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CONTRIBUTORS

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CONTRIBUTORS

- S. Ismail
- J. Fourie (Senior)
- R Schilz
- Mrs. M. de Kock
- J. Fourie (Junior)
- R. Maree
- N. Govender
- I. Mahomed
- C. De Wet

DESIGN AND DEVELOPMENT TEAM:

- Moderator : Mrs. C. Adams
- Instructional Designer : P. Mahlangu
- Editor : Mrs. T. Forbay
- Graphic Design : Mrs. P. Phetla

PREFACE

Module: SECTION 65: WARRANT OF ARREST

LEARNING OUTCOME

1. WELCOME
2. PURPOSE
3. DESIGN OF THE MATERIAL
4. SUBJECT CONTENT
5. CRITICAL OUTCOMES
6. MODULE LAYOUT
7. GRAPHIC ILLUSTRATIONS AND ICONS

REFLECTION

REFERENCES

LEARNING OUTCOME

After studying this module, you should be able to:

- Apply the prescribed arrest procedures

1. WELCOME

Welcome to Module 7: Section 65 procedures: Warrant of Arrest.

This guide covers warrant of arrest performed by sheriffs. We trust you will find working through the guide a learning experience that is very interesting and rewarding, and that it will add value not only to your studies but also to your personal life in general.

We believe in the importance of developing a culture of learning and are therefore committed to helping you develop your capacity to perform to the best of your potential and to become not only a successful sheriff, but also an independent life-long learner.

In terms of the Autonomy of your learning, the facilitator expects of you to:

- Take personal responsibility and initiative
- Learn within a structured environment
- Critically evaluate your own performance against set criteria
- Identify your own learning needs within defined contexts

2. PURPOSE

The information in this guide reflects the need of the sheriffing community for competencies that will enable the learner to take responsibility for the serving of documents and execution of judgements within the legal framework within which they operate. In addition, it will improve the quality with which sheriffs' duties are exercised and enhance the professional image of the sheriffing community while contributing towards greater confidence in the sheriffs' profession as a core part of the civil justice system.

This course provides learners with opportunities for professional development as a law enforcement officer or as a sheriff.

3. DESIGN OF THE MATERIAL

We followed an outcomes-based approach during the design of this module, which means that, after having worked systematically through the module — doing what is required — you will have achieved some very specific learning outcomes determined by the industry of the sheriff.

These learning outcomes have been broken down into smaller chunks that we call assessment criteria. These appear in the introduction of each module or unit. If you focus on achieving these criteria, you will achieve success.

4. SUBJECT CONTENT

The content is divided into various sections.

Once you have worked through all the sections you will be able to:

- Identify the applicable sources
- Outline the prescribed arrest procedures
- Render a return in respect of actions taken accompanied by an applicable account

The sum of the above assessment criteria will be equal to the learning outcome.

The content of this module was put together specifically to guide you through the assessment activities. Do put in the extra effort to consult other sources. You will reap the benefits.

5. CRITICAL OUTCOMES

Other crucial outcomes, you also have to achieve, are those we refer to as critical outcomes. These are the outcomes that will help you develop as life-long learners in your studies, work and personal lives. The critical outcomes are summarised as follows:

- 5.1 Identifying and solving problems in which responses display that responsible decisions, using critical and creative thinking, have been made during the:
- performance of the duty of service
 - utilization of the various manners of service
- 5.2 Working effectively with others as a member of a team or group or organisation or community by:
- liaising and establishing relationships with stakeholders and community members
- 5.3 Organising and managing oneself and one's activities responsibly and effectively by:
- following processes, procedures and protocols
- 6.4 Collecting, analysing, organising and critically evaluating information to better understand and explain when:
- gathering information and undertaking research
 - applying relevant laws
- 5.5 Communicating effectively using visual, mathematical and/or language skills in the modes of oral and/or written persuasion when:
- Generating documents
 - Communicating with diverse clients
 - Performing administrative duties
- 5.6 Using science and technology effectively and critically, showing responsibility towards the environment and health of others when:
- sourcing information on legislation, policies and procedures
 - using computers where available
 - distributing and administering reports
- 5.7 Demonstrating an understanding of the world as a set of related systems by recognising that problem-solving contexts do not exist in isolation when:
- distributing and managing information and reports
 - solving complex problems with a number of actors and factors
 - explaining the relationship between stakeholders and sherriffing
 - demonstrating an understanding of cultural diversity in dealing with clients

6. MODULE LAYOUT

Each module comprises the following sections:

- **An introduction**

This serves as an orientation on the particular theme of the module.

