GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N$20.00 WINDHOEK - 22 August 2025 No. 8719

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MINISTRY OF JUSTICE AND LABOUR RELATIONS

No. 206 2025

COMMENCEMENT OF HIGH COURT AMENDMENT ACT, 2024

Under section 5(1) of the High Court Amendment Act, 2024 (Act No. 2 of 2024), I determine that the Act comes into operation on the date of publication of this notice in the *Gazette*.

F. W. EMMANUEL
MINISTER OF JUSTICE AND LABOUR RELATIONS Windhoek, 21 August 2025

MINISTRY OF JUSTICE AND LABOUR RELATIONS

No. 207 2025

COMMENCEMENT OF CERTAIN PROVISIONS OF SCHEDULE 2 OF DISSOLUTION OF MARRIAGES ACT, 2024

Under section 24(2) of the Dissolution of Marriages Act, 2024 (Act No. 10 of 2024), I determine that item (a) of subparagraph (4) of paragraph 1 of Schedule 2 to that Act comes into operation on the date of publication of this notice in the *Gazette*.

F. W. IMMANUEL
MINISTER OF JUSTICE AND LABOUR RELATIONS Windhoek, 21 August 2025

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OFFICE OF THE JUDICIARY

No. 208 2025

AMENDMENT OF RULES OF HIGH COURT OF NAMIBIA: HIGH COURT ACT, 1990

Under section 39 of the Act, 1990 (Act No. 16 of 1990), I have –

(a) amended the Rules of the High Court of Namibia published under Government Notice No. 4 of 17 January 2014 as set out in the Schedule; and

(b) determined that the said rules come into operation on the date of publication.

P. T. DAMASEB
JUDGE PRESIDENT
HIGH COURT OF NAMIBIA Windhoek, 22 August 2025

SCHEDULE

Definitions

1. In these rules unless the context indicates otherwise “the Rules” means the Rules of the High Court of Namibia published under Government Notice No. 4 of 17 January 2014 as amended by Government Notice No. 227 of 7 November 2014.

Amendment of rule 1 of Rules

2. Subrule (1) of the Rules is amended by –

(a) the insertion after the definition of “process” of the following definition:

““professional valuer or associate valuer” means a professional or associate valuer duly registered in terms of section 16 and 17 of the Property Valuers Profession Act, (Act No. 7 of 2012);”;

(b) by the insertion after the definition of “third party” of the following definition:

““VAT” means value added tax as defined in section 1 of the Value-Added Tax Act, (Act No. 10 of 2000).”.

Amendment of rule 104 of Rules

3. Rule 104 is amended by –

(a) the substitution for subrules (1) and (2) of the following subrules:

"(1) The party in whose favour judgment of the court has been given may, subject to rule 107(1), sue out of the office of the registrar one or more writs for execution thereof as near as may be in accordance with Forms 22 or 25, whichever is applicable, except that no writ may be issued in respect of the salary, earnings or emolument or any part thereof due to the execution debtor.

(2) Despite subrule (1), an execution creditor who wishes to lay claim to the salary, earnings or emoluments or any part of the salary, earnings or emoluments due to the execution debtor must do so by way of an order of attachment of salary, earnings or emoluments and in that case he or she must proceed in terms of rule 108(11)."; and

(b) the addition after subrule (9) the following subrules:

"(10) The deputy-sheriff may at any sale in execution held by him or her, demand from all intended bidders to pay a deposit, prior to the bidding, and in the absence of payment of the deposit, refuse a person to bid, provided that the deposit at a sale of movable property must not exceed N$2000, and the deposit at the sale of immovable property must not exceed N$10000.

(11) The deposit referred to in subrule (10) may be set off against any amount due following of a successful bid made by the depositor at the sale in execution, and any monies not set off against monies due following a successful bid made by the depositor must be refunded to the depositor at the end of the sale in execution.

(12) The deputy-sheriff may not allow any person to bid on behalf of another natural person or any legal entity, if that person did not, prior to the commencement of the bidding, hand to the deputy-sheriff a power of attorney to bid on behalf of the other person.

(13) A bidder or his or her representative must attend the auction in person and the deputy-sheriff must not allow telephonic bidding, bidding via video conferencing or any other electronic or remote bidding.".

Substitution of rule 107 of Rules

4. The Rules are amended by the substitution for Rule 107 of the following rule –

"(1) On application made, the court may make an order for attachment of a debt which is subject to attachment and is owing or accruing from a third person (hereinafter "the garnishee") to the execution debtor.

(2) An application for an attachment of a debt which is subject to attachment and is owing or accruing from a third person to the execution debtor must be supported by an affidavit or affirmation by the execution creditor or a certificate by his or her legal practitioner stating –

(a) that a court has granted judgment in favour of the execution creditor;

(b) that the court is not barred by the provisions of section 18 of the Credit Agreements Act, 1980 (Act No. 75 of 1980), from issuing an order referred to in that section;

(c) that the judgment or order referred to in paragraph (a) is still unsatisfied and stating the amounts still payable thereunder;

(d) that the garnishee resides, carries on business or is employed within the jurisdiction of the court, including of the address of the garnishee; and

(e) the nature and amount of the debt which is at present or in future owing or accruing by or from the garnishee to the execution debtor.

