

## **Notice to Creditor's Service and Enforcement of Process**

Please read this notice very carefully. It contains information regarding the procedures that the Sheriff's officer will take to serve your process or recover your debt with a Writ for Levy of Property.

If you have any trouble understanding the contents of this notice please contact the Sheriff's office or the court registry.

### **What is a Writ for Levy of Property?**

A writ for levy of property is an order from the Court that authorises the Sheriff to seize property owned by the judgment debtor and sell that property at an auction if the judgment debtor does not make arrangements to pay the judgment debt. The proceeds of the sale of property are provided to the judgment creditor in reduction of the debt.

A writ for levy of property is valid for twelve months.

### **What property may the Sheriff sell?**

The Sheriff may seize and sell goods and real property that is wholly owned-by the judgment debtor or where the judgment debtor has an interest. The Sheriff is not entitled to seize certain items including personal clothing, bedroom or kitchen furniture and tools of trade that do not exceed \$2,000.

The Sheriff may proceed to sell land owned by the judgment debtor if it is not possible to satisfy the debt through the sale of personal property and the amount outstanding under the judgment exceeds \$10,000. Advice should be sought from a legal practitioner before requesting the Sheriff to sell land.

### **Where will the Sheriff attempt to seize property or serve the summons?**

The Sheriff can attempt to serve a summons or seize the judgment debtor's property at any address within New South Wales. You must nominate the address where you want the Sheriff to attempt service or execution of your process. If your order is for the Sheriff to seize property and are not sure where property is located you may decide to issue an examination notice that requires the judgment debtor to disclose their financial circumstances. Court registry staff can assist with this.

### **What fees are payable to the Sheriff?**

The Civil Procedure Regulation 2005 regulates the fees for service and enforcement of process. The fee is subject to change on 1 July each year. The fee covers an attempt by the Sheriff to serve your summons or seize property at a particular address. If you require the Sheriff to attempt to seize property or serve a summons at a further address or at the same address on a further occasion you will be required to pay a further fee.

If the Sheriff is successful in seizing goods owned by the judgment debtor you will be required to pay additional administrative costs associated with the removal of goods, advertising costs and the sale of property. The Sheriff will normally require you to pay administrative costs of \$50 within seven days after goods have been seized, and may also require a deposit to cover other costs associated with special removals.

If the Sheriff proceeds to sell property owned by the judgment debtor the Sheriff is entitled to recover 3% of the proceeds of the sale.

Any costs or fees paid by you, to the Sheriff's Office, will be added to the amount of the judgment debt.

### **What steps will the Sheriff take?**

The Sheriff will first send a letter to the judgment debtor requesting that they pay the debt. If the judgment debtor does not respond to the letter the Sheriff will attempt to contact the judgment debtor by phone, where that information has been provided. Where the judgment debtor can be contacted by phone, any possible arrangements are made to meet with the judgment debtor in an attempt to satisfy the debt or serve the summons

The Sheriff is only available to attend the address during weekdays between 6.30am and 6.00pm.

Unless suitable arrangements are made to pay the debt, the Sheriff will attend the address and attempt to seize property owned by the judgment debtor. If property is seized the Sheriff will normally appoint a person to be the custodian of the goods. It is an offence for a person to dispose of property that has been seized by the Sheriff.

If the Sheriff is unable to seize goods when attending the address the Sheriff will send a report to you indicating the reasons why property was unable to be seized. If the Sheriff has been refused entry to the premises you may need to apply to the court for an order authorising the Sheriff to enter into private premises. If you require the Sheriff to attend a different address or to make a further attempt to seize property or serve the process at the same address a further fee must be paid.

If the Sheriff has seized goods the Sheriff will make arrangements for the sale of the property by a public auction. The Sheriff will make arrangements to advertise the sale and may appoint an auctioneer to conduct the auction. The auction may be held at the premises where the property is located or at a central location.

### **Additional information**

It is important that you provide as much information as possible to the Sheriff to assist in the execution of the writ for levy of property. You should provide to the Sheriff any known contact details of the judgment debtor including telephone and mobile phone numbers and identify any specific property that you believe is owned by the judgment debtor at the premises and any security concerns (eg guard dogs) that the Sheriff should be aware of before attending the address

### **Will the Sheriff be successful in serving or enforcing your process?**

Unfortunately there can be no guarantee that the Sheriff's Officer will be successful in serving your process or seizing property to recover a judgment. There are numerous situations, which may occur during the enforcement of process, which may delay or prevent process from being served or property being seized. Some examples of those situations may include:

- Where the judgment debtor has left the address provided
- Property at the address provided belongs to someone else
- The debtor may go bankrupt or into liquidation

### **Contacting the Sheriff**

The court registry will send the writ for levy of property to the Sheriff's officer located nearest to the premises where the property is located. The court registry can provide the contact details of that Sheriff's office, alternatively that information can be found online at [www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/pages/SHO\\_contact1](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/SHO_contact1).

Further information about the Civil Procedures Act 2005 can be found at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)