- **Assessment activities**

A number of assessment activities appear in each module. These activities were designed for evaluation purposes and form part of the learning and teaching strategy. They will assist you to monitor your own progress in achieving the stated outcomes.

The assessment activities will help you to:

- focus on the subject matter
- measure whether and/or to what extent learning outcomes and objectives have been achieved
- measure whether and/or to what extent knowledge, skills, values and attitudes are understood and applied
- present ideas and information in an appropriate format
- stimulate your thinking
- summarise the content

- **Content**

Guides you through the prescribed and recommended material for the subject, and gives explanations of specific concepts and terms that are complex.

- **Reflection**

Here a summary or conclusion to each module is provided.

- **References**

A record of all material and sources that were used during the development of the module appears here. Feel free to consult these sources as well as other relevant sources.

You will be required to engage actively with the content of all material and to record the answers to activities.

Each module begins with the learning outcome and ends with a conclusion. Remember to also consider the assessment criteria as you work through the module and make sure that you reach these.

7. GRAPHIC ILLUSTRATIONS AND ICONS

Where possible, we have included graphic illustrations, mind maps, tables and diagrams to assist you in your learning. We have also highlighted the meaning of certain concepts through the use of specific symbols called icons. The purpose of these icons is to emphasise and draw your attention to important aspects of the work and to highlight activities. The various icons have the following meaning:



Example: This indicates that an example has been given in the text to help you understand the point made, solve similar problems or clear up uncertainties.



Activity: This icon indicates that you must perform an activity. This will help you to think about a particular aspect of the work and to apply or practice it. Performing the activities will help you monitor your own progress towards achieving the assessment criteria.



Reference: This icon refers to previous or other study material, cases or sources that relate to the content with which you are busy.



Reflection: This icon indicates an opportunity to reflect whether you have achieved the assessment criteria.



Definitions: This icon indicates that an important explanation or formula is being given. Study the definitions carefully and take care to interpret them correctly, as this will help to keep you on the right track.



Take note: Additional notes are given for further clarification.

NB! Please study these icons carefully and make sure you can apply them effectively.

**REFLECTION
POINT TO PONDER**

You might want to write a short essay about your understanding of Section 65 with particular attention to the arrest procedure.

Please do not hesitate to contact your facilitator if you have any problems regarding the content of the subject.

We hope that you will enjoy the challenge of taking an active part in acquiring new skills through this course. Remember one learns best when one enjoys what one is doing.

Most people, looking at a newly-ploughed field, simply see a barren landscape. To a farmer though, this is a sight full of promise. An artist feels the same way about a blank canvas. A musician gets inspired by the silence of an empty hall. What you've got, at the moment, is the perfect space in which to create something.

We wish you success in your studies.

References

South African Board of Sheriffs Learning Guide. First Edition.
Unisa Print Production. Johannesburg. 2003

Module: SECTION 65 PROCEDURES: WARRANT FOR ARREST**EXPOSITION OF LECTURE****Learning Outcome**

At the end of this module you should be able to:

- Apply the prescribed arrest procedures

Assessment criteria for this module include:

- Identifying the applicable sources
- Outlining the prescribed arrest procedures
- Rendering a return in respect of actions taken accompanied by an applicable account

We will deal with the arrest procedure by identifying the relevant source material; supplying examples of documentation and engaging you by way of activities.

What learning resources do you need?

