

Form 2.61 **Notice of seizure and inventory
of property under seizure and
sale order**

Court Procedures Rules 2006

(see r 2206 (Seizure and sale order—notice of property seized))

In the *[Supreme/Magistrates] Court of the Australian Capital Territory

No *[SC/MC] of (*year*)

(*name*)

Enforcement creditor

(*name*)

Enforcement debtor

Amount owing

The enforcement creditor obtained a money order on (*date*) against the enforcement debtor.

The amount outstanding is as follows:

Money order amount (including costs, if any)	\$.....
Less payments	\$.....
	\$.....
Plus interest accrued to (<i>date</i>)	\$.....

Plus costs of preparing order	\$.....
Plus interest from this date at \$.... per day worked out at% in accordance with (<i>state authority</i>)	\$.....
Plus enforcement officer's fees	\$.....
Total owing	\$

Note Other incidental expenses may be incurred (eg poundage, storage, advertising expenses).

Notice of seizure

A seizure and sale order was made against the enforcement debtor on (*date*) in relation to the money order.

A seizure of property listed in the following inventory was made on (*date*) in accordance with the seizure and sale order:

Inventory of seized property

(*list items seized sufficient to identify them*)

.....

Notice to enforcement debtor

You may apply to the Court under rule 2202 for an order exempting particular property from sale under the seizure and sale order.

You may also apply to the Court to set this order aside (see r 2051) or stay its enforcement (see r 2013) at any time.

A **summary of the process** followed for sale of property under a seizure and sale order is as follows. Further details can be found in the rules, division 2.18.5.

1. An enforcement officer must seize and sell property under the seizure and sale order—
 - (a) in the order appearing to the enforcement officer to be best for the prompt enforcement of the order without unnecessary expense; and
 - (b) subject to paragraph (a), in the order appearing to the enforcement officer to be best for minimising hardship to the enforcement debtor or other people; and
 - (c) subject to paragraphs (a) and (b), by seizing and selling personal property before real property unless you ask for real property to be sold before personal property or the Court otherwise orders.
2. However, if the amount owing (including interest and costs) is paid at or before the sale, an enforcement officer may not sell the seized property.
3. Seized property to be sold must be put up for sale by public auction unless the Court orders that the property may be sold by private sale.
4. Unless you request otherwise or the property is perishable, the property must not be sold before the end of 7 days after the day it is seized. Personal property must be sold within 12 weeks after it is seized.
5. The following conditions of sale apply to a sale at public auction:
 - (a) for personal property, if the particular lot in which the property is to be auctioned is worth less than \$500 (in the opinion of the person conducting the auction), or for other property if you agree—the property must be sold at the best price obtainable;
 - (b) otherwise, if the reserve is reached—the property must be sold to the highest bidder;
 - (c) if the auctioneer considers there is a dispute as to who is the highest bidder, the property must be reauctioned and knocked down to the highest bidder.

6. If the property does not sell at the auction, the enforcement officer may sell the property privately—
 - (a) for an amount not less than the highest bid made at the auction that the enforcement officer considers is a reasonable amount for the property; or
 - (b) if no bid was made at the auction—for an amount the enforcement officer considers is a reasonable amount for the property; or
 - (c) under an order of the Court to sell at the best price obtainable.
7. The enforcement officer may engage a valuer to give the enforcement officer an opinion about the value of the property.
8. If land is to be sold under the seizure and sale order, an enforcement officer may—
 - (a) seek expressions of interest from real estate agents to market the land and conduct the sale; and
 - (b) appoint a real estate agent after considering any expressions of interest received.
9. Before selling property seized under a seizure and sale order, an enforcement officer must arrange advertisement of a notice giving the time and place of sale and details of the property to be sold. The notice must be published in a daily newspaper circulating generally in the ACT on 2 different days (both of which must be not more than 4 weeks before the day of the sale and at least 1 of which must be not less than 2 weeks before the day of the sale). However, the advertisements are not required if the property is perishable or you ask in writing for the property to be sold without the advertisements and the enforcement creditor consents.
10. The Court may order a postponement of the sale.
11. The enforcement officer must pay the proceeds of sale to the Registrar.

12. The Registrar must—
 - (a) pay the enforcement officer’s fees and costs of enforcement (including any costs of valuing and advertising property); and
 - (b) pay any balance, up to the amount recoverable under the seizure and sale order, to the enforcement creditor; and
 - (c) pay any remaining balance to you.

13. The Registrar must give you an account showing how the amounts received have been paid.

**omit if, or whichever is, inapplicable*