

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve



THE SHERIFF'S PROFESSION

BASIC GUIDE TO SETTING UP AN OFFICE

Contact details

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Message from the Chairperson

DEAR SHERIFFS

On behalf of the South African Board for Sheriffs (SABFS), I wish to congratulate all newly appointed sheriffs.

The announcement by the Honourable Minister of Justice and Constitutional Development, Mr Jeff Radebe, is indeed historic in many ways. Your appointment comes at a time when Government has reaffirmed its commitment to deepen service delivery and effect greater transformation in South Africa. Your appointment is furthermore an affirmation of Government's strong commitment to advance the civil justice sector in our country by ensuring that the appointment of new sheriffs reflects the developmental needs of the State.

This publication simplifies the practices and procedures of the sheriff's profession, and enables you to manage your office administration and professional affairs in the execution of your responsibilities as mandated by the Sheriffs Act, 1986 (Act 90 of 1986) better. We believe this will enable better service delivery to the communities and legal profession in which you serve.

The SABFS is mandated by the Sheriffs Act to enhance the status of the sheriff's profession and



to ensure that the challenges you face are speedily addressed. As the SABFS we will provide ongoing support to your respective offices to ensure that this mandate is upheld and that the principles of *Batho Pele* are accelerated in your local communities. All of these objectives will advance the rule of law and ultimately the aims and objectives of the Constitution of South Africa.

The SABFS is there to assist and support you in your endeavours to fulfil your obligations to all South Africans. We once again welcome you to the profession and look forward to engaging with you.

Kind regards

A handwritten signature in black ink, appearing to read 'C Mabuza', written in a cursive style.

Mrs C Mabuza

Chairperson
South African Board for Sheriffs
October 2012

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Introduction



This guide is an *aide-mémoire* for incumbents and serves as an introduction to the profession for aspiring and novice sheriffs.

Sheriffs in the global context are usually associated with law enforcement as opposed to process servers in a civil justice system. This difference confuses many within the civil justice chain, including lawyers and sheriffs. Such sheriffs may accord a higher status to themselves, empty of ethics and morality.

A sheriff in a South African context is an impartial and independent official. Sheriffs are only process servers or, to use a more befitting name, messengers of the court. We as sheriffs are part of a process and far removed from driving it. The presupposition of power that we purportedly wield is as ludicrous as the mistaken belief that the world is flat.

This book has therefore been designed to assist recently admitted sheriffs. It avoids being overly pedantic and simply demonstrates the logical steps to creating and operating a working and administrative environment.

From this basis, you bear the responsibility of self-educating with the help of empirical knowledge and experience. Of equal importance is the standard by which you benchmark your conscience.

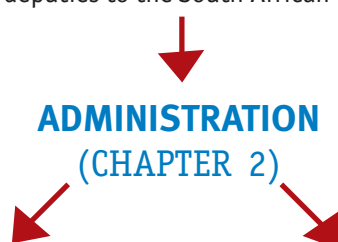
Let us constantly remind ourselves that laws are necessary sanctions for the continued existence of society. We bear the responsibility to ensure that they are upheld. We play a pivotal role in safeguarding the principles of justice. In the absence thereof, we will contribute to the destruction of civil society and violate the ordinance of reason that is directed to a greater good.

Overview: A Basic Guide to Setting up a Sheriff's Office

THE SHERIFF (CHAPTER 1)

Every sheriff shall:

- Administer a trust account, which does not form part of the sheriff's assets.
- Deposit all monies entrusted to a sheriff in his/her trust account, and issue receipts accordingly.
- Open a separate business account and run day-to-day expenses from this account (**not trust money**).
- Keep a set of accounting books, which may be inspected by the Board or the local magistrate at any time.
- Comply with two annual legal obligations:
 - On or before 31 July, the sheriff must submit his/her audited annual financial statements with the interest paid over to the South African Board for Sheriffs.
 - By the end of August, the sheriff must pay his/her professional indemnity insurance and the registration fees of all his/her deputies to the South African Board for Sheriffs.