(3) On receipt of an application referred to in subrule (2) the court –

(a) may require such further evidence as it may consider necessary;

(b) may order the garnishee to pay to the execution creditor or his or her legal practitioner so much of the debt at present or in future owing or accruing by or from him or her to the execution debtor as may be sufficient to satisfy the judgment debt, together with the costs of the garnishee proceedings, including the costs of service; and

(c) must, if the garnishee fails to make the payment, order the garnishee to appear before the court on a day to be named in the said order and show cause why he or she should not pay such debt.

(4) The deputy-sheriff must serve the court order on the garnishee and on the execution debtor and such court order will operate as an interim attachment of the said debt in the hands of the garnishee, and which must contain –

(a) sufficient information, including the identity number or date of birth of the execution debtor to enable the garnishee to identify the execution debtor;

(b) the nature and amount of the debt which is at present or in future owing or accruing to the execution debtor; and

(c) the amount which must be attached and paid over by the garnishee to the execution creditor in respect of the judgment debt.

(5) The execution debtor and the garnishee may appear in court on the return date provided for in the court order but may not question the correctness of the judgment on which the application is based.

(6) If the garnishee –

(a) does not dispute his or her indebtedness to the execution debtor;

(b) alleges that he or she has a set-off against the execution debtor;

(c) alleges that the debt sought to be attached belongs to or is subject to a claim by another person; or

(d) fails to appear to show cause as provided in subrule 3(c),

the court may order the garnishee to pay the debt or such portion of it as the court may determine to the execution creditor or his or her legal practitioner on the dates set out in the order.

(7) If the garnishee disputes his or her liability to pay the said debt or alleges that he or she has any other defence, set-off or claim in reconvention which would be available to him or her if he or she was sued for the said debt by the execution debtor, the garnishee must file a notice of opposition simultaneously with an affidavit setting out his or her defence, set-off or claim in reconvention which would be available to him or her if he or she was sued for the said debt by the execution debtor, not less than five days before the hearing.

(8) On the return date the court may –

(a) hear and determine the matter in dispute in a summary manner;

(b) order the execution creditor and the execution debtor to under oath or otherwise reply to the affidavit filed by the garnishee within a period determined by the court;

(c) order that the matter in issue be tried under the application procedure of the court, in which event rules 65 to 70 apply with the necessary modification;

(d) if the garnishee alleges that the said debt belongs to or is subject to a claim by some other person –

(i) grant an interim order and extend the return day and order such other person to appear and state the nature and particulars of his or her claim and either to maintain or relinquish it; and

(ii) deal with the matter as if the execution creditor and such other person were claimants in an interpleader in terms of rule 113; or

(e) if the execution debtor alleges that the judgment has been satisfied or is for some other reason not operative against him, or that the garnishee is not indebted to him or her, try the issue summarily.

(9) After hearing the parties the court may –

(a) order payment by the garnishee in terms of subrule (6);

(b) declare the claim of any person to the debt attached to be barred;

(c) dismiss the application; or

(d) make such other order as it may consider just.

(10) Nothing in these rules as to the attachment of debts in the hands of a garnishee affects a cession, preference or retention claimed by any third person in respect of those debts.

(11) The costs connected with an application for the attachment of debts and the proceedings arising from or incidental to the application are in the discretion of the court.

(12) The final court order must contain –

(a) sufficient information including the identity number or work number or date of birth of the execution debtor which must be furnished in a garnishee order to enable the garnishee to identify the execution debtor;

(b) the nature and amount of the debt which is at present or in future owing or accruing to the execution debtor; and

(c) the amount which must be attached and paid over by the garnishee to the execution creditor in respect of the judgment debt,

and serves as a writ of attachment of the debt against the garnishee.

(13) Execution for the amount so ordered and costs of the execution may be issued against the garnishee if the garnishee is in default of compliance with a final court order in terms of subrule (12) and the provisions of rules 104 to 112, inclusive, apply with the necessary changes to an execution in terms of this subrule.”.

Substitution of rule 108 of Rules

5. The Rules are amended by the substitution for rule 108 of the following rule –

“(1) The registrar may not issue a writ of execution against the immovable property in execution of a judgment of the court unless –

(a) a return has been made of any process by the sheriff or deputy-sheriff of the court which may have been issued against the movable property of the execution debtor from which it appears that that execution debtor has insufficient movable property to satisfy the writ; and

(b) the immovable property has on application made to the court by the execution creditor, been, subject to subrule (3), declared to be executable.

(2) The person making application for a writ does not need to comply with subrule (1) (a) relating to the requirement to submit a return of service that the debtor has insufficient movable property to satisfy the judgment debt if the requirements of paragraph (a) and (b) of subsection (2) of section 35A of the Act are met.

(3) If the immovable property against which an order authorising execution is sought is used by the execution debtor or by any other person as a primary home, the court may not declare that property to be executable unless the execution creditor –

(a) gives notice on Form 24 to the execution debtor and any other person who uses the property as a primary home that application will be made to the court for an order declaring the property executable and –

(i) calling upon him or her to provide reasons to the court why such an order should not be granted;

(ii) making full disclosure of any circumstances and facts as may be relevant to assist the court in conducting the inquiry, his or her financial circumstances and any other viable means by which the judgment debt could reasonably be satisfied apart from execution; and

(iii) the circumstances under which the debt arose, and the payment history of the judgment debtor; and

(b) files an application to declare the property executable and calling upon the execution debtor and any other person who uses the property as a primary home to file, not less than 20 days before the date of hearing indicated in the application, an answering affidavit.

(4) The application to declare the property executable must be accompanied by a certified copy of the title deed of the property sought to be declared executable.