- This guide
- Legislation
- Magistrate's Court Act 32 of 1944, as amended:

| | |
|---------------------|-------------------|
| Sections of the Act | Section 65A(1) |
| | Section 65A(6) |
| | Section 65A(8) |
| | Section 65A(8)(b) |
| | Section 65A(9)(c) |
| | |
| Rules of the Act | Rule 1(2)(a) |
| | Rule 45(3) |
| | Rule 45(8) |

- Forms Form 40(b)
- Tariff Table C, Part II
- Decisions
- Authors i) Civil Procedure in the Magistrate's Court Service Issue 7, Harms Butterworths
- Robbie Schiltz, De Rebus – October 1998
- Practice (Forms) Form 40(b)
- Returns

INTRODUCTION

In the matter between *Matiso v Commanding Officer, Port Elizabeth Prison* 1995 (4) SA 631 (CC), the Constitutional Court found that the following provisions of the Magistrate's Court Act were inconsistent with the Constitution of South Africa and declared them to be invalid, namely:

- a) The words "why he should not be committed for contempt of court, and" in Section 65A(1);
- b) Sections 65F, 65G and 65H;
- c) Paragraph (a) & (b) of Section 65J(1);
- d) Paragraph (b)(ii) of Section 65J(2);
- e) The following words in paragraph (a) of Section 65J(9) – "(a) or" "and may, subject to the provisions of Section 65G, be committed for contempt of court for failing to comply with the set order";
- f) Paragraph (b) of Section 65J(9);
- g) The following words in Section 65K(2) – "or warrant for the committal of a judgment debtor or a director or an officer of any juristic person or of any sentence imposing a fine on any director or officer presenting a judgment debtor who is a juristic person"; and
- h) Section 65L.

All the other provisions of section 65 to section 65M of the Magistrate's Court Act 32 of 1944, however, remains in force.

As a result of this judgment, the committal or continuing imprisonment of any judgment debtor could be invalid as from 22 September 1995.

On 10 September 1997, with the Magistrate's Court Amendment Act, No 81 of 1997, the procedures in terms of section 65 were implemented with the enactment of applicable rules. This new section 65 had two primary functions, namely :

- To give effect to amendments as a result of the Constitutional Court decision; and
- To ensure that a court has the power to enforce a notice to a judgment debtor to appear in court for an enquiry into his financial affairs.

We have once again two aspects of this act that concern a sheriff, namely:

- Service of a section 65A(1) Notice upon the debtor to appear in court on a certain date; and
- Service and execution of a Warrant for Arrest in terms of section 65A(6).



With reference to the Warrant for Arrest, there are once again two aspects that arise, namely:

- Service of the Warrant of Arrest, or
- Written notice in terms of section 65A(8)(b) to appear in court as a result of the issued Warrant of Arrest.

Execution of the Warrant implies two actions, namely:

- Service thereof; and
- Arrest by virtue thereof.

Service of the Warrant of Arrest, plus the process of arrest, once again addresses two scenarios.

The arrested or defendant could be handed to:

- The court; or
- A police station pending his appearance before a committed court.

Let us examine all the relevant statutes and rules more closely.

Analysis of the applicable Acts and Rules

Section 65A(1)(a) “

65A. Notice to judgment debtor if judgment remains unsatisfied. –

(1)(a) If a court has given judgment for the payment of a sum of money or has ordered the payment in specified instalments or otherwise of such an amount, and such judgment or order has remained unsatisfied for a period of 10 days from the date on which it was given or on which such an amount became payable or from the expiry of the period of suspension ordered in terms of section 48(e), as the case may be, the judgment creditor may issue, from the court of the district in which the judgment debtor resides, carries on business or is employed, or if the judgment debtor is a juristic person, from the court of the district in which the registered office or main place of business of the juristic person is situated, a notice calling upon the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person as representative of the juristic person and in his or her personal capacity, to appear before the court in chambers on a date specified in such notice in order to enable the court to inquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

Section 65A(6)

- (6) If the court is satisfied on the ground of sufficient proof or otherwise-
- (a) that the judgment debtor, director or officer concerned has knowledge of a notice referred to in subsection (1) and that he or she has failed to appear before the court and on the date and at the time specified in the notice ;
 - (b) that the judgment debtor, director or officer concerned, in the case where the relevant proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or
 - (c) that the judgment debtor, director or officer concerned has failed to remain in attendance at the relevant proceedings or at the proceedings as so postponed, the court may, at the request of the judgment creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest the said judgment

debtor, director or officer and to bring him or her before a competent court at the earliest possible opportunity in order to enable that court to conduct an inquiry referred to in subsection (1).