SERVICE OF DOCUMENTS (CHAPTER 3)

To serve various types of processes and summonses on various addresses, defendants' responses

WARRANTS (CHAPTER 4)

The process for the execution of any judgement for the payment of money, property – movable or immovable – or an ejection shall be by a warrant issued and signed by the clerk of the court or registrar addressed to the sheriff.

To serve various types of warrants:

- Warrants of execution
- Garnishee orders
- Drafting of inventories
- Making provision for a return of service.

To facilitate the execution of movable and immovable property.

IMPORTANT NOTICE

It is imperative that the sheriff and all his/her staff, including all deputies, are familiar with the following:

- Constitution of South Africa
- Sheriffs Act
- National Credit Act
- Consumer Protection Act
- Labour Relations Act
- Basic Conditions of Employment Act
- Insolvency Act
- Code of Conduct for Sheriffs
- Magistrate's Courts Act & Rules
- Supreme Court Act & Rules
- Domestic Violence & Maintenance Acts
- Small Claims Court

Chapter 1: The Sheriff

The sheriff's profession is guided by the Sheriffs Act 1986 (Act 90 of 1986), but ultimately all its deliberations are underpinned by the Constitution of South Africa. It is imperative that all sheriffs familiarise themselves with the Sheriffs Act and supporting regulations to perform their duties in accordance with these. As a sheriff you perform your duties without fear or favour and to the best of your ability for the benefit of the clients you serve. As a profession in transition and continually developing, it is incumbent upon all to espouse the principles of *Batho Pele*.

PROCEDURE

The sheriff is a person appointed by the Minister of Justice and Constitutional Development in terms of Section 2 of the Sheriffs Act, 1986 (Act 90 of 1986), to a specific jurisdiction.

The sheriff is an independent person responsible for his/her own income and expenses, such as transport, salaries, rent, lights and water, insurance, VAT, PAYE, UIF, and whose income is derived from pre-set tariffs, regulated in terms of the rules of court.

Once the Minister has advised a person that he has been appointed as a sheriff, the successful applicant must immediately complete the following procedures.

CHECKLIST:

1 Step 1. Form 4

Apply to the South African Board for Sheriffs (SABFS) for a Fidelity Fund Certificate.

2 Step 2. Pay a premium for insurance

Sheriff's professional indemnity insurance proposal form (refer to page 25).

Wait for the SABFS to issue the Fidelity Fund Certificate (in effect this is a licence to trade as a sheriff).

Only after the SABFS has issued the Fidelity Fund Certificate will your appointment as a sheriff be validated.

3 Step 3. Inform the local magistrate

Introduce yourself to the local magistrate and inform him of your appointment, your contact details as well as your office address.

4 Step 4. Inform the outgoing sheriff of your appointment and conduct the hand-over process

Communicate with the outgoing sheriff to arrange the hand-over process through which you will receive a list of all fixed properties, files which bear trust monies and a list of movable property attached and removed which are in storage.

The hand-over process must be done in the presence of the local magistrate. Please note the date on which your appointment should commence.

5 Step 5. Office (registered address) or place of business

The office should be located in the magisterial district that you are serving and preferably close to the community/court/police station to effect prompt service delivery.

6 Step 6. Office Space/furniture/equipment

Ensure that your office has the following:

- Reception area with waiting room
- General offices for staff and deputies
- A fairly large room to hold auctions
- Filing room with cabinets
- Storeroom (storage of removals)
- Office equipment:
 - Fax machine
 - Photocopy machine
 - Telephone switchboard with extension lines
 - ADSL line for internet and email facilities
 - Sheriff's computer programme to capture processes

7 Step 7. Registration

- Open a trust banking account (in terms of Section 22 of the Sheriffs Act).
- Account name should read as follows: sheriff of the court - (Jurisdiction) Section 22 of the Act, 1986.
- Open a business banking account: name of the sheriff (business account).
- Apply for a VAT number from SARS
 - This can take three to four months to obtain as sheriffs are vetted on an invoice basis.
 - It is extremely important to have sufficient funds (cash) to carry your office in respect of expenses such as rent, lights, water, salaries, PAYE, VAT and transport.
- Apply for a tax clearance certificate
 - The Department of Justice and Constitutional Development (DOJ&CD) has now prescribed that tax clearance certificates for sheriffs are now required in order for sheriffs to be paid for services rendered to the Department. It is therefore incumbent on all sheriffs that they receive tax clearance certificates from SARS.
- Apply for a PAYE number.
- Apply for a UIF number.
- Register with WinDeed (provides access to databases, e.g. deed search to confirm ownership and interdicts).
- Register all your deputies with the South African Board for Sheriffs.
- Arrange postbox and/or Docex.

