord of uitdrukking waaraan ’n betekenis in die Regulasies toegeskryf is, daardie betekenis en tensy dit uit die samehang anders blyk, beteken—

“aangewese area” ’n binnenshuise of buitenshuise area deur die balju aangewys om ’n uitwinningsverkoping vir roerende en onroerende goed te hou;

“balju” iemand ingevolge artikel 2 van die Wet op Balju’s, 1986 (Wet No. 90 van 1986) aangestel en ook—

(a) ’n waarnemende balju ingevolge artikel 5 van die genoemde Wet aangestel;

(b) ’n adjunkbalju ingevolge artikel 6 van die genoemde Wet aangestel;

“Eenvormige Hofreëls” die Reëls waarby die verrigtinge van die verskillende Provinsiale en Plaaslike Afdelings van die Hoë Hof van Suid-Afrika gereël word, uitgereik ingevolge artikel 43(2)*(a)* van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), en afgekondig op 12 Januarie 1965 in Goewermentskennisgewing No. R. 48 van *Staatskoerant* No. 999;

“Landdroshofreëls” die Reëls waarby die voer van die verrigtinge van die Landdroshowe van Suid-Afrika gereël word, uitgereik ingevolge artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), en op 23 Augustus 2010 in Goewermentskennisgewing No. R. 740 van *Staatskoerant* No. 33487 gepubliseer;

“Regulasies” die Regulasies uitgereik ingevolge artikel 27(2) van die Wet op Rampbestuur en op 29 April 2020 in Goewermentskennisgewing No. 43258 afgekondig, soos gewysig;

“uitwinningsverkoping” die verkoop van eiendom van ’n vonnis- of uitwinningskuldenaar deur ’n balju in openbare veiling ingevolge beslaglegging op daardie eiendom deur die balju ingevolge ’n uitwinningslasbrief deur die griffier of hofklerk uitgereik;

“werknemer” ’n werknemer van ’n balju;

“Wet op Rampbestuur” die Wet op Rampbestuur, 2002 (Wet No. 57 van 2002).

2. **Doel**

Die doel van hierdie Voorskrifte is om uitwinningsverkopings gehou deur balju’s soos deur die Regulasies toegelaat, te reël.

3. **Toepassing**

Hierdie Voorskrifte is van toepassing op uitwinningsverkopings gehou deur ’n balju ingevolge die Landdroshofreëls en die Eenvormige Hofreëls, saamgelees met artikel 45 van die “Consumer Protection Act, 2008” (Wet No. 68 van 2008) en die regulasies daarby, wat alle persone wat aan sodanige uitwinningsverkopings deelneem, moet nakom.

4. **Voorwaardes vir hou van uitwinningsverkopings**

4.1 Geen persone behalwe ’n balju of werknemers en ’n bieër deur ’n balju geregistreer, word toegelaat om by ’n uitwinningsverkoping teenwoordig te wees nie.

4.2 Die getal persone toegelaat om in die aangewese area teenwoordig te wees, mag nie te eniger tyd voor of tydens die uitwinningsverkoping meer as 50 wees nie: Met dien verstande dat die balju—

(a) die getal persone wat die aangewese area binnekom tot minder as 50 persone mag beperk, gebaseer op die vloerspasie van die aangewese area om voldoening aan die vereiste oor fisieke distansiëring van 1,5 meter tussen persone te verseker;

(b) mag gelas dat die getal persone in die aangewese area verminder word ten einde te voldoen aan veiligheidsmaatreëls en vereistes vir fisieke distansiëring; en

(c) mag toegang tot die aangewese gebied weier vir enige persoon wat, in die 14 dae voor die datum van die uitwinningsverkoping, in kontak was met, of blootgestel is aan, iemand anders wat positief vir COVID-19 getoets het, totdat daardie persoon wat toegelaat wil word negatief getoets het.

4.3 Indien die uitwinningsverkoping binnenshuis gehou word, moet die balju verseker dat dit in 'n goed geventileerde ruimte gehou word.

4.4 'n Balju wat 'n uitwinningsverkoping hou—

(a) moet duidelike aanwysings by die aangewese area opsit om aanwesiges in te lig oor die risiko's wat met COVID-19 gepaard gaan en die verpligte maatreëls wat vereis word om daardie risiko's te verminder;

(b) moet verseker dat die veiligheidsmaatreëls in hierdie Voorskrifte voorgeskryf in plek gestel is en deur aanwesiges nagekom word;

(c) moet alle aanwesiges en werknemers aan sifting onderwerp, met inbegrip van, maar nie beperk nie tot, die neem van persone se temperatuur, voordat hulle in die aangewese gebied toegelaat word en enige aanwesige of werknemer wat enige simptome van COVID-19 toon, vir toetsing deur die tersaaklike owerhede verwys;

(d) moet toegang tot die aangewese area weier aan enige aanwesige of werknemer wat enige simptome van COVID-19 toon;

(e) moet 'n register hou van alle aanwesiges, met inbegrip van werknemers, welke register die identiteitsnommer, fisieke adres en telefoonnommer van elke persoon wat die aangewese gebied betree, moet bevat;

(f) moet verseker dat streng voldoen word aan fisieke distansiëring van 1,5 meter tussen persone in die aangewese area;

(g) moet verseker dat goedere wat te koop aangebied word, ontsmet is;

(h) moet verseker dat aanwesiges hulle hande ontsmet voordat en nadat hulle goedere wat te koop is, bestudeer, in gevalle waar bestudering nodig is;

(i) moet voldoening aan gesondheidsprotokolle verseker—

(i) deur handontsmettingsmiddels te voorsien wat strategies buite en binne die aangewese area geplaas moet word;

(ii) deur te verseker dat alle aanwesiges en werknemers hulle hande by die ingang tot die aangewese area ontsmet;

(iii) deur te verseker dat fisieke distansiëring van 1,5 meter tussen alle aanwesiges by 'n uitwinningsverkoping vir die duur daarvan gehandhaaf word;

(iv) deur te verseker dat alle werknemers en aanwesiges 'n lapgesigmasker, tuisgemaakte item of ander gepaste item dra wat die neus en mond bedek; en

(v) deur te verseker dat die aangewese gebied voor en ná die uitwinningsverkoping skoongemaak word.

4.5 Enige persoon wat weier om aan hierdie Voorskrifte te voldoen, moet toegang tot die aangewese area geweier word, of moet uit die aangewese area verwyder word.

5. **Inwerkingtreding**

Hierdie Voorskrifte tree in werking op datum van publikasie in die *Staatskoerant*.

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