



REPUBLIC OF SOUTH AFRICA

**No. 40 – Notice to Appear in court in terms of section 65A(1) of the Magistrates’ Courts Act, 1944 (Act 32 of 1944)**

IN THE MAGISTRATE’S COURT FOR THE DISTRICT/REGION OF .....

HELD AT ..... CASE NO: .....

In the matter between

..... Judgment Creditor.

and

..... Judgment Debtor.

To: .....  
.....  
.....  
.....  
.....

..... (If the judgment debtor is a juristic person it must be indicated that the responsible person is summoned in his or her personal capacity and in his or her capacity as the representative of the juristic person.)

You are hereby required to appear before abovementioned court on ..... 20 ..... at ..... (time) to enable the court to inquire into your/the juristic person's financial position and to make such order as the court may deem just and equitable, as you/the juristic person failed to satisfy-

(a) the judgment of the said court of ..... given against you/the juristic person on ..... 20 ..... for the payment of the amount of R ..... and R ..... costs;  
or

(b) the order of the said court of ..... 20 ..... that you/the juristic person shall pay in instalments the amount of R ..... and R ..... costs within 10 days of the date on which the judgment was given or .....

The balance of the debt at present amounts to R ..... and the balance of the costs to R .....

You are further required to submit a full statement to the said court-

(a) of your/the juristic person's assets and liabilities;

(b) of your monthly/weekly income and expenditure, supported by documentary proof inclusive of a statement by your employer giving full particulars of your emoluments and, in the case of a juristic person, the latest financial statements;

(c) and the following: .....

Notice:

(1) If the court is satisfied on the ground of sufficient proof or otherwise-

(a) that you have knowledge of a notice referred to in section 65A (1) of the Act and that you have failed to appear before the court on the date and at the time specified in the notice; or

(b) that you, where the proceedings were postponed in your presence to a date and time determined by the court, have failed to appear before the court on that date and at that time; or

(c) that you have failed to remain in attendance at the proceedings or at the proceedings 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 you and to bring you before a competent court to enable that court to conduct a financial inquiry. [Section 65A (6) of the Act]

(2) Any person who-

(a) is called upon to appear before a court under a notice in terms of section 65A (1) or (8)(b) of the Act (where the sheriff, in lieu of arresting a person, hands to that person a notice in writing to appear before the court) and who wilfully fails to appear before the court on the date and at the time specified in the notice;

(b) where the proceedings were postponed in his or her presence to a date and time determined by a court, wilfully fails to appear before the court on that date and at that time; or

(c) wilfully fails to remain in attendance at the proceedings or at the proceedings so postponed,

is 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 ..... 20 .....

.....  
Judgment Creditor/Attorney for Judgment Creditor

.....  
Registrar/Clerk of the Court