Liberty Fighters Network

Est. 2016 - A voluntary association without gain (*Universitas*)

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Date: 11 Augustus 2026

ATTENTION: **MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

MS MMAMOLOKO T KUBAYI, MP

c/o Ms Nompumelelo Tshaba

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Dear Minister

PROTECTING THE LEGAL PROFESSION WHILE ABANDONING JUDGMENT DEBTORS: FINAL DEMAND FOR THE IMMEDIATE ADJUSTMENT OF THE SECTION 67 EXECUTION EXEMPTION

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Introduction

1. I address you in my capacity as President of Liberty Fighters Network ("LFN"), a voluntary association without gain which, *inter alia*, acts in the interests of its members and in the public interest in matters concerning access to justice, constitutional rights and the protection of ordinary persons against systemic abuses of legal process.

2. This communication constitutes an **open and final pre-litigation demand**. It is intentionally addressed to you personally in your official capacity because the statutory power with which this demand is concerned has been entrusted to the Minister, and because the continuing failure to exercise that power can no longer reasonably be treated as a mere historical oversight.

3. On 18 February 2021, LFN addressed a detailed written demand to your predecessor, then Minister of Justice and Correctional Services, Mr Ronald Lamola, concerning the

manifestly obsolete monetary amounts determined under section 67 of the *Magistrates' Courts Act, 1944 (Act No. 32 of 1944)* ("the Act").

4. A copy of that communication is enclosed and incorporated herein by reference.

5. In that communication, LFN specifically drew attention to the fact that the monetary protection then, and apparently still, afforded under section 67 had last been determined at **R2 000** by *GN R385* published in *Government Gazette 15527* on 1 March 1994.

6. LFN warned the Minister in 2021 that allowing that amount to remain frozen while the value of money continuously deteriorated through inflation was producing serious and constitutionally offensive consequences for judgment debtors, particularly vulnerable and financially distressed persons.

7. The responsible Minister was expressly called upon to intervene by no later than 19 March 2021.

8. More than five years have now elapsed since that written notice. More importantly, more than **32 years** have elapsed since the R2 000 amounts were determined.

9. Having investigated the present position again, LFN has been unable to establish that those amounts have subsequently been increased. The presently available consolidated text of section 67 continues to reflect the amounts determined under *GN R385* of 1 March 1994.

10. If the Department contends otherwise, you are called upon to identify the subsequent *Government Gazette* immediately and provide LFN with a copy thereof. Absent such proof, LFN proceeds on the basis that the R2 000 limitation remains operative.

The Purpose Of Section 67 Cannot Be Frozen In 1994

11. Section 67 is not an incidental accounting provision. It determines the minimum category and value of property which the law itself recognises should remain beyond the reach of execution.

12. It protects, *inter alia* —

    12.1. necessary furniture and household utensils;

    12.2. stock, tools and agricultural implements necessary to a farmer;

    12.3. tools and implements of trade; and

    12.4. professional books, documents and instruments necessarily used by a debtor in his or her profession,

    up to the monetary amount determined by the Minister from time to time by notice in the *Gazette*.

13. These are not luxuries.

14. They are the possessions through which a person lives, works, feeds a household and attempts to recover financially after the enforcement of a judgment debt.

15. The Constitutional Court recognised in *Jaftha v Schoeman and Others; Van Rooyen v Stoltz and Others* that section 67 limits the movables capable of attachment and serves to insulate from execution items necessary for a debtor to survive.

16. That statutory purpose is rendered increasingly meaningless when the monetary value attached to that protection remains anchored to an economy which existed in March 1994.

17. A protection expressed in money but never adjusted for the declining purchasing power of that money is a protection designed to disappear by attrition.

18. The Minister cannot rationally preserve the wording of the protection while permitting its substantive value to evaporate.

19. A R2 000 exemption in 2026 plainly does not purchase what R2 000 purchased in 1994. Consequently, the category of property which Parliament intended to shield from execution has progressively shrunk, not through any amendment passed by Parliament, but through ministerial inaction.

