



**RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA**

2nd Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA

14 April 2026

Our ref:

FN/ZM

Your ref:

Per: e-mail

Dear Sir/Madam

**REQUEST FOR COMMENT: PROPOSED AMENDMENTS TO MAGISTRATES' COURTS
RULE 43A (EXECUTION—RESIDENTIAL IMMOVABLE PROPERTY)**

The purpose of this letter is to invite comments on the proposed amendments to Magistrates' Courts Rule 43A. The amendments are proposed mainly to sub-rules (2), (8) and (9).

The Rules Board for Courts of Law (Rules Board) is considering amending Magistrates' Courts Rule 43A:

- (a) to provide clarity on which application is being referred to in sub-rule (2); and
- (b) in sub-rules (8) and (9) to provide clarity on what a court should do, where a reserve price which was set by the court has not been achieved at a sale in execution of the attached immovable property and to provide for the procedure for bringing the reconsideration of the reserve price before the court.

The proposed amendments are contained in the annexure hereto.

[ANNEXURE A]

As part of its consultation in the rule making process, the Rules Board invites your comments on the proposed draft rule amendments referred to above.

Comments must be submitted on or before **29 May 2026** and may be delivered to the Secretariat of the Rules Board in any of the following ways:

Physical: 2nd Floor, East Tower, Centre Walk, 266 Pretorius Street, Pretoria.

Board members appointed in terms of Section 3 of the Rules Board for Courts of Law Act 107 of 1985

Justice N Dambuza (Chairperson) | Justice N Mabindla-Boqwana (Vice Chairperson) | Ms. J Wessels | Adv K Kollapen | Mr. M Maliwa | Ms. N S Khanyile | Mr R R Titus | Mr V P Maluleke | Professor T Broodryk | Adv P Setati | Mr. O M Krieling | Adv J Balkishun | Mr. S Mofokeng | Adv M van Rooyen SC

E-mail: Ms. Zintle Mbombo (ZMbombo@justice.gov.za).

Yours sincerely,



MS. F. NJOBE

Secretary: Rules Board for Courts of Law

Email: FNjobe@justice.gov.za

www.justice.gov.za

Board members appointed in terms of Section 3 of the Rules Board for Courts of Law Act 107 of 1985

Justice N Dambuza (Chairperson) | Justice N Mabindla-Boqwana (Vice Chairperson) | Ms J Wessels | Adv K Kollapen | Mr. M Maliwa | Ms. N S Khanyile | Mr. R R Titus | Mr. V P Maluleke | Professor T Broodryk | Adv P Setati | Mr. O M Krieling | Adv J Balkishun | Mr. S Mofokeng | Adv M van Rooyen SC

MAGISTRATES' COURTS RULE 43A (EXECUTION—RESIDENTIAL IMMOVABLE PROPERTY):

GENERAL EXPLANATORY NOTE:

[] Words or expressions in bold type in square brackets indicate omissions from the existing rules.

_____ Words or expressions underlined with a solid line indicate insertions into the existing rules.

Amendment of rule 43A of the Rules

“Rule 43A of the Rules is hereby amended—

(a) by the substitution for the preamble in sub-rule (2)(a) of the following preamble:

“(2) (a) A court considering an application **[under]** in terms of sub-rule (3) of this rule must—”

(b) by the substitution of sub-paragraph (ii) of sub-rule (2)(a) of the following subparagraph:

“(ii) consider any alternative means by the judgment debtor of satisfying the judgment debt, other than execution against the judgment debtor’s primary residence.”

(c) by the substitution for the preamble in sub-rule (8) of the following preamble:

“(8) A court considering an application **[under this rule]** in terms of sub-rule (3), may—”

(d) by the substitution for sub-rule (9) of the following sub-rule:

“(9) (a) In an application **[under this rule]** in terms of sub-rule (3), or upon submissions made by a respondent in terms of sub-rule (6), the court must consider whether a reserve price is to be set.

(b) In deciding whether to set a reserve price and the amount at which the reserve is to be set, the court shall take into account—

- (i) the market value of the immovable property;
- (ii) the amounts owing as rates, **[or]** levies or other property charges;
- (iii) the amounts owing on registered mortgage bonds;
- (iv) any equity which may be realised between the reserve price and the market value of the property;
- (v) reduction of the judgment debtor's indebtedness on the judgment debt and as contemplated in sub-rule (5)(a) to (e), whether or not equity may be found in the immovable property, as referred to in sub-paragraph (iv);
- (vi) whether the immovable property is occupied, the persons occupying the property, **[and]** the rights and circumstances of such occupation and any prejudice which such occupant is likely to suffer;
- (vii) the likelihood of the reserve price not being realised and the likelihood of the immovable property not being sold;
- (viii) any prejudice which any party may suffer if the reserve price is not achieved; and
- (ix) any other factor which in the opinion of the court is necessary for the protection of the interests of the execution creditor and the judgment debtor.

(c) If the reserve price is not achieved at a sale in execution, the court must, on a reconsideration of the factors in paragraph (b) **[and its powers under this rule, order how execution is to proceed]** in the exercise of its oversight function, reconsider the execution against the attached property and may—

- (i) order that a sale in execution is to be conducted with a new reserve price, in which event the court must determine a new reserve

price;

(ii) order that a sale in execution is to be conducted without a reserve price;

(iii) include any condition upon which a sale in terms of either subparagraph (i) or (ii) is to be conducted;

(iv) order that the property be sold to the person who had made the highest offer or bid below the reserve price at the sale in execution where the reserve price was not achieved;

(v) stay any further sale in execution of the property, with or without any conditions which it deems appropriate; or

(vi) make any other order which it deems just and appropriate, regarding execution against the property.

(d) [Where the reserve price is not achieved at a sale in execution, the sheriff must submit a report to the court, within 5 days of the date of auction, which report shall contain —]

Where the reserve price is not achieved at a sale in execution—

(i) the sheriff must submit a report to the court, within 5 days of the date of the auction, which report shall contain—

[(i)] (aa) the date, time and place at which the auction sale was conducted;

[(ii)] (bb) the names, identity numbers and contact details of the persons who participated in the auction;

[(iii)] (cc) the highest bid or offer made; and

[(iv)] (dd) any other relevant factor which may assist the court in performing its function in paragraph (c).

(ii) the registrar or clerk of the court must, within 10 days of receipt of the sheriff's report and after conferring with the presiding officer for directions, enrol the matter for the purposes referred to in paragraph

(c), upon 10 days' notice to the execution creditor and the judgment debtor.

[(e) The court may, after considering the factors in paragraph (d) and any other relevant factor, order that the property be sold to the person who made the highest offer or bid.]”.