

✓LEGAL NOTICE NO. 144

## THE AUCTIONEERS ACT

(No. 5 of 1996)

IN EXERCISE of the powers conferred by section 30 of the Auctioneers Act, 1996, the Chief Justice makes the following Rules:—

### THE AUCTIONEERS (AMENDMENT) RULES, 2009

1. These Rules may be cited as the Auctioneers (Amendment) Rules, 2009 Citation.

2. Rule 3 of the Auctioneers Rules, 1996, in these Rules referred to as “the principal Rules”, is amended— Sub. Leg.

(a) in paragraph (2) (b), by deleting subparagraph (i) and substituting therefor the following new subparagraph—

(i) a current certificate of good conduct from the Criminal Investigation Department obtained at least six months prior to the application;

(b) by renumbering the paragraph appearing immediately after paragraph (2) as paragraph (3) inserting the following new paragraph immediately thereafter—

(3A) The applicant shall only be required to comply with paragraphs (2) (d), (e) and (f) after the Board approves his application.

3. The principal Rules are amended in rule 9—

(a) by renumbering the existing provision as paragraph (1); and

(b) by inserting the following new paragraph—

(2) An application under this rule shall be by motion by way of a miscellaneous application supported by an affidavit and may be heard *ex-parte*.

4. The principal Rules are amended in rule 12 by renumbering the existing provision as paragraph (1) and adding the following new paragraphs—

(2) If on the expiry of the period of notice, the auctioneer finds that there are other goods belonging to the judgement debtor—

(a) which were not pointed out by the decree holder and proclaimed earlier in his proclamation; or

(b) which have been removed by the judgment debtor, or cannot be found,

the auctioneer shall file an application in court seeking leave of the court to be allowed to attach any other movable properties of the judgement debtor pointed out by the decree holder.

(3) An application under paragraph (2) shall be by motion by way of a miscellaneous application supported by an affidavit in a

competent court, and in the case of distress for rent, repossession and attachment, may be heard *ex parte*.

5. Where orders obtained by a judgement debtor staying execution and served on an auctioneer are subsequently vacated, the auctioneer shall—

- (a) where the warrants of attachment and sale, or letter of instruction, are still valid, proceed with execution in compliance with these Rules;
- (b) where the warrants of attachment and sale have expired, apply for extension of the warrants for a period not exceeding forty-five days, within which he shall finalize execution;
- (c) where fresh warrants of attachment and sale or letter of instructions are issued with new figures, proceed in the manner provided in these Rules in respect of a fresh warrant.

6. Rule 13 of the principal Rules is amended in paragraph (c) by deleting the words “forty-eight” and substituting therefor the words “seventy-two”.

7. The principal Rules are amended by deleting rule 14 and substituting therefor the following new rule -

14. A person who removes, alters, damages, substitutes or alienates any goods comprised in the proclamation, before they are redeemed by payment in full of the amount in the court warrant, or letter of instruction, or in such lesser amount as the creditor or his advocate may agree in writing, commits an offence.

8. The principal Rules are amended in rule 15 (b) by deleting the words “Sale Form 2” and substituting therefor the words “Sale Form 4”.

9. The principal Rules are amended in rule 17 by inserting the following new paragraphs immediately after paragraph (4)—

(5) The auctioneer shall, after selling the movable property, attaching goods or goods lawfully held under this custody, and for purposes of effecting transfer in favour of the purchase, file an application to the court which issued the decree or to any other competent court which is applicable.

(6) An application under this rule shall be by motion by way of miscellaneous application, supported by an affidavit and may be heard *ex parte*.

10. The principal Rules are amended in rule 18 by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) Payment by a purchaser at a sale of seized goods shall be in form of cash, banker’s cheque or electronic funds transfer.

11. Rule 20 of the principal Rules is amended—

- (a) in paragraph (4) by deleting the word “auctioneers”;
- (b) by renumbering the paragraph appearing immediately after paragraph (2) as paragraph (3) and renumbering the other paragraphs in proper sequence.

12. Rule 22 of the principal Rules is amended in paragraph (1) (a) by deleting the words “in respect if” and substituting therefor the words “in respect of”.

13. The First Schedule to the principal Rules is amended in Part Four by deleting subparagraph 17 (b) (i) and substituting therefor the following—

- (i) a current certificate of good conduct from the Criminal Investigations Department obtained at least five months prior to the application.