[Subsection (6) added to section 3(d) of Act 81 of 1997.]

Section 65A(8)(a)

(8)(a) Any person arrested under a warrant referred to in subsection (6) shall, in accordance with section 35(1)(d) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), be brought as soon as reasonably possible before the court within the district of which that person was arrested: Provided that any such person, if it is not possible to bring him or her before the court concerned, may be detained at any police station pending his or her appearance before that court.

Section 65A(8)(b)

(8)(b) In lieu of arresting a person contemplated in paragraph (a), the sheriff may, if the judgment creditor or his or her attorney consents thereto, hand to that person a notice in writing which –

- (i) specifies the name, the residential address and the occupation or status of that person;
- (ii) calls upon that person to appear before the court and on the date and at the time specified in the notice; and
- (iii) contains a certificate signed by the sheriff to the effect that he or she has handed the original of the notice to that person and that he or she has explained to that person the import thereof.

Section 65A(9)(c)

(9)(c) wilfully fails to remain in attendance at the relevant proceedings or at the proceedings as so postponed, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months.

[Subsection (9) added by section 3(d) of Act 81 of 1997.]



ACTIVITY 1

1. A Sheriff receives a Warrant of Arrest with the following instructions in the accompanying cover letter:

“... a Warrant of Arrest annexed herewith. The debtor is a very shrewd fraudster and would apparently only be found over weekends at his girlfriend, at the address indicated, after 11 o'clock in the evenings ”.

Seeing that the debtor owes R30 000.00 as a result of the debtor’s actions, the plaintiff finds himself in a difficult situation and is therefore eager to try and collect as much money as possible. If the debtor were to pay at least R10 000.00 of the debt, the Warrant of Arrest could be suspended.

May the sheriff act according to these instructions? If not, why not?

If a defendant fails to appear before court on a certain date postponed date, or as a result of a notice in terms of section 65(8)(b), it can necessitate that a Warrant for Arrest be executed against a defendant. This failure is a criminal offence which must be adjudicated according to section 65(9). The Warrant for Arrest may not be suspended by the mandator. The mandator may, however, agree that the defendant may appear before court in terms

of a warning so that the execution of the warrant may be amended. It however can not be stayed.

Due notice must be taken that a Warrant for Arrest may not be used as a blackmail instrument and may not be used to enforce payments. Only a court may suspend the punishment as set out in section 65A(9) to support a section 65 Order, made on the same day to promote or support such order.

A sheriff may not be requested or ordered to suspend a Warrant for Arrest on receipt of payment of a certain amount. The arrest warrant is a method to bring a defendant before court for a deemed offence and is not a manner to enforce payment of a debt. Any form of threat is unlawful. An instruction of a mandator to arrest a defendant on a certain period of time, with the result that the defendant has to be in custody of, for instance, a police station for a night or weekend, must be treated with great caution, unless very good written reasons are supplied by the mandator. In this regard, a history of contempt of civil court orders, a previous order or that the defendant could only be found from time to time, after hours at a certain address without having another fixed place of work or residence. The sheriff must also consider whether the instruction to arrest the defendant after hours, is reasonable and whether it is just a form of threat or a manifestation of a personal vendetta.

Sheriffs must also take note that after a defendant was handed to the police station or the court, his function has been completed. Handing the defendant to the court is done by placing the defendant in the custody of the court orderly. The sheriff is thereafter* functus officio and the relevant police station or court orderly must see that the defendant is brought before court. The court will then order how the court orderly must deal with the defendant.

Kindly take note that the original Warrant must be handed to the relevant police officer or court orderly. Mandators, police station commanders or courts can not expect the sheriff to keep the defendant in custody in the passages of courts, until the matter is called. This is not the duty of the sheriff.