20. Put differently: inflation has been permitted to amend section 67 in favour of execution creditors without Parliament ever voting for such an amendment.

21. The constitutional difficulty is therefore not merely that the amount is “old”. The difficulty is that executive inertia has progressively altered the practical balance which the Legislature itself created between the legitimate enforcement of debts and the preservation of the debtor’s basic means of living and earning an income.

Five Years Of Actual Notice

22. Whatever explanation might conceivably have existed for the period before LFN’s communication of 18 February 2021, the position thereafter is materially different.

23. From at least that date, the responsible Ministry was expressly alerted —

    23.1. to the R2 000 limitation;

    23.2. to its 1994 origin;

    23.3. to the effect of inflation upon its protective purpose;

23.4. to the consequences experienced during execution;

23.5. to the potential constitutional infringement;

23.6. to the particular vulnerability of financially distressed persons; and

23.7. to LFN's intention to seek judicial intervention should the matter not be corrected.

24. The continued failure thereafter to address the matter therefore raises questions considerably more serious than inadvertence.

25. It raises the question whether an organ of State entrusted with protecting constitutional rights consciously permitted a known statutory protection to continue deteriorating after the defect and its consequences had expressly been brought to its attention.

26. Such prolonged inertia is, in LFN's view, susceptible to challenge under the *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)* ("PAJA"), where applicable, alternatively under the constitutional principle of legality, read with, inter alia, sections 1(c), 7(2), 9, 10, 25, 33, 34, 38, 172 and 237 of the *Constitution*.

27. In particular, section 237 of the *Constitution* requires constitutional obligations to be performed diligently and without delay. Thirty-two years of monetary stagnation, coupled with more than five years of actual notice, will require a compelling explanation.

The Contradiction Created By Your Own Ministry

28. The present position becomes still more extraordinary when measured against the Ministry's own public conduct during July 2026.

29. On 22 July 2026, your Ministry announced, with considerable enthusiasm, that the monetary jurisdiction of the Small Claims Courts would be increased from R20 000 to R30 000 with effect from 1 August 2026.

30. Your Ministry expressly justified that increase on the basis that the monetary jurisdiction should "**keep pace with rising costs**", despite that jurisdiction having last been adjusted only in 2019.

31. LFN welcomes any genuine measure which improves affordable access to justice.

32. What cannot be reconciled is the constitutional logic apparently being applied selectively.

33. If seven years without an adjustment to the monetary jurisdiction of the Small Claims Courts is sufficient to require intervention because costs have risen, by what rational constitutional measure can **32 years** without an adjustment to the section 67 subsistence protection be acceptable?

34. The same inflation exists.

35. The same declining purchasing power exists.

36. The material difference is the identity of the persons affected and the economic interests surrounding the two systems.

37. In the one instance, the Ministry publicly celebrates the expansion of monetary jurisdiction as an achievement in access to justice.

38. In the other, persons subjected to execution continue to have their basic household possessions, tools of trade, farming implements and professional equipment protected according to a monetary value fixed before South Africa's present *Constitution* even came into operation.

39. That distinction is indefensible without a rational explanation.

The Legal Profession Appears To Receive A Very Different Standard Of Ministerial Attention

40. Of still greater concern is the contrast between this prolonged neglect and the priority presently afforded to the organised legal profession.

41. On 23 April 2026, when addressing the Legal Practitioners' Fidelity Fund Conference, you stated:

> "*The sustainability of the legal profession is in our interest as the Department of Justice and Constitutional Development.*"

42. Your speech recorded meetings with representatives of the legal profession, proposed interventions concerning the allocation of State legal work, stakeholder-engagement structures, transformation initiatives, and amendments to the *Legal Practice Act* directed, *inter alia*, at the continued operation and sustainability of the profession and the Legal Practitioners' Fidelity Fund.

43. Your Department is presently advancing the *Legal Practice Amendment Bill, 2026*, publicly described as legislation intended to strengthen the regulation and sustainability of the legal profession.