(5) The deputy-sheriff must serve Form 24 and the application referred to in subrule (4) simultaneously which service must be personal service on the execution debtor and any other person who uses the property as a primary home and the deputy-sheriff must not later than three days after the date of service or attempted service, file his or her return on the electronic court file, making use of the court's electronic filing and case management system.

(6) On the hearing of the application contemplated in subrule (4), the court must hold an inquiry to determine whether the sale of such immovable property is the most appropriate order to satisfy the judgment debt and having due regard to the interests of the execution creditor, execution debtor and any other person using the immovable property as a primary home, inquire into and give due consideration to the personal circumstances and the surrounding facts supporting an alternative order as contemplated in subrule (7).

(7) The court, after conducting the inquiry as contemplated in section 35A of the Act and rule 108A, may declare and order the property to be executable or make an alternative order as contemplated in subsection (4) of that section.

(8) The deputy-sheriff must, not later than three days after the date on which he or she established that the execution debtor has insufficient movable property to satisfy the writ, file his or her return referred to in subrule (1)(a) on the electronic court file, making use of the court's electronic filing and case management system.

(9) The execution creditor must file his or her application in terms of subrule (1)(b) within 90 days from the date on which the return referred to in subrule (1)(a) has been filed by the deputy-sheriff in terms of subrule (8).

(10) A further application may not be made in respect of the same immovable property which previously formed the subject matter of any earlier application made in terms of subrule (1)(b), unless the immovable property which previously formed the subject matter of the application is no longer the primary home of the execution debtor or if the circumstances have changed to such extent that the alternative order granted in terms of subrule (7), is no longer appropriate.

(11) An execution creditor who fails to apply to the court as provided for in subrule (1)(b) and who wishes to enforce such judgment by way of an order for payment in installments or by way of an emolument attachment order must transfer the judgment to the magistrates' court for the district in which the execution debtor resides or conducts business or is employed and for that purpose comply with sections 65M, 65A and 65J of the Magistrates' Court Act, 1944 (Act No. 32 of 1944).

(12) If, within the time provided for in subrule (9), a party in whose favour a judgment has been granted –

(a) fails to submit to the registrar, for issuing, a writ as provided for in rule 104(1) or any further writ as provided for by that rule;

(b) fails to apply to the court as provided for in subrule (1)(b);

(c) makes an application as provided for in subrule (1)(b) and that application is dismissed by the court and no alternative relief is ordered; or

(d) fails to comply with the provisions of subrule (11),

the registrar must transfer such judgment to the magistrates' court for the district in which the person against whom such judgment was granted resides, conducts business or is employed.

(13) When transferring a matter to the magistrates' court under subrule (12), the registrar must –

(a) submit to the clerk of the magistrates' court a certified copy of –

(i) the judgment or order issued against the execution debtor;

(ii) the duly taxed bill of costs, provided that the registrar may in the absence of the execution creditor rendering a bill of costs for purpose of taxation within 30 days from date of taxation, issue a certificate for costs in an amount equal to the allowable fee for default judgment with damages in terms of Annexure D, Section A, plus VAT; and

(iii) the writ which accompanied the return provided for in sub-rule (1)(a); and

(b) notify the execution creditor in writing that the judgment has been transferred.

(14) On receipt by the clerk of the magistrates' court of the documents referred to in subrule (13), the provisions of section 65M of the Magistrates' Court Act, (Act No. 32 of 1944) do apply to the transferred judgment and the execution creditor must comply with those provisions, except that the provisions of section 65E (4) of that Act do not apply to any return issued in terms of subrule (1)(a).".

Insertion of rule 108A into Rules

6. The Rules are amended by the insertion after rule 108 of the following rule:

"**Inquiry in terms of section 35A(3) and (4) of Act**

108A. (1) An execution creditor who wishes to declare a primary home of an execution debtor or any other person specially executable must make application to the court for that purpose upon notice to all interested parties including the execution debtor and a person in occupation of the property and set out in such application facts and circumstances to satisfy the court that the sale in execution of the primary home is the most appropriate order to satisfy the judgment debt.

(2) The execution creditor must in an application referred to in subrule (1) also set out facts and circumstances why the alternative means of satisfaction of the judgment debt contemplated in section 35A(4) of the Act will not be appropriate in the circumstances of the case.

(3) The application must be served on the execution debtor, a person in occupation of the property or any person with an interest in the matter, not less than 14 days before the date of set down of the application.

(4) Within five days of receipt of the application, the execution debtor, a person in occupation of the property or any other person with an interest must, if he or she opposes the application, serve a notice of opposition and together with such notice, on affidavit, set out facts and circumstances why the order must not be granted or be granted.

(5) The opposing party must also set out viable and realistic alternatives for the satisfaction of the judgment debt as contemplated in section 35A(4) of the Act and such proposed alternatives must be accompanied by proof of the allegations in opposition to the application of the execution creditor.

(6) The execution creditor may, not later than three days before the set down date for the enquiry, file a replying affidavit.

(7) On the date of set down, the parties may be represented by a legal practitioner and the execution debtor or the person in occupation of the property and opposing the application may appear in person and address the court.

(8) The court hearing the application may, if the circumstances of the case justify, allow the execution debtor or the person in occupation of the property, to give oral evidence and be cross-examined by the legal practitioner of the execution creditor.

(9) After the inquiry, the court must make an order either declaring the property executable or granting an alternative order for the satisfaction of the judgment debt as contemplated in section 35A(4) of the Act.".