ACTIVITY 2

The sheriff finds the debtor as indicated by the Plaintiff at 11 o'clock on a Saturday night. The debtor does not want to leave the company of his girlfriend. He has R25 000.00 and wants to pay the sheriff this amount immediately in order to avoid arrest. He offers to pay the balance of R5 000.00 the following week. May the sheriff accept the money and suspend the Warrant until he has collected the R5 000.00 balance? If not, why not?

Rule 1(2)(a)

1(2)(a) With the exception of forms 2, 3, 5A and 5B which shall in all respects conform to the specimens, the forms contained in Annexure 1 may be used with such variation as circumstances require. Non-compliance with this rule shall not in itself be a ground for exception but at any court in which a machine has been installed for the purpose of facilitating the issue of summonses, the clerk of the court may refuse to issue any summons purporting to be in the form of form 2 or 3 but which does not comply with the prescribed requirements or to comply with a request contained in form 5A or 5B.

[Paragraph (a) amended by GN R2222 of 1978.]

Rule 45(8)

installed for the purpose of facilitating the issue of summonses, the clerk of the court may refuse to issue any summons purporting to be in the form of form 2 or 3 but which does not comply with the prescribed requirements or to comply with a request contained in form 5A or 5B.

[Paragraph (a) amended by GN R2222 of 1978.]

Rule 45(8)

45(8) *A warrant in terms of section 65A (6) of the Act shall be as near as may be in accordance with Form 40A in Annexure 1 of the Rules.*

[Subrule (8) inserted by GN R910 of 1998.]

**ACTIVITY 3**

Find the differences, No 2.

Identify the differences between the prescribed Warning Notice to Appear and the Notice adjusted by demand of practice. (See annexure 2.1 & 2.2

The following differences ought to be identified:

1. The logo of the S A Institute for Sheriffs appears on the forms;
2. The notice is bilingual;
3. The address particulars include the work address;
4. An explicit warning that a Warrant of Arrest has already been authorised; and
5. Particular court of appearance is indicated

Why is the form adjusted?

- In order to appear more official ;
- Bilingualism will hopefully ensure that the defendant realises the seriousness of the matter and to bring the legal process more in line with the Constitution;
- An explicit warning that the Warrant of Arrest is already authorised ensuring that the seriousness of the matter is realised;

- By referring the defendant to a particular court, the process is hopefully made more user-friendly, thus trying to counter the public's negative perception towards the sheriff and even the legal process; and
- To project a professional image.

A large, empty rectangular box with rounded corners and a horizontal gradient at the top, intended for notes or additional information.

Rendering of an applicable return and account

The sheriff has arrested a debtor. An applicable and proper return ought to be rendered. (Annexure 1.1)

The sheriff may have served a notice of warning upon the defendant. In this regard, the sheriff is naturally also compelled to render a return. (Annexure 2.1)

Of course, it will be necessary for a sheriff to render an account as his services cannot be rendered free of charge. Look at Annexures 1.1 and 1.2.

CONCLUSION

The process as set out above could be summarised as follows.

a) **Warrant for Arrest**

A competent court may authorise the issue of a Warrant for Arrest for a judgment debtor if the court is satisfied:

- i) That the judgment debtor, director or officer concerned with knowledge of a section 65A(i) notice has failed to appear on a certain date and time as specified, before the court;
- ii) That a judgment debtor, director or officer concerned, after proceedings were postponed by the court in his presence to another date, and who has failed to appear; or
- iii) The judgment debtor, director or officer concerned has failed to remain in attendance at the relevant proceedings or postponed proceedings.

The Warrant for Arrest must be executed by a sheriff, after it has been prepared and signed by the judgment creditor or attorney and may be as near as may, in accordance with Form 40A in Annexure A of the Rules.

