

South Africa

Disaster Management Act, 2002

Directions Regarding Auctions and Sales in Execution Conducted by Sheriffs of the Court

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South Africa**Disaster Management Act, 2002****Directions Regarding Auctions and Sales in Execution
Conducted by Sheriffs of the Court****Government Notice R816 of 2020**

Published in [Government Gazette no. 43553](#) on 27 July 2020

Assented to on 23 July 2020

Commenced on 27 July 2020

[Up to date as at 27 July 2020]

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

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*.