Amendment of rule 109 of Rules

7. Rule 109 is amended by –

(a) the substitution for subrule (5) of the following subrule:

"(5) On receipt of written instructions from the execution creditor to proceed with the sale the deputy-sheriff must ascertain and record –

(a) what bonds or other encumbrances that are registered against the property together with the names and addresses of the persons in whose favour those bonds and encumbrances are so registered; and

(b) whether the immovable property to be sold in execution is the primary home of the execution debtor or any other person,

and must thereafter notify the execution creditor accordingly.”; and

(b) the addition after subrule (7) the following subrules:

“(8) If the immoveable property to be sold in execution is the primary home of the execution debtor, or any other person, the deputy-sheriff must not less than 35 days prior to the date of the sale in execution, determine the market value of the property to be sold by obtaining from two different and independent professional valuers or associate valuers a market related valuation of the property.

(9) The preliminary market value of the property will be considered to be the median of the two valuations referred to in subrule (8).

(10) The deputy-sheriff must, not less than 30 days before the sale in execution, serve upon the execution debtor a preliminary market value certificate on Form 29, supported by copies of the two independent valuations.

(11) The execution debtor may, if he or she considers the preliminary market value unacceptable, at his or her own expense, obtain a valuation of the property from another professional valuer or associate valuer, and serve a copy of the valuation he or she obtains from the valuer on the execution creditor or his or her legal practitioner and the original on the deputy-sheriff, not less than 25 days prior to the sale in execution.

(12) The deputy-sheriff must upon receipt of the valuation referred to in subrule (11) compare it with the preliminary market value referred to in subrule (8) and if the valuation referred to in subrule (11) –

(a) is more than the median of the two valuations the market price will be the amount representing 10 per cent more than the median of the two valuations referred to in subrule (8); and

(b) is less than the median of the two valuations referred to in subrule (8), the median will be the market price.

(13) If the market value determined under subrule (9) or (12) is equal or higher than the regional council or local authority council value, the market value will be used and if the regional council or local authority council value is higher, then the regional council or local authority council value will be regarded as the market value.

(14) If the execution debtor fails to act in terms of subrule (11), the preliminary market value will, subject to subrule (13), become final.

(15) The deputy-sheriff must issue a market value certificate on Form 30 once the market value has finally been determined and deliver, not less than 20 days before the sale in execution, a copy to the execution creditor or to his or her legal practitioner.

(16) The fees of the valuers obtained by the deputy-sheriff are paid by the execution creditor, and the execution creditor may recover it from the execution debtor as costs in the execution.".

Amendment of rule 110 of Rules

8. Rule 110 is amended by –

(a) the substitution for subrule (2) of the following subrule:

"(2) The execution creditor or his or her legal representative must, after consultation with the deputy-sheriff –

(a) prepare a notice of sale, which must –

(i) contain a short description of the property obtained from the deputy-sheriff;

(ii) indicate the location and street number, if any;

(iii) indicate the time and place for the holding of the sale obtained from the deputy-sheriff;

(iv) contain the provisions of rule 104(11), (12) and (13);

(v) indicate whether or not the property is to be sold with or without a reserve price and if applicable the reserve price;

(vi) indicate whether or not the property to be sold in execution is the primary home of the execution debtor and where the property to be sold in execution is the primary home of the execution debtor, the market value of the property;

(vii) contain the provisions of rule 110(9) and (10); and

(viii) indicate that the conditions may be inspected at the office of the deputy- sheriff; and

(b) furnish the deputy-sheriff with a copy of the notice for consideration and approval by the deputy-sheriff.";

(b) the substitution for subrule (3) of the following subrule:

"(3) The deputy-sheriff must indicate two suitable newspapers circulating in the region in which the property is situated, one of which must be published in the official language, and the execution creditor or his or her legal representative must –

(a) publish the notice referred to in subrule (2)(a) once in each of those newspapers not less than five days and not more than 10 days before the date appointed for the sale and in the *Gazette* not more than 14 days before the date appointed for the sale; and

(b) furnish the deputy-sheriff, not later than two days before the date of the sale, with one copy of each of those newspapers and with the number of the *Gazette* in which the notice is published, but a new notice must be published in respect of each subsequent sale re-scheduled after the initial publication.”;

(c) the substitution for subrule (9) of the following subrules:

“(9) The sale of property in execution must, subject to rule 109(6), be without reserve and be on the conditions stipulated under subrules (6) and (7), and the property must be sold to the highest bidder except that –

(a) where the property to be sold in execution is the primary home of the execution debtor or any other person, the highest bid must not be less than the market value of the property as determined under rule 109(9), (12) or (13); and

(b) if the land to be sold in execution is agricultural land as defined in section 1 of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995), the conditions of sale must clearly state that the property to be sold is agricultural land, and in that event, the deputy-sheriff must comply with the relevant provisions of Part III of that Act.”; and

(d) the insertion after subrule (9) of the following subrules:

“(9A) The highest bidder must on the day of sale –

(a) sign the conditions of sale;

(b) if he or she has brought an agent, state the name of his or her principal; and

(c) pay a deposit of 10 per cent of the purchase price in cash.

(9B) The highest bidder must furnish to the deputy-sheriff, within a period of not less than 30 calendar days after the date of sale, security by a bank or building society guarantee, to be approved by the execution creditor’s legal practitioner, for the balance payable against transfer of the property.”.

