THE SHERIFF

Having the sheriff at your door with the power to take your possessions away, is a traumatic experience for anybody. But even though he has been given the right to do this by a court order, you still have some rights which he must respect. **You do not have to be scared of the sheriff.**

WHO IS THE SHERIFF?

The sheriff is independent and does not work for the courts, although they are appointed by the Minister of Justice. They conduct their business like any other business, at tariffs prescribed by government.

There are various Acts that refer to sheriffs, such as the Magistrate's Court Act of 1944, the Supreme Court Act of 1959 and the Sheriffs Act of 1986. The Magistrate's Court and the Supreme Court also have Rules of Court referring to the sheriff.

WHAT DOES THE SHERIFF DO?

The sheriff serves or executes documents issued by courts of law. The sheriff is not a party to the court case itself and only serves the documents.

SERVING A SUMMONS

Many consumers have a misconception about the serving of the summons and many think you can ignore any summons not handed over to you personally. But this is not the case in South Africa.

A summons for debt can be served by post or on persons older than 16 years to give to the debtor. In certain cases a summons can be affixed to the outer or main door or security gate of your house or business. It can also be placed in the post box. If you find a summons addressed to you, whether kept for you by a neighbour or on your door, do not ignore it!

THE RIGHTS OF THE SHERIFF

The sheriff has the right to enter your home without your permission and open any door or gate, car or safe to execute a court order even if you are not at home, if the house is locked, the sheriff can bring a locksmith to open the door.

THE DUTIES OF THE SHERIFF

If you pay the sheriff or his deputy money demanded by a warrant issued by the court, he must endorse this in the margin of the original document and on your copy. Both of you must sign the entries.

It is also the duty of the sheriff to protect your rights. While he cannot give you legal advice, he should explain to you the seriousness of the matter and enable you to take the right steps under the circumstances.

The sheriff must also respect the confidentiality of cases assigned to him and is not allowed to discuss them with anybody else.

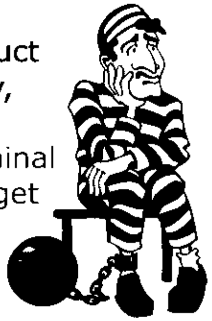
The sheriff also has the duty to do his work in a humane and fair way, without bias.

THE RIGHTS OF THE CONSUMER

You have the right to ask the sheriff or his deputy to identify himself with his identification card issued by the Board of Sheriffs.

THE DUTIES OF THE CONSUMER

Your most important duty is to make sure that you pay your creditors on time or to make arrangements with the attorneys if they contact you on behalf of creditors so that you will not end up in court for bad debt. If you do this, you will not have to ever face the sheriff.



It is your duty not to obstruct the sheriff or his deputy by, for instance, giving false information. This is a criminal offence for which you can get a prison sentence if found guilty.

Never ignore any document, message or note left for you by the sheriff or his deputy and act on it immediately.

REMEMBER!

- Nobody can take things away for money that you owe to a person or business without obtaining an order from the court entitling him to do so.
- If, however, you signed a voluntary surrender of the goods in the event that you failed to pay instalments, your goods can be repossessed without a court order.
- Nobody but the sheriff or his deputy can serve an order of court, summons or notice issued by the court on you, except for traffic fines and municipal summonses which can be served by a peace officer.
- Only a sheriff or his deputy can show you a summons or warrant issued by the court and demand payment from you or demand that you hand over goods.
- A sheriff or his deputy are also the only people who can take possession of your car and then only if he has a court order or if you signed a voluntary surrender.

COMPLAINING

If you have a complaint about the way a sheriff conducted himself, you can write to the Manager of the Board of Sheriffs, PO Box 10028, Caledon Square, 7905, or call the board at (021) 461-6622 / fax your complaint to (021) 461-9619. You may also contact the numbers below, should you require further information.

SUB DIRECTORATE
CONSUMER SERVICES & FAIR TRADE
PO Box 979 Cape Town 8000

Tel: (021) 483-3049 / 4887 / 3910 / 3256 / 5497
Fax: (021) 483-3483
E-Mail: lspannen@pawc.wcape.gov.za

The Sheriff

CONSUMER SERVICES
& FAIR TRADE

BUSINESS PROMOTION & TOURISM
DEPARTMENT OF ECONOMIC AFFAIRS AGRICULTURE & TOURISM WESTERN CAPE

DIE BALJU

Om die balju voor u deur te hê met die mag om u besittings weg te neem is vir enigeen 'n traumatiese ondervinding. Maar selfs al het hy die reg daartoe deur 'n hofbevel verkry, het u nog steeds sommige regte wat hy moet eerbiedig. **U hoef nie bang te wees vir die balju nie.**

WIE IS DIE BALJU?