It is imperative for the clerk of the court to sign the warrant.

b) **Appearance after arrest**

An arrested person must be brought before the court as soon as possible. If it is not possible to bring the arrested person before a court, he may be detained at any police station, pending appearance before the court.

c) **Alternative to arrest**

The judgment creditor or his attorney may consent and allowing that a sheriff may hand a notice to the person in question, which:

- i) specifies the name, the residential address and the occupation or status of the person;

- ii) requires from that person to appear before court on a certain date and time; and
- iii) contains a certificate signed by the sheriff, stating that he has handed the original of the notice to the person after explaining the importance thereof.

d) Offence and punishment

Any person who:

- 1) is called upon to appear before court under a notice referred to in section 65A(i) and section 65A(8)(b) and who willfully fails to appear before the court;
 - 2) in the case where the relevant proceedings were postponed in his presence to a date and time determined by the court and who willfully fails to appear on such a date;
 - 3) willfully fails to remain in attendance at the proceedings or at the postponed proceedings, is guilty of an offence punishable by a fine or imprisonment for three months or less, upon conviction.
- e) Compulsory warning, summary enquiry and enquiry into financial affairs

A judgment debtor who appears before court, may be informed by the court:

- 1) that a court intends to inquire in a summary manner into his alleged failure to appear before the court on a certain date as specified in a section 65A(i) notice or a section 65A(8)(b) notice, or to appear in the case where the relevant proceedings were postponed in his presence by the court on a certain date, or to remain in attendance at the relevant proceedings or at the proceedings as so postponed, as the case may be;
- 2) that the court, after conviction may imprison the person who appeared for up to three months; and
- 3) that the judgment debtor has the right to choose and be represented by a legal practitioner.

After this enquiry, the court may proceed with an enquiry into the financial affairs of the judgment debtor.

ANNEXURE 1

MAGISTRATE'S COURT FOR THE DISTRICT OF BLOEMFONTEIN
Held at BLOEMFONTEIN

Case no. 17424/03

In the matter between:

HONEY ATTORNEYS

Judgment Creditor

and

E H LOUBSER

Judgment Debtor

Return in accordance with the provisions of the Magistrate's Court Act 32 of 1944, as amended

On this 12th day of JUNE 2003 at 11:46 I served this WARRANT FOR ARREST upon E H LOUBSER personally at 8 EUGENE VAN RENSBURG STREET, LANGENHOVENPARK, BLOEMFONTEIN by handing to the abovementioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 9(3)(a) / RULE 64(3).

Subsequently, I arrested Mr. Loubser and accompanied him to the Magistrate's Office, Bloemfontein where and on 12 June 2003 at 12:00 handed him over to Mr. M Pieterse, court ordinance, together with the original WARRANT FOR ARREST.

H A KRUGER
DEPUTY SHERIFF

SECTION 65 PROCEDURES: WARRANT OF ARREST

| INVOICE NO. 452550 | Description |
|---------------------------|--------------------------|
| | EXECUTION 30.00 |
| | ARREST 15.00 |
| | CONVEYING TO COURT 15.00 |
| | REGISTRATION 3.75 |
| | RETURN 7.50 |
| | SUBTOTAL 71.25 |
| | VAT 9.98 |
| | TOTAL 81.23 |

ANNEXURE 2

MAGISTRATE'S COURT FOR THE DISTRICT OF BLOEMFONTEIN
Held at BLOEMFONTEIN

Case no. 17424/03

In the matter between:

HONEY ATTORNEYS

Judgment Creditor

and

E H LOUBSER

Judgment Debtor

Return in accordance with the provisions of the Magistrate's Court Act
32 of 1944, as amended

On this 12th day of JUNE 2003 at 11:46 I served this NOTICE IN TERMS OF SECTION 65A(8)(b) upon E H LOUBSER personally at 8 EUGENE VAN RENSBURG STREET, LANGENHOVENPARK, BLOEMFONTEIN by handing to the abovementioned a copy thereof after exhibiting the original and explaining the nature and exigency of the said process. RULE 9(3)(a) / RULE 64(3).

Subsequently, I warned Mr. Loubser to appear in the Magistrate's Court, Bloemfontein on 3 JULY 2003 at 14:00, by handing him a copy of a WARNING which was also signed by aforementioned. A copy of the WARNING is annexed hereto.