Amendment of rule 113 of Rules

9. Rule 113 is amended by –

(a) the substitution for subrule (3) of the following subrule:

“(3) The applicant must deliver on Form 27 a notice called an ‘interpleader notice’ to the claimants, and if subrule (2) applies, the interpleader notice must be on Form 31.”;

(b) the substitution for subrule (7) of the following subrule:

“(7) The interpleader notice must –

(a) state the nature of the liability and the nature of the property claimed which forms the subject matter of the dispute;

(b) call on the claimants to give notice, in writing, within five days of service of the interpleader notice on them, of their intention to deliver particulars of his or her claim in regard to the subject matter of the dispute and in such notice to –

(i) appoint an electronic address at which they will accept notice and service of all documents; and

(ii) give their full residential or business addresses;

(c) call on the claimants within the time stated in the notice, not being less than 14 days from the date of service of the notice, to deliver particulars of their claims; and

(d) state that on a further date, not being less than 15 days from the date specified in the notice for the delivery of claims, the applicant will apply to court for its decision as to his or her liability or the validity of the respective claims on which hearing date the claimants are also called upon to appear in support of their claims.”; and

(c) the substitution for subrule (11) of the following subrule:

“(11) If an interpleader notice is issued by one or more parties in an action, or in terms of subrule (2) by a deputy-sheriff, the interpleader must be filed as an ancillary application to the action making use of the functionality provided for on e-justice and proceedings in that action must be stayed pending a decision on the interpleader, unless the court on an application made by any other party to the action orders otherwise.”.

Amendment of Annexure A to Rules

10. Annexure A is amended –

(a) by the substitution for Form 22 of the following form:

"FORM 22

Rule 104(1)

WRIT OF EXECUTION – GENERAL

IN THE HIGH COURT OF NAMIBIA

(Main/ Northern Local Division)

Case Number: …………/……….

In the matter between:

…………………………………… Execution Creditor

And

……………………………………… Execution Debtor

To the deputy-sheriff for the region of:………………………………………………………………

You are hereby directed to attach and take into execution the movable goods of ………………………………….,the abovementioned Execution Debtor of ………………….. (address) ……………………………………., and of the same to cause to be realised by public auction the sum of ……………………………….. together with interest thereon at the rate of …………….. per cent per annum from the ………. day of …………………….20………… and the sum of …………………………… for the taxed costs and charges of the said (judgement creditor) ……………………………………… which he or she recovered by judgment of this Court dated the ……………………day of ………………… 20…………………, in the abovementioned case, and also all other costs and charges of the plaintiff in the said case to be hereafter duly taxed according to law, besides all your costs thereby incurred.

Further pay to the said ………………………………..or his or her legal practitioner the sum or sums due to him or her with costs as abovementioned, and for your so doing this is your warrant.

Dated at …………………. this ……day of ……………………20…......

……………………………….

Registrar of the High Court

……………………………….

Execution creditor's legal practitioner

(Address)";

(b) by the substitution for Form 24 of the following form:

"FORM 24

Rule 108(3)(a)

NOTICE BY JUDGMENT CREDITOR TO EXECUTION DEBTOR

IN THE HIGH COURT OF NAMIBIA

(Main/Northern Local Division)

Case Number: …………./……….

In the matter between:

…………………………………… Execution Creditor

And

……………………………………… Execution Debtor

TAKE NOTICE THAT …………………………..(plaintiff/defendant) (hereinafter called the execution creditor) has obtained judgment against………………...………(plaintiff/defendant) (hereinafter called the execution debtor) on……………………………..(date) in this court.

TAKE FURTHER NOTICE THAT the execution creditor has applied in terms of rule 108(1)(b) for an order declaring the property executable and that the execution debtor is hereby called to provide reasons to this honourable court within 10 days why such an order may not be granted.

Dated at ………………………..this…………day of ……………………..20…………

………………………………..
Execution creditor's legal practitioner
(Address)

To: Registrar of the High Court
Main/Northern Local Division
(Address)";

(c) by the substitution for Form 25 for the following form:

"FORM 25

Rule 109(2)

WRIT OF EXECUTION – IMMOVABLE PROPERTY

IN THE HIGH COURT OF NAMIBIA

(Main/Northern Local Division)

Case Number: …………/……….

In the matter between:

…………………………………… Execution Creditor

And

……………………………………… Execution Debtor

or

To the deputy-sheriff for the ………………………………………………………… Region

WHEREAS you were directed to cause to be realised the sum of N$…………………………in satisfaction of a judgment debt and costs obtained by (judgement creditor) ..……………… ……………………, against the said (judgement debtor) ………………………………… in this court on the …………………..day of ………………………….20……………..

AND WHEREAS your return stated ……………………………………..(here quote the deputy-sheriff's return on the writ against movables).

NOW, therefore, you are directed to attach and take into execution the immovable property of the said (judgement debtor) ……………………….………, being …………………….. (here give the description of the property) to the cause to be realised therefrom the sum of ………………………………… together with the costs hereof and of the prior writ amounting to ……………………………… and your charges in and about the same, and thereafter to dispose of the proceeds thereof in accordance with rule 110.

FOR which this is your warrant.

Dated at …………………. this ……………………..day of ……………………20…......

……………………………….

Registrar of the High Court

………………………………

Execution creditor's legal practitioner

(Address)";

(d) by the substitution for Form 26 of the following form:

"FORM 26

Rule 110(6) (a)

CONDITIONS OF SALE IN EXECUTION OF IMMOVABLE PROPERTY

IN THE HIGH COURT OF NAMIBIA

(Main/Northern Local Division)

Case Number: …………. /……….