Alhoewel 'n balju deur die Minister van Justisie aangestel word, is die balju onafhanklik en werk nie vir die howe nie. Hulle bestuur hulle besigheid soos enige ander besigheid teen tariewe wat deur die regering voorgeskryf word.

Daar is verskeie wette wat na balju's verwys, soos die Wet op Landdroshowe van 1944, die Wet op die Hooggeregshof van 1959 en die Wet op Balju's van 1986. Die landdroshof en die hooggeregshof het ook hofreëls wat betrekking het op die balju.

WAT DOEN DIE BALJU

Die balju beteken dokumente wat deur geregshowe uitgereik is. Die balju het nie deel aan die hofsaak self nie en beteken slegs die dokumente.

DIE BETEKENING VAN 'N DAGVAARDING

Baie verbruikers het 'n wanbegrip oor die betekening van 'n dagvaarding en baie mense meen 'n dagvaarding wat nie persoonlik oorhandig is nie, kan geïgnoreer word. Dit is egter nie in Suid-Afrika die geval nie.

'n Dagvaarding vir skuld kan per pos beteken word, of aan persone ouer as 16 jaar beteken word om aan die skuldenaar te gee.

In sekere gevalle kan 'n dagvaarding aangeheg word aan die buite- of hoofdeur of veiligheidshek van 'n huis of besigheid. Dit kan ook in die posbus geplaas word.

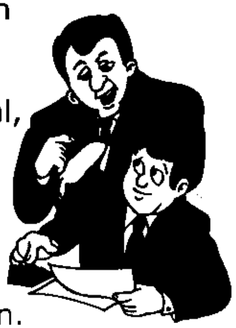
Indien u 'n dagvaarding vind wat aan u geadresseer is, of dit deur die bure vir u gehou is en of u dit teen 'n deur gevind het, ignoreer u dit op u eie risiko.

DIE REGTE VAN DIE BALJU

Die balju het die reg om u huis sonder u toestemming binne te gaan en enige deur of hek, motor of kluis oop te maak om 'n hofbevel uit te voer, selfs al is u nie by die huis nie.

Indien die huis gesluit is, mag die balju 'n slotmaker bring om die deur oop te maak.

DIE PLIGTE VAN 'N BALJU



Indien u geld ingevolge 'n lasbrief wat deur die hof uitgereik is, aan die balju of onderbalju betaal, moet hy dit in die kantlyn van die oorspronklike dokument en op u afskrif endosseer. Beide van u moet die endossement onderteken.

Dit is ook die balju se plig om u regte te beskerm. Hoewel hy nie regsadvies kan gee nie, moet hy die erns van die saak aan u verduidelik en u in staat stel om die regte stappe onder die omstandighede te neem.

Die balju moet ook die vertroulikheid van sake wat aan hom toegewys is, respekteer en hy word nie teogelaat om dit met enigiemand anders te bespreek nie.

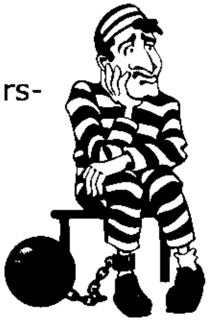
Dit is ook die balju se plig om sy taak op 'n menslike en billike wyse, sonder vooroordeel, te verrig.

DIE REGTE VAN DIE VERBRUIKER

U het die reg om die balju of onderbalju te vra om hom by wyse van sy identifikasiekaart wat deur die Baljuraad uitgereik is, te identifiseer.

DIE PLIGTE VAN DIE VERBRUIKER

U vernaamste plig is om seker te maak dat u u krediteure betyds betaal, of om reëlings met die prokureurs te tref indien hulle u namens die krediteure nader sodat u nie weens slegte skuld in die hof beland nie. Indien u dit doen, sal u nie die balju in die oë hoef te kyk nie.



Dit is u plig om nie die balju of onderbalju te dwarsboom deur byvoorbeeld valse inligting te verstrek nie. Dit is 'n kriminele oortreding waaroor u gevangenisstraf opgelê kan word indien u skuldig bevind word.

Moet nie enige dokument, boodskap of nota wat deur die balju of onderbalju vir u gelaat is, ignoreer nie. Reageer dadelik daarop.

ONTHOU!