8 Step 8. Stationery

- Print the following:
- Trust receipt books
 - Business receipt books
 - Deputy receipt books
 - Attachment books
 - Removal books
 - Eviction notice forms
 - Notice pads
 - Sale in execution invoices (fixed property)
 - Sale in execution invoices (movables)
 - Business cards (sheriff and deputies)

9 Step 9. Rubber stamps (proposed)

- Date : so there can be no dispute as to when the sheriff received a process
- Divorce : it highlights that the process must be served personally
- Urgent : it protects the sheriff from any process relating to prescription
- Additional Defendants : informs the deputies that there is more than one defendant
- Court Date : enables the deputy to serve the process before the expiry date
- Copy : should the attorney or court request a copy of a return of service

10 Step 10. Staff

- Office manager
- Receptionist
- Data capturer
- Person to handle fixed property
- Person to handle movable property
- Deputies to serve processes and make attachments
- Deputies to do the actual removal/eviction or ejection

11 Step 11. Motor vehicles

Some sheriffs provide their deputies with vehicles, while others allow the deputies to use their own vehicles and provide extra incentives such as petrol or car allowances. A removal truck is of paramount importance.

12 Step 12. Business account

All sheriffs must open a business account to be used for day-to-day expenses. The business account is the sheriff's personal account and all fees must be deposited into this account.

13 Step 13. Trust account

Every sheriff must open a trust account into which all monies received by the sheriff in trust or on behalf of a third party must be deposited immediately, e.g. proceeds from a sale in execution or a defendant's payment of a warrant amount. The monies held in the trust account do not form part of the sheriff's assets and may not be used for business expenses. This is a criminal offence. Every sheriff's trust account must be audited by a registered auditor annually.

Chapter 2: Administration

Employment of staff

It is important to source the right people for the job and one of the first places to look is in the office of the outgoing sheriff. One is not obliged to recruit all the staff but it is advantageous to select key personnel. Strict and binding employment contracts should be drawn up with clear job descriptions in place, bearing in mind the requirements of the Employment Equity Act. It is imperative that the staff be given on-the-job training continuously.

Deputy sheriffs

Deputy sheriffs play a key role in your business and careful consideration should be given to selecting your deputies. The number of deputies appointed is dependent on the number of processes as well as the size of the area of jurisdiction.

- In terms of Section 6 of the Sheriffs Act, 1986, the deputy sheriffs are appointed with the approval of the Board for Sheriffs and on such conditions determined by it.
- In terms of the Regulations relating to Sheriffs, 1990, it is an offence to furnish particulars or information or to make a statement which is false or misleading when completing an application form for appointment of a deputy.

Please refer to the SABFS website www.sheriffs.org.za for an application form (Form 14) which includes certain requirements to be met before the appointment of deputies.

Office manager

(must be registered as a deputy sheriff)

An office manager is responsible for the smooth operation of the day-to-day business of the office. A good office manager makes it possible for other people to function efficiently. Office managers work closely with the sheriff to meet his or her requirements such as staffing, equipment and organisational needs. Duties may include assisting the attorneys or applicant with returns of services, managing the payroll and assisting the accounts clerk.

Successful office managers have confidence, common sense, loyalty and the ability to motivate others. An office manager must exercise sound judgement, and any lapse can result in termination. Pressure can be significant, particularly for those in charge of large offices.

Receptionist

Receptionists are the face of any organisation as they sit in the front office greeting visitors and answering telephone calls. A smart and neatly dressed receptionist creates a positive first impression of the organization.