In the matter between:

…………………………………… Execution Creditor

And

……………………………………… Execution Debtor

1. The property with the title deed description:…………………………………………… Situated at …………………………………………… (street address) will be put up to auction on the ………… day of ……………….. 20……

2. The property is …………………………………………………….. (short description of the property) and consist of:

   (a) (*Describe features of property)*

   (b) *(Describe features of property)*

   (c) *(Describe features of property)*

   (d) *(Describe features of property)*

   (e) *(Describe features of property)*

(3) The deputy-sheriff may at the sale in execution of the immovable property referred to in paragraph 1 of this form, demand from all intended bidders to pay a deposit, prior to the bidding, and in the absence of payment of the deposit, refuse a person to bid, provided that the deposit at a sale of movable property must not exceed N$2000, and the deposit at the sale of immovable property must not exceed N$10000, and the deposit may be set off against any amount due, because of a successful bid made by the depositor at the sale in execution, and any monies not set off against monies due because of a successful bid made by the depositor must be refunded to the depositor at the end of the sale in execution.

(4) The deputy-sheriff must in terms of Rule 104(13) of the Rules of the High Court demand from any person who intend to bid on behalf of another natural person or any legal entity, hand to the deputy-sheriff a power of attorney to bid on behalf of the other person.

(5) The property will, subject to the High Court Act, 1990 (Act No. 16 of 1990) and the Rules of the High Court, be sold by the deputy-sheriff of ……………………………… at ………………………………… (place where sale will be held) to the highest bidder, and the sale will be subject to the following conditions:

   (a) The sale will be without a reserve price and the property to be sold is not the primary home of the judgment debtor or any other person.

   or

Although the property to be sold is not the primary home of the judgment debtor or another person, the sale is subject to a reserve price in the amount of N$...........................

or

The property to be sold is the primary home of the judgment debtor or another person with a market value of N$..................... and the sale is subject to a reserve price in the amount of N$...........................

(retain only the one applicable and delete the two not applicable)

(b) The sale must be in Namibia Dollars;

or

The sale must be in Namibia Dollars, and no bid that is less than the reserve price determined in terms of rule 109 will be accepted.

(retain only the one applicable and delete the one not applicable)

(c) The attention of bidders is drawn to the provisions applicable to a sale of property in execution stating that a sale must, subject to subrule (6) of rule 109, be without reserve and be on the conditions stipulated under subrules (6) and (7) of that rule, and the property must be sold to the highest bidder, except that –

(i) where the property to be sold in execution is the primary home of the judgment debtor, the highest bid must not be less than the market value of the property; and

(ii) if the land to be sold in execution is agricultural land as defined in section 1 of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995), the conditions of sale must clearly state that, and in that event, the deputy-sheriff must comply with the relevant provisions of Part III of that Act.

(d) The highest bidder must immediately after the sale, but in any event not later than on the day of the sale –

(i) sign the conditions of sale;

(ii) if he or she has brought *qua qualitate* state the name of his or her principal, and

(iii) pay a deposit of 10 per cent of the purchase price in cash, or by means of a bank guarantee.

(e) If in the opinion of the auctioneer the bidder is unable to pay either the deposit referred to in condition (d) or the balance of the purchase price, he or she may refuse to accept the bid of that bidder or accept it provisionally until that bidder has satisfied him or her that he or she is able to pay the balance of the purchase price. On the refusal of a bid under such circumstances, the property may immediately be put up for auction.

(f) The highest bidder must furnish to the deputy-sheriff within a period of not less than 30 calendar days and not more than 40 calendar days after the date of sale, security by a bank or building society guarantee, to be approved by the execution creditor's legal practitioner, for the balance payable against transfer of the property.

(g) If the auctioneer makes a mistake in selling, the mistake is not binding on any of the parties but may be rectified.

(h) The purchaser must pay auctioneer's charges on the day of sale and transfer duties, costs of transfer, arrears rates and taxes and other charges necessary to effect transfer, on request by the legal practitioner for the execution creditor.

(i) The property may be taken possession of immediately after payment of the initial deposit and is, after such deposit, at the risk and profit of the purchaser.

(j) If transfer of the property is not registered within 90 days after the sale, the purchaser is liable for payment of interest to the execution creditor at the rate of……. % and to the bondholder at the rate of …… % per annum on the respective amounts of the award to the execution creditor and the bondholder in the plan of distribution as from the expiration of 90 days after the sale to date of transfer.

(k) The purchaser may obtain transfer of the property immediately if he or she pays the whole price and complies with condition (i), in which case any claim for interest lapses, otherwise transfer may be passed only after the purchaser has complied with the provisions of conditions (d), (f), (j) and (i).

(l) If the purchaser fails to carry out any of his or her obligations under the conditions of sale –

(i) the sale may be cancelled by a judge, summarily, on the report of the deputy-sheriff, after due notice to the purchaser;

(ii) the property may again be put up for sale;

(iii) the purchaser is responsible for any loss sustained by reason of his or her default, which loss may, on the application of any aggrieved creditor whose name appears on the deputy-sheriff's distribution account –

(aa) be recovered from him or her under judgment of the judge who pronounced summarily on a written report by the deputy- sheriff; and

(bb) after such purchaser has received notice in writing that such report will be laid before the judge for such purpose.

(m) If the purchaser referred to in paragraph (l) is in possession of the property, the deputy-sheriff may, on seven days' notice, apply to a judge for an order ejecting him or her or any person claiming to hold under him or her from the property.