H A KRUGER
DEPUTY SHERIFF

SECTION 65 PROCEDURES: WARRANT OF ARREST

| | | |
|----------------------------|--------------------|--------------|
| IINVOICE NO. 452550 | Description | |
| | EXECUTION | 30.00 |
| | WARNING | 6.50 |
| | REGISTRATION | 3.75 |
| | RETURN | 15.00 |
| | SUBTOTAL | 47.75 |
| | VAT | 6.69 |
| | TOTAL | 54.43 |
| | TOTAL | 54.43 |

ANNEXURE 3



IN DIE LANDDROSHOF VIR DIE DISTRIK VAN BLOEMFONTEIN GEHOU TE
BLOEMFONTEIN IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF
BLOEMFONTEIN HELD AT BLOEMFONTEIN

Saaknommer: _____

Case number: _____

In die saak tussen / In the matter between:

VONNISSKULDEISER
JUDGEMENT CREDITOR

.....
en/and

VONNISSKULDENAAR
JUDGEMENT DEBTOR

.....

Aan/to:.....(Naam/Name)

.....
(Woonadres en/of werksadres)/
(Residential and/or work address)

.....

.....

Beroep/Occupation/Status)

| | |
|---|--|
| KENNISGEWING OM IN DIE HOF TE VERSKYN KRAGTENS ARTIKEL 65A(8)(b) VAN DIE WET OP LANDDROSHOWE (WET NO. 32 VAN 1944) | NOTICE TO APPEAR IN COURT IN TERMS OF SECTION 65(A)(8)(b) OF THE MAGISTRATE'S COURTS ACT (ACT 32 OF 1944) |
|---|--|

SECTION 65 PROCEDURES: WARRANT OF ARREST

| | |
|---|---|
| <p>WAARSKUWING</p> <p>Lasbrief vir Arres reeds gemagtig.</p> <p>Neem kennis dat u hierby aangesê word om op (datum) om 08:30 in Hof 34, Landdroshof, Bloemfontein te verskyn ten einde die hof in staat te stel om ondersoek in te stel na u/die regspersoon se finansiële toestand ingevolge artikel 65D van die Wet.</p> <p>KENNISGEWING</p> <p>Indien u opsetlik sou versuim om op gemelde datum, tyd en plek voor gemelde hof te verskyn of by die verrigtinge teenwoordig te bly, is u skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie (3) maande [Artikel 65A(9) van Wet 32 van 1944, soos gewysig].</p> | <p>WARNING</p> <p>Warrant for Arrest already authorised.</p> <p>You are hereby required to appear before the court on (date) at 08:30 at Court 34, Magistrate's Court, Bloemfontein to enable the court to inquire into your/the juristic person's financial position in terms of Section 65D of the Act</p> <p>NOTICE</p> <p>Should you wilfully fail to appear before the said court on the said date and at the said time, or fail to remain present at the proceedings concerned, you will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three (3) months. [Section 65A(9) of Act 32 of 1944 as amended].</p> |
|---|---|

Geteken te op hierdie dag van 2003.

Signed at on this day of 2003.

Duplikaat van die oorspronklike aan die Klerk van die Hof / Duplicate original to the Clerk of the Court

**pp BALJU, BFN-WES/
SHERIFF, BFN-WEST
DERDESTRAAT 6(a)/
6(a) THIRD STREET**

**pp VONNISSKULDENAAR/
JUDGEMENT DEBTOR**

ANNEXURE 4

No. 40B – Notice to appear in court in terms of section 65A(8)(b)

In the Magistrate's Court for the District of _____

held at _____

Case No. _____ of _____

In the matter between:

_____ Judgment Creditor

and

_____ Judgment Debtor

To: _____ (Name)

_____ (Residential address)

_____ (Occupation / Status)

You are hereby required to appear before the court at _____ (place) on _____ (date) at _____ (time) to enable the court to inquire into your / the juristic person's financial position in terms of section 65D of the Act

Notice:

Should you wilfully fail to appear before the said court on the said date and at the said time, or fail to remain present at the proceedings concerned, you will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act]

Dated at _____ this _____ day of _____

Sheriff of

CERTIFICATE

I, _____ Sheriff / Deputy Sheriff of _____ hereby certify that I have handed the original of this notice to _____ and that I have explained to him/her the importance hereof.

Sheriff of

Duplicate original to the Clerk of the Court _____