44. Nobody disputes that a properly regulated and sustainable legal profession has a legitimate role within the administration of justice, unless it is the source of continued oppression of the most vulnerable citizens of our country.

45. The constitutional question is instead this:

Where has the equivalent urgency been for the people against whom that legal machinery operates?

46. When the sustainability of the legal profession attracts ministerial conferences, consultations, legislative amendments, stakeholder engagements and institutional reform, but the statutory protection of a debtor's furniture, tools of trade and means of earning a livelihood remains valued in **1994 rands**, an objectively disturbing disparity in institutional priorities arises.

47. The administration of justice does not exist to sustain an industry.

48. Legal practitioners, sheriffs, execution creditors and other functionaries operate within a justice system whose ultimate constitutional purpose is the protection and vindication of rights. The people subjected to that machinery cannot constitutionally become subordinate to the economic sustainability of those who earn their livelihoods from operating it.

49. Justice cannot become an industry-protection scheme in which the economic machinery surrounding litigation is modernised while the protections afforded to the persons exposed to that machinery are left to decay.

50. The issue is particularly serious because the constituency prejudiced by an obsolete execution exemption is, by its very nature, unlikely to possess comparable institutional influence.

51. Judgment debtors whose household goods are being attached do not ordinarily have professional bodies, statutory councils, fidelity funds, senior counsel, lobbying structures or organised stakeholder access to the Minister.

52. That asymmetry is precisely why the constitutional obligations resting upon the Executive matter.

53. A vulnerable person should not have to employ a legal practitioner to persuade the Minister responsible for justice to notice that R2 000 in 2026 is not R2 000 in 1994.

54. Ironically, even within the legal profession itself, the problem has already been identified publicly. In August 2024 *De Rebus* published an article specifically concerning section 67 and described it as a "**forgotten provision**".

55. It therefore becomes increasingly difficult to characterise the continued failure to act as a problem which simply escaped institutional attention.

The Power To Correct The Position Already Exists

56. Importantly, LFN is not presently requesting you to await the passage of another Bill through Parliament.

57. Parliament has already conferred the necessary power upon the Minister.

58. Section 67 expressly contemplates that the monetary amounts applicable to the relevant exempt categories are to be **determined by the Minister from time to time by notice in the *Gazette***.

59. The phrase "from time to time" is itself inconsistent with an amount being determined once and then effectively abandoned for more than three decades.

60. The immediate constitutional defect can therefore be addressed through the exercise of an existing delegated statutory power.

61. Whatever broader legislative reform may subsequently be considered — including automatic indexation, mandatory periodic review or replacement of the present monetary

mechanism — cannot rationally justify postponing the immediate adjustment which the existing Act already empowers you to make.

The Human Consequences Cannot Be Ignored

62. During the past 32 years, executions have occurred throughout the Republic against persons whose circumstances ranged from ordinary financial distress to unemployment, failed businesses, illness, family crises and poverty.

63. LFN has encountered the practical consequences of execution proceedings and has reason to believe that the obsolete R2 000 protection has permitted assets to be attached and sold which would have remained exempt had the Ministerial determination retained anything approaching its original real value.

64. The harm is not necessarily confined to the auction value of the property concerned.

65. Removing tools from a tradesperson may remove the means with which the debt itself could have been repaid.

66. Removing productive implements from a farmer may interfere with future income.

67. Removing essential household property from a distressed family may compel replacement expenditure at precisely the time when that household is least capable of absorbing it.

68. A statutory safeguard intended to prevent execution from destroying a debtor’s basic ability to survive and recover financially becomes self-defeating if its monetary threshold is allowed to become nominal.

69. The resulting constitutional injury is therefore capable of extending beyond individual patrimonial loss to dignity, equality, economic participation and meaningful access to the protection of the law.

Potential Class Proceedings

70. LFN must accordingly place you on express notice that the consequences of the continued omission are no longer regarded merely as prospective.

71. LFN is presently considering proceedings in terms of section 38 of the *Constitution*, including an application for the certification of appropriate class proceedings under section 38(c), together with LFN's standing under sections 38(d) and/or 38(e).