(n) The deputy-sheriff may demand that any buildings standing on the property sold must be immediately insured by the purchaser for the full value of same and the insurance policy handed to him or her and kept in force as long as the whole price has not been paid but if he or she does not do so, the deputy-sheriff may affect the insurance at the purchaser's expense.

(o) The property is sold as represented by the title deed and diagram annexed thereto, and the deputy-sheriff does not hold himself or herself liable for any deficiency that may be found to exist and renouncing all excess.

(p) The property is also sold subject to all servitudes and conditions specified in the deed of transfer.

(q) The execution creditor is entitled to appoint a legal practitioner to attend to the transfer of the property.

Date at …………………… this ………… day of ……………………………20

………………..
Deputy-sheriff

I certify hereby that today the …………………………………… in my presence the hereinbefore-mentioned property was sold for ……………………… to ……………………………………

I, the undersigned, ……………………………….., residing at …………………………… in the region of …………………………….. do hereby bind myself as the purchaser of hereinbefore-mentioned property to pay the purchase price and to perform all or individual conditions mentioned above.

…………………………………
Purchaser/ Agent with Power of Attorney";

(e) by the substitution for Form 27 of the following form:

"FORM 27

Rule 113(3)
INTERPLEADER NOTICE
IN THE HIGH COURT OF NAMIBIA
(Main/Northern Local Division)

Case Number: …………./……….

In the matter between:

……………………………… Applicant

And

……………………………… 1st Claimant

……………………………… 2nd Claimant

THE DEPUTY-SHERIFF FOR THE …………………… REGION IS HEREBY DIRECTED TO, IN ACCORDANCE WITH RULE 8 NOTIFY THE CLAIMANTS MENTIONED HEREINAFTER IN TERMS OF RULE 113(1) OF THE RULES OF HIGH COURT OF NAMIBIA OF THE FOLLOWING:

WHEREAS the Applicant of .... (physical address) has on the .... day of ……………… 20…… (date) at ………… (time) taken in possession or has under his or her control the property described and set out in Annexure A hereto.

AND WHEREAS the Applicant does not have beneficial interest in respect of the property in his possession or under his or her control and stated to that effect in Annexure B hereto.

AND WHEREAS the first claimant, …………………….. (full names) of …………………. (physical address), AND

the second claimant, ……………….. of ………………… (physical address),

both claimed the goods as set out in Annexure A hereto as his or her property, and …………………… *(state the nature of the liability of the property claimed which form the subject matter of the dispute),*

NOW THEREFORE, and if any of the above claimants are intending to pursue their claims, they are:

(a) to deliver within five days of service of the interpleader notice on him or her the registrar and all other parties, in writing, his or her notice to pursue claim; and`

(b) within 14 days of delivery of such notice to pursue claim deliver particulars of his or her claims, in writing, which particulars must, with such modifications as may be required by the context, comply with the requirements of rules 45 and 131;

AND THAT the claimant(s) who wishes to pursue its claim must appoint in its Notice to Pursue Claim an electronic address at which he or she will accept notice and service of all documents and give his or her full residential or business address, provided that rule 8 of the Rules of Court applies to service and delivery of all process, notices and documents;

AND THAT the applicant will apply to the court, on a date, not less than 15 days from the date specified in the notice for the delivery of claims, for its decision as to the liability or the validity of the respective claims.

AND the claimant who pursued his or her claim must appear in support of his/her claims on the date set down for hearing.

THE CLAIMANTS ARE FURTHER INFORMED THAT, if a claimant fails to deliver a notice to pursue claim, or particulars of his or her claim, within the time stated above or fails to appear in support of his or her claim, the court may make an order declaring him or her and all persons claiming under him or her barred as against the applicant from making any claim on the subject matter of the dispute.

Dated at .... (place) this .... day of (date).

………………………………………
Applicant
(Address)

……………………………………………..
Registrar of the High Court
Main / Northern Local Division
Windhoek / Oshakati

Service on:

………………………………………………
1st Claimant

Address’
………………………………………………

………………………………………………
2nd Claimant

Address'
……………………………………………”;

(f) by the addition after Form 28 of the following forms:

"FORM 29

Rule 109(10)
PRELIMINARY MARKET VALUE CERTIFICATE
IN THE HIGH COURT OF NAMIBIA
(Main/ Northern Local Division)

Case Number: …………./……….

In the matter between:

…………………………………… Execution Creditor

And
……………………………………… Execution Debtor

I ………………………………………………… (full names and surname), in my capacity as duly appointed deputy-sheriff for the ………………………………... region hereby certify:

1. The property known as ………………………………………………………, situated at ………………………………………………………., is to be sold in execution on ……………………………

2. I, on …………………………… determined that the property is the primary home of the abovementioned execution debtor /………………………………………………. (full names and surname). *(delete whichever is not applicable).*

3. The following market related valuations of the property were obtained from two different independent professional valuers / associate valuers:

   a ………………………………………………..……N$.................................[1]
   b ……………………………………………………...N$.................................[2]

4. The municipal value of the property amounts to N$..

5. I hereby certify that the preliminary market value of the property described in paragraph 1 hereinbefore amounts to N$ …………………………………..

