



REPUBLIC OF SOUTH AFRICA

No. 38 - Emoluments Attachment Order - Section 65J of the Magistrates' Courts Act 1944 (Act 32 of 1944)

IMPORTANT NOTICE:

YOUR ATTENTION IS DIRECTED to section 65J(3) of the Magistrates' Courts Act, 1944 (read with section 3(1) of the Sheriffs Act, 1986), which provides that only a sheriff may serve this order on a garnishee in the manner prescribed by rule 9 of the Magistrates' Courts Rules. Service of this order by a person who is not a sheriff appointed in terms of section 2 of the Sheriffs Act, 1986, constitutes a criminal offence in terms of section 60(1)(gA) of the Sheriffs Act, 1986, and renders such service invalid and of no effect. A person who is convicted of an offence in terms of section 60(1)(gA) of the Sheriffs Act, 1986, shall be liable to a fine or to imprisonment for a period not exceeding three years or both such fine and such imprisonment.

YOUR ATTENTION IS FURTHER DIRECTED to section 65J(6) of the Magistrates' Courts Act, 1944, which provides as follows:

"If, after the service of such an emoluments attachment order on the garnishee, it is shown that the judgment debtor, after satisfaction of the emoluments attachment order, will not have sufficient means for his or her own and his or her dependants' maintenance, the court shall rescind the emoluments attachment order or amend it in such a way that it will affect only the balance of the emoluments of the judgment debtor over and above such sufficient means."

IN THE MAGISTRATE'S COURT FOR THE DISTRICT/REGION OF

HELD AT CASE NO:

In the matter between

..... Judgment Creditor.

and

..... Judgment Debtor.

.....
.....

..... (Particulars for the identification of the judgment debtor inclusive of his or her identity or work number or date of birth and address).

..... Garnishee

.....

..... Address of garnishee

Whereas it has been made to appear to the above-mentioned Court that emoluments are at present or in future owing or accruing to the judgment debtor by or from the garnishee and that after satisfaction of the following order sufficient means will be left to the judgment debtor to maintain himself or herself and those dependent upon him or her;

It is ordered:

(1) That the said emoluments are attached;

(2) That the garnishee pay to the judgment creditor or his or her attorney on the day of each and every month/week after this order has been granted the sum of R..... of the emoluments of the said judgment debtor until a sufficient amount has been paid to satisfy a judgment or order obtained against the judgment debtor by the judgment creditor in the Court at on the day of for the amount of R (on which judgment or order the amount of R remains unpaid) with costs amounting to R and the costs of attachment amounting to R as well as R sheriff's fees.

Dated at this day of, 20.....

By Order of the Court,

.....

Registrar/Clerk of the Court.

.....

Judgment Creditor/Attorney for Judgment Creditor.

Address of Judgment Creditor/Attorney for Judgment Creditor.

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Attention is directed to the provisions of section 65J (10) of the Magistrates' Courts Act, 1944, which reads as follows:

“Any garnishee may, in respect of the services rendered by him or her in terms of an emoluments attachment order, recover from the judgment creditor a commission of up to 5 per cent of all amounts deducted by him or her from the judgment debtor's emoluments by deducting such commission from the amount payable to the judgment creditor.”