14. The Second Schedule to the principal Rules is amended—

- (a) in sale form 2 by deleting the words “cash number” appearing in item 5 and substituting therefor the words “case number”; and
- (b) by inserting the following new form:

**SALE FORM 4**

**NOTIFICATION OF SALE**

**1. Auctioneers**

Name..... Tel:.....

P.O. Box..... trading as .....

Building..... floor..... street.....

**2. Creditor's name and address**

Name .....

Address.....

**3. Debtor's name and address:**

Name.....

Address.....

4. \* In..... court at.....

5. \* Case number ..... date of decree.....

6. Date of return to court/creditor.\*.....

7. Warrant or letter of instructions dated.....

was given by the above mentioned court/creditor\* and you are hereby notified that the immovable property described in the schedule hereto is hereby duly scheduled for sale. At the expiry of forty five (45 days from the date of this Notification the same will be sold by public Auction not earlier than fourteen days after the first newspaper advertisement unless the amount due KSh.....together with costs of this Notification shall be in the mean time have been paid.

15. The Fourth Schedule to the principal Rules is amended by deleting Part II thereof and substituting therefor the following new Part:

**PART II—AUCTIONEERS' CHARGES**

1. Receipt of court warrant or letter of instructions	KSh. 1,000.00
2. Where no property is found to attach or where the property found is worth KSh. 4,000 or less	KSh. 4,000.00
3. Fees before attachment or repossession	KSh. 4,000.00
4. Fees on attachment/repossession/distrainment and expenses	
KSh. 4,001 to KSh. 100,000.00	10%
KSh. 100,001 to KSh. 1,000,000	5%
Over KSh. 1,000,000	2%
Transport, storage, advertising, insurance and other disbursements expenses, where attachment or repossession is stayed or postponed or money tendered after attachment or repossession but before sale	Attaching or repossession charges in addition to expenses.
5. Fees on sale of movable property	
First KSh. 100,000	10%
Over KSh. 100,000	7%
Storage of property	¼% of value of property, subject to KSh. 500 per day.
6. Fees on sale of immovable property	
Filing possession of property	KSh. 4,000.00
Sale of immovable property-charge shall be based upon the amount realized at the sale	
KSh. 0 to 600,000	10%
KSh. 600,001 to 3,000,000	5%
Over KSh. 3,000,000	2%
7. Where requisite notices are served and sale is stayed, or postponed	½ of fees to which auctioneer would have been entitled to after sale, plus expenses.
8. Attachment and sale of livestock	10% of the amount realized at the sale plus reasonable expenses.

Eviction of person in possession of premises in execution of a court order	
(a) On premises of 15 square metres in area or less of internal area	5,000
(b) On premises of more than 15 square metres in area or less	10,000
(c) On agricultural premises	15,000
(d) On premises of more than 5,000 square metres	20,000
10. For taking inventory of transporting movable property and for advertising and insuring movable and immovable property the auctioneer shall be paid such amount as the court may consider reasonable.	
11. Travelling expenses as published by the Automobile Association from time shall to time be allowed at three times the scale.	
12. The court may increase the fees allowed under this Schedule, having regard to the complexity of the work required to be done, the skill, specialized knowledge and labour expended by the auctioneer.	

Dated the 3rd September, 2009

J. E. GICHERU,  
Chief Justice.

✓ LEGAL NOTICE NO. 145

## THE CATTLE CLEANSING ACT

(Cap. 358)

### PRESCRIPTION OF EFFECTIVE TICK DESTROYING AGENTS

IN EXERCISE of the powers conferred by section 2 of the Cattle Cleansing Act, the Director of Veterinary Services prescribes the following preparation, details of which are specified in the Schedule, to be an effective tick destroying agent for the purposes of the Act.

### SCHEDULE

A suspension in water of "CYPERGUARD 10 per cent" brand of cypermethrin, cyano-3-phenoxybenzyl-3-(2,2-dichlorovinyl)2,2-dimethyl-cyclopropane carboxylate containing not less than 0.01 percent active principle, when such a suspension is used for cattle cleansing by submersion at intervals of not more than seven days.

Dated the 15th September, 2009.

P. M. ITHONDEKA,  
Director of Veterinary Services.