B. The attention of the execution debtor is drawn to the provisions of Rule 109(11) of the Rules of the High Court which calls upon the execution debtor to, if he or she considers the preliminary market value unacceptable, at his or her own expense, obtain a valuation of the property from another professional valuer or associate valuer, and serve a copy of the valuation he or she obtained on the execution creditor or his or her legal practitioner and the original on the deputy-sheriff, not less than 25 days prior to the sale in execution.

If the execution debtor fails to act in terms of Rule 109(11), the preliminary market value will, subject to the preliminary market value being equal or higher than the municipal value be regarded as the market value.

1 A copy of the Valuation is annexed hereto as Annexure "A"
2 A copy of the Valuation is annexed hereto as Annexure "B"

Dated at …………………. this ……………………..day of ……………………20…......

……………………………….
Deputy-sheriff for the …………………………. Region

Address

……………………………….
Execution creditor's legal
practitioner
(address)

FORM 30

Rule 109(15)
MARKET VALUE CERTIFICATE
IN THE HIGH COURT OF NAMIBIA
(Main/ Northern Local Division)

Case Number: …………/……….

In the matter between:

…………………………………… Execution Creditor

And

………………………………………

Execution Debtor

I …………………………………………………. (full names and surname), in my capacity as duly appointed Deputy-sheriff for the …………………………………..region hereby certify :

1. The property known as ……………………………………………………….. situated at …………………………………………………. is to be sold in execution on ……………………………………..

2. I, on ………………………….. determined that the property is the primary home of the abovementioned execution debtor /………………………………………………. (full names and surname). *(delete whichever is not applicable).*

3. I, on ………………………… issued a preliminary market value certificate in respect of the property reflecting the preliminary market value as N$ …………………

4. The municipal value of the property amounts to N$..

5. The execution creditor, despite being called upon to obtain his or her own independent valuation, failed to do so.

Or

The execution creditor, being called upon to obtain his or her own independent valuation on ………………… served an original independent valuation done by ………………………… a professional valuer or associate valuer on me, reflecting the value of the property as N$..................

(Delete whichever is not applicable)

6. I, in light of the aforementioned and after applying the principles laid down Rule 109 (9), (12) and (13) of the Rules of Court, certify the market value of the property described in paragraph 1 to be N$ ………………… (……………………………………………… Namibian Dollar …………………. Cent).

Dated at …………………. this ……………………..day of ……………………20…......

………………………….
Deputy-sheriff for the ……………………. Region

Address
…………………………
Execution creditor's legal practitioner
(address)

…………………………
Execution debtor's legal practitioner
(address)

FORM 31

Rule 113(2) read with Rule 113(3)
INTERPLEADER NOTICE BY DEPUTY-SHERIFF

Case Number: …………./……….

In the matter between:

……………………………………………
Applicant

And
……………………………………………. 1st Claimant

……………………………………………. 2nd Claimant

THE DEPUTY-SHERIFF FOR …………………… REGION IS HEREBY DIRECTED TO, IN ACCORDANCE WITH RULE 8 NOTIFY THE CLAIMANTS MENTIONED HEREINAFTER IN TERMS OF RULE 113(1) OF THE RULES OF HIGH COURT OF NAMIBIA OF THE FOLLOWING:

WHEREAS the Applicant in his or her capacity as Deputy-sheriff for …………………. Region and who conducts business at .... (physical address) has on the .... day of ……………20…....(date), at ……… (time) attached and taken in his or her possession or under his or her control the property described and as set out in Annexure A hereto,

AND WHEREAS the Applicant does not have beneficial interest in respect of the property in his or her possession or under his or her control and stated to that effect in Annexure B hereto,

AND WHEREAS the execution creditor, …………………… (full names) …………………... of (physical address), herein referred to as the first claimant,

AND

the second claimant, ………….. of ………………… (physical address), claimed the goods as set out in Annexure A hereto as his or her property, and the applicant in his capacity as deputy-sheriff on a writ issued on …………………….. in case number ……………….. attached and removed the property in Annexure A, and which property is on direction of the Registrar currently in possession of ……………………………………………

NOW THEREFORE, and if any of the above claimants are intending to pursue their claims, they are:

a) deliver within five days of service of the interpleader notice on him or her to the registrar and all other parties, in writing, his or her notice to pursue claim; and

b) within 14 days of delivery of such notice to pursue claim deliver particulars of his or her claims, in writing, which particulars must, with such modifications as may be required by the context, comply with the requirements of rules 45 and 131;

AND that the Claimant(s) who wishes to pursue its claim must appoint in its Notice to pursue claim an electronic address at which it will accept notice and service of all documents; and give his or her full residential or business address, provided that rule 8 of the Rules of Court applies to service and delivery of all process, notices and documents.

AND THAT the applicant will apply to the court, on a date, not less than 15 days from the date specified in the notice for the delivery of claims, for its decision as to the liability or the validity of the respective claims.

AND the claimant who pursued his or her claim must appear in support of his or her claims on the date set down for hearing.

THE CLAIMANTS ARE FURTHER INFORMED THAT, if a claimant fails to deliver a notice to pursue claim, or particulars of its claim, within the time stated above or fails to appear in support of its claim, the court may make an order declaring him or her and all persons claiming under him or her barred as against the applicant from making any claim on the subject matter of the dispute.

Dated at …………………. this ……………………..day of ……………………20…......

………………………………
Applicant
(Address)

……………………………………………..
Registrar of the High Court
Main / Northern Local Division
Windhoek / Oshakati

Service on:
………………………………………………
1st Claimant

Address
……………………………………………...
……………………………………………...
2nd Claimant

Address
…………………………………………..”.