- Geen persoon kan artikels verwyder vir geld wat u 'n persoon of besigheid skuld sonder om 'n hofbevel te verkry wat hom die reg gee om dit te doen nie.
- Indien u egter skriftelik vrywillig afstand doen van die goedere omdat u versuim het om u paaiement te betaal, kan u goedere sonder 'n hofbevel teruggeneem word.
- Niemand buiten die balju of onderbalju kan 'n hofbevel, dagvaarding of kennisgewing wat deur die hof uitgereik is, aan u beteken nie, behalwe in die geval van verkeersboetes en munisipale dagvaardings wat deur 'n vredesbeampte beteken kan word.
- Slegs 'n balju of onderbalju kan aan u 'n dagvaarding of 'n lasbrief wys wat deur die hof uitgereik is en betaling van u eis, of eis dat u goedere oorhandig.
- 'n Balju of onderbalju is ook die enigste persone wat beslag kan lê op u motor en dan slegs as hy 'n hofbevel het, of as u skriftelik vrywillig daarvan afstand doen.

KLAGTES

Indien u 'n klagte het oor die manier waarop 'n balju hom gedra het, kan u skryf aan die Bestuurder van die Baljuraad, Posbus 10028, Caledonplein, 7905, of u kan die Raad skakel by (021) 461-6622 / faks (021) 461-9619.

SUB DIREKTORAAT
VERBRUIKERSDIENSTE
& BILLIKE HANDEL
Posbus 979
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Tel: (021) 483-3049 / 4887/ 3910 / 3256 / 5497
Faks: (021) 483-3483
E-Pos: lspannen@pawc.wcape.gov.za

Die Balju

VERBRUIKERSDIENSTE
& BILLIKE HANDEL

BESIGHEIDSBEVORDERING & TOERISME
DEPARTEMENT VAN EKONOMIESE SAKE LANDBOU & TOERISME WES-KAAP

UNOTHIMBA? ----------------

Iba ngumothuko omkhulu kuye wonk'ubani ukubona kungena uNothimba enegunya lokuyithimba impahla yakho. Nangona eneguya alinikwe yinkundla nje, kodwa umele ukuwahlonipha nawakho amalungelo. **Makungakothusi ukungena kukanothimba ke ngoko.**

NGUBANI UNOTHIMBA? -------

Unothimba ngumntu ozimeleyo ongasebenzeli zinkundla, nangona esonyulwa nguMphatiswa wezobuLungisa nje. Bawuqhuba umsebenzi wokuqokelela iirhafu njengoko kuniselweyo ngurhulumente.

Mininzi imiThetho emiselwe oonothimba, imithetho efana neMgistrate's Court Act of 1994 iSupreme Court Act of 1959 neSherrif Act of 1986. Inkundla kaMantyi neNkundla ePhezulu nazo zinayo imiThetho esekelwe oonothimba.

YINTONI UMSEBENZI KANOTHIMBA? --------------

Unothimba umsebenzi wakhe kukuhambisa amaxwebhu akhutshwa yinkundla yamatyala. Yena unothimba akayonxalenye yenkundla, koko owakhe umsebenzi kukuhambisa amaxwebhu.

UKUSEBENZA NGESAMANI ---

Abathengi abaninzi banempazamo yokucinga ukuba isamani xa ingafikelanga ezandleni zabo mabangayihoyi, kodwa ke akunjalo apha eMzantsi Afrika. Umsebenzi wokuhambisa isamani wenziwa ngabantu abangaphezu okanye abantu abaneshumi elinesithandathu leminyaka ubudala ukuba bayigqithisele kumntu onetyala. Kwezinye izihlandlo, iye isamani iqhotyoshelwe elucangweni kungenjalo esangweni likanogada wendlu yakho okanye weshishini lakho. Ingafakwa nakwibhokisi yakho yeposi. Xa ufumana isamani ebhalelwe wena, nokuba ibigciniswe kwammelwane okanye ibijinga elucangweni lwendlu yakho, musa ukugayihoyi!

AMALUNGELO KANOTHIMBA --

Unothimba unelungelo lokuvula endlwini yakho, okanye esangweni, kungenjalo emotweni nokuba kusesefini ngaphandle kwemvume yakho, enze loo msebenzi awuthunywe yinkundla nokub akukho mntu endlwini yakho.

Ukuba kuthe kanti kutshixiwe, unothimba uya kuza nomkandimaqhaga ayivule indlu yakho.

IMISEBENZI KANOTHIMBA ---

Ukuba uyihlawula kunothimba okanye isekela lakhe imali ekuthinjelwa yona yinkudla, kufuneka akusayine oku unothimba kwincam yoxwebhu olungakotshwanga kwanakwikopi yakho. Ninobabini zisayineni ezi mpepha.