72. The contemplated class may include, subject to refinement upon production of the relevant records and evidence, persons whose property falling within the categories contemplated by section 67(b), (c), (e) and/or (f) was attached and/or sold at a time when such property would probably have been protected had the Ministerial determination maintained a constitutionally rational real value.

73. Particular consideration will be given to the period after 19 March 2021, being the date by which LFN expressly requested the then Minister to remedy the position after having placed the Ministry on actual written notice.

74. LFN reserves the right to seek certification in relation to an earlier or differently defined period should the evidence, applicable prescription principles and interests of justice warrant it.

75. The certification jurisprudence established in, *inter alia*, *Children's Resource Centre Trust and Others v Pioneer Food (Pty) Ltd and Others* and *Mukaddam v Pioneer Foods (Pty) Ltd*

and Others will necessarily inform the eventual formulation of the class, subclasses, common issues and procedure.

76. It is appreciated that individual patrimonial claims may ultimately require differentiated proof of attachment, valuation, causation and *quantum*. Those issues do not dispose of the common constitutional question whether the continuing Ministerial omission was lawful, rational and constitutionally permissible.

77. LFN therefore reserves the right to seek a bifurcated or otherwise suitably managed class procedure in which common liability and constitutional issues are determined before individual damages or other restorative claims are quantified.

78. Further relief may include appropriate declaratory, mandatory, structural, restorative and/or patrimonial relief as may be constitutionally and legally competent.

Final Demand

79. Against the aforesaid background, LFN hereby finally demands that, **within one calendar month hereof and by no later than close of business on 10 September 2026**, you —

    79.1. cause an appropriate notice to be published in the *Government Gazette* under section 67 of the Magistrates' Courts Act increasing the monetary amounts presently fixed at R2 000 under paragraphs (b), (c), (e) and (f);

    79.2. ensure that the replacement amount is founded upon objectively rational and current economic evidence and, at the very least, restores the real protective value which the R2 000 amount possessed when determined on 1 March 1994;

    79.3. consider whether a mere inflationary adjustment is sufficient, or whether the constitutional purpose of section 67 requires consideration of contemporary replacement values for essential household goods, tools, implements and professional equipment;

79.4. publicly announce a rational mechanism for the periodic future review of these monetary amounts so that the same constitutional deterioration is not repeated;

79.5. advise whether you intend initiating legislative amendments to provide for automatic or mandatory periodic indexation;

79.6. furnish LFN with a written explanation for the failure to adjust these amounts since 1 March 1994;

79.7. disclose what consideration, investigation, referral or other action followed LFN's written communication of 18 February 2021;

79.8. identify all departmental records, memoranda, recommendations, research, correspondence and internal discussions since 18 February 2021 concerning section 67 and the monetary amounts determined thereunder;

79.9. cause the Department, in consultation with the South African Board for Sheriffs and any other relevant institution, to establish what information is available concerning executions potentially affected by the obsolete monetary limitation; and

79.10. inform LFN what remedial or restorative mechanism, if any, the State proposes considering in respect of persons who may have suffered legally cognisable loss because the statutory protection was permitted to remain fixed at its 1994 level.

80. The deadline of **10 September 2026** is particularly appropriate.

81. Your Department presently considers that same date sufficient as the closing date for public comment upon, *inter alia*, the *Legal Practice Amendment Bill, 2026*.

82. If approximately one month is regarded as sufficient for the public to consider and comment upon substantive proposed legislation affecting the legal profession, it would be difficult to explain why one month would be insufficient for the Ministry to address an elementary monetary determination which has already remained unchanged for more than 32 years and in respect of which the Ministry has had LFN's actual written warning for more than five years.

Litigation In The Event Of Non-Compliance

83. Should satisfactory compliance not occur by close of business on **10 September 2026**, LFN intends, without further demand, to approach the High Court of South Africa, for appropriate relief.

84. Such proceedings may include, *inter alia* —

84.1. a declaration concerning the constitutional and statutory obligations applicable to the continued determination of the section 67 monetary amounts;

84.2. review of the failure and/or refusal to take an appropriate decision under PAJA, insofar as applicable;

84.3. alternatively, review and declaratory relief under the constitutional principle of legality;

84.4. a finding that the continued failure to address the obsolete amounts is irrational, unreasonable and/or inconsistent with the *Constitution*;

84.5. a mandatory order compelling the exercise of the power contemplated in section 67 within a court-determined period;

84.6. structural relief requiring the Minister to report to the Court concerning implementation and a future review mechanism;

84.7. such just and equitable relief as contemplated in section 172(1)(b) of the *Constitution* as may be required to protect persons against further prejudice pending correction of the monetary limitation;

84.8. certification of appropriate class proceedings in terms of section 38(c) of the *Constitution*;

84.9. appropriate restorative and/or patrimonial relief for members of such class where the requirements for such relief are established;

84.10. production of the relevant governmental record and evidence concerning the failure to review the amount; and

84.11. an appropriate costs order.

85. LFN expressly reserves the right to contend that the continued failure to act after actual notice on 18 February 2021, considered together with the period thereafter and the obvious erosion of the statutory protection, constitutes grossly negligent and/or reckless governmental inaction. Whether that conclusion is ultimately warranted will be determined from the record, including the reasons why no corrective action followed the 2021 demand.

86. For that reason, you and the Department are hereby also placed on notice to preserve all records relevant to the determination, review or non-review of the monetary amounts contemplated in section 67, including electronic communications and records dating from at least 18 February 2021.

87. Nothing herein constitutes a limitation of the parties ultimately to be joined, causes of action to be advanced, class or subclasses to be proposed, relief to be sought, or statutory notices which may be required in relation to individual or class-wide monetary claims.

The Choice Now Rests With The Minister

88. Minister, this matter has been neglected for long enough.

89. In 2021, LFN asked the Ministry to correct it.

90. In 2024, the problem was publicly described within the legal profession itself as a forgotten statutory provision.

91. In 2026, your Ministry demonstrated that it understands perfectly well why monetary jurisdictional limits must be revised to keep pace with rising costs.

92. During the same year, you publicly committed your Ministry to the sustainability of the legal profession and your Department proceeded with legislative measures directed towards that profession.

93. Against that background, continued silence concerning section 67 will no longer look like mere oversight.

94. It will invite the inference that the State is capable of finding urgency when the organised legal profession requires regulatory attention, yet tolerates three decades of monetary decay when the persons requiring protection are judgment debtors whose possessions are being removed under State-sanctioned execution processes.

95. That is an inference which only decisive action by your office can now dispel.

96. **The constitutional administration of justice is not measured by how well the system protects those who make a living from it. It is measured equally, and perhaps most importantly, by how it treats the person standing at the other end of the writ of execution.**

97. The chair on which that person sits, the refrigerator in which that family keeps its food, the tools with which that person earns an income, and the implements by which a farmer produces tomorrow’s livelihood cannot, in 2026, continue to be constitutionally valued according to a Ministerial determination made in 1994.

98. Thirty-two years is not “from time to time”.

99. Five years after actual written warning is not diligent constitutional administration.

100. And a justice system cannot credibly proclaim that monetary thresholds must keep pace with rising costs when it applies that principle enthusiastically to one part of the system while ignoring it where financially vulnerable people stand to lose the basic possessions upon which their dignity and future livelihood depend.

101. LFN therefore calls upon you to make the choice that should have been made years ago: **correct the section 67 monetary protection now, or place the State’s failure to do so before a Court for constitutional scrutiny.**

102. Your substantive written response and compliance are awaited by no later than close of business on **10 September 2026**.

103. In the absence thereof, LFN’s rights, those of its members, affected judgment debtors and the proposed class remain reserved *in toto*, and further proceedings may follow without further notice.

Yours Faithfully,

Reyno D. De Beer

President: Liberty Fighters Network

On behalf of our members & Interests of the Public