Ikwangumsebenzi kanothimba ukukhusela amalungelo akho. Nakuba engenakukunika iingcebiso izisemtheth-weni jhe, kodwa kufuneka ekucacisele ngobunzulu bengxaki leyo ayizeleyo, akucebise ngamanyathelo alugnileyo ofanele ukuwalandela ngokubhekiselele kulo mba.

Unothimba makayigcine ekhusini imibandela yamatyala awathunywayo, akavumelekanga kananjalo ukuba axelele nabani na ngawo.

Unothimba makawenze ngendlela efanelekileyo umsebenzi wakhe, anagakheth'icala.

AMALUNGELO OMTHENGI ----

Unelungelo lokusibiza isazisi sikanothimba nokuba lisekela lakhe, sazisi eso silikhadi elikhutshwa yiBhodi yooNothimba.

IMISEBENZI YOMTHENGI -----

Owona msebenzi wakho ubalulekileyo ngowokuqinisekisa ukuba, uyabahlawula abakunike imali-mboleko elityala, okanye ubonane namagqwetha

asebenza egameni labo, nokwenza amalungiselelo okuhlawula ukuze ungade uye kufikelela nasenkundleni yamatyala ngenxa yokungahlawuli. Ukuba uya kwenza oku, akanakukusokolisa nganto unothimba.

Akufanelekanga ukuba umqhathe unothimba kungenjalo isekela lakhe, umzekelo umnike inkcazelo engeyonyani, olo lulwaphulo-mthetho ongazibhaqa sele uvalelwa ugwetywe wakufumaniseka unetyala.

Ungaze ungawananzi amaxwebhu, imiyalezo nokuba liphetshana elinomyalezo olishiyelwe ngunothimba, endaweni yoko yilandelele ngokukhawuleza yonke loo nto.

KHUMBULA! ----------------

- Akukho mntu unokukuthathela iimpahla ngenxa yemali oyityala umntu nokuba lishishini ngaphandle komyalelo awunikwe yinkundla yamatyala omyalela ukuba enjenjalo.
- Ukuba utyikitye ngokwakho urhoxa kwisigqibo obusenzile xa ubuthenga iimpahla ngenxa yokusilela kwintlawulo yezavenge, iimpahla zakho zingathinjwa ngaphandle komyalelo wenkundla.

- Akukho mntu ngaphandle konothimba okanye isekela lakhe onokuhambisa imiyalelo yenkundla, iisamani okanye izilimkiso ozikhutshwa ngamagosa endlela kwaneesamani zikamasipala ezihajiswa ngamagosa oxolo.
- Ngunothimba okanye isekela lakhe emalikuzisele isamani okanye imiyalelo ekhutshwa yinkundla nomakabize imali yentlawulo kuwe kungenjalo athimbe iimpahla.
- Unothimba nesekela lakhe ngabo kuphela abanelugelo lokukuthimbela imoto nakhona xa beyalelwe yinkundla ukuba benjenalo, okanye ke urhoxe ngokwakho kwisigqibo sakho.

UKUKHALAZA ---------------

Ukuba unesikhalazo yindlela aqhube ngayo unothimba, ungabhalela kule dilesi, the Manager of the Board of Sheriffs, PO Box 10028, Caledon Square, 7905, okanye tsalela ibhodi ku: (021) 461-6622 kungenjalo thimela isikhalazo sakho kule nombolo yefaksi, (021) 461-9619.

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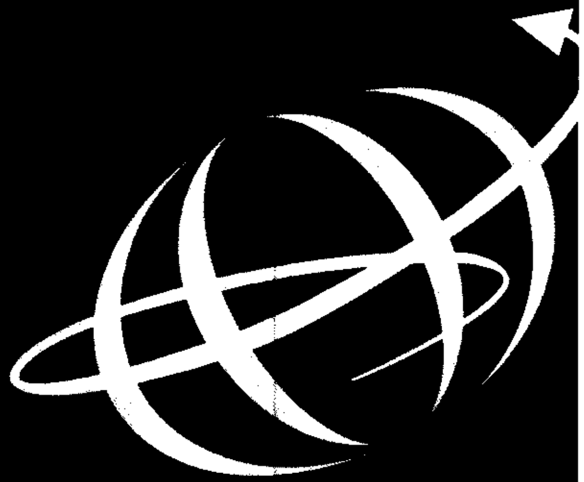
Unothimba



ICANDELO LABATHENGI
NORHWEBO OLULUNGILEYO

UPHUHLISO LWEZOSHISHINO NOKHENKETHO
ISEBE LEMICIMBI YEZOQOQOSHO, EZOLIMO NOKHENKETHO