A receptionist's job description involves customer care. In addition to taking phone calls, they must also arrange appointments, inform callers about the availability of different personnel and usher visitors to required departments or personnel. Receptionists must handle visitors in a courteous and professional way. They have to provide information about the organisation and may have to help with certain queries, be it telephonically or in person.

The office needs to gain the community's trust and also that of the defendant who visits the office and is often traumatised. The receptionist can help to change negative perceptions of the sheriff's office so that the sheriff is recognised as a friend who is willing to assist in the process.

A receptionist's job description may include performing administrative tasks such as:

- Sorting mail — date stamp is of utmost importance
- Registration of processes on the database
- Distributing processes to various deputy sheriffs for service.

Registration of documents

Upon receiving any process from the attorneys or applicants the receptionist must date-stamp the process and record the time received for service. This is essential in matters of prescription. Each process that is received must reflect the following:

- Case number
- Parties involved
- Date and time registered
- Nature of process
- Fees

After each process has been registered, it must be handed over to the deputy sheriff for service within a reasonable period of time (normally five days), for service with a return of service.

If a process is to be served immediately/urgently or on the same day, the process must be marked "URGENT" and handed over to the deputy for immediate service (the instructing attorney or applicant must inform the sheriff in writing, requesting such service, and be willing to pay the urgency fee).

Return of service

After an attempted or positive service is completed, the deputy must hand the process to the administration office or data capturer to prepare a return of service. Once the return of service is captured on the system, the deputy must confirm the content thereof and sign the return. The original process together with the signed return of service must be returned to the attorney or applicant, who then completes the process.

NB. A sheriff's return serves as *prima facie* evidence in court.

(Remember: signing the return of service is in essence an affidavit and any false information can and will constitute fraud).

A copy of the return of service and the instruction letter, together with the job card, are filed by the sheriff in his/her archives, and must be stored for a period of five years.

Accounts

1. An accounts clerk must be appointed to capture all transactions, whether business or trust, and issue receipts accordingly.
2. The accounts clerk is also responsible for month end reports and collection of all outstanding fees.
3. All attorneys should apply to open an account with the sheriff's office by way of an application form or a letter which should be on a letterhead.
4. In the case of persons (small claims, divorce matters), payments should be made in cash to the sheriff.
5. An accountant should be appointed, as well as an auditor to audit the accounting books of the office (the trust and business accounts) annually, so that the sheriff can pay over to the Board the interest accumulated from the trust accounts (as per the IT 3b certificate obtained from the bank) and also the 1,5% levy on the total turnover, less certain allowable expenses (expense claims may not exceed 20% of turnover).

How to transact with a trust account

1. In accordance with Section 22 of the Sheriffs Act, 1986, every sheriff must operate a trust account.
2. Should a sheriff be appointed in more than one area he is obliged to operate a separate trust account for each appointment.
3. All monies collected from sales in execution of movable or immovable property must be deposited into this account immediately.
4. In accordance with Rule 39(6)(a) of the Magistrate's Courts Act (Act 32 of 1944) and the Consumer Protection Act (Act 68 of 2008), the sheriff must have a vendue roll, registration list and the details of the successful bidder for the price realised at the sale in execution.
5. The sheriff may remove his/her fees from the trust account based on his/her return of service.
6. Any interest earned in the trust account is due and payable to the South African Board for Sheriffs at the end of each financial year together with the audited financial statements by a registered auditor.
7. Should a purchaser request that his/her money be invested in an interest-bearing account until transfer is registered, an investment mandate form obtainable from the South African Board for Sheriffs or its website has to be completed by him/her and lodged for approval with the Board. This money must be held in the trust account until approval from the Board.
8. A separate investment account must be opened with a financial institution in order to invest monies given to the sheriff. This investment account must be linked to the sheriff's trust account.
9. It is advisable to confirm with the financial institution the amount of interest payable to each account should there be multiple amounts in the account.
10. Sheriff's fees should be removed from the trust account and it is illegal to settle personal accounts using trust money **and/or trust cheques**.
11. Investment mandate forms (Form L12/7/3) can be accessed on the SABFS website - www.sheriffs.org.za.

General office staff

These could include the following staff members:

- Data capturers to capture returns of service on a database system.
- Staff to split documents (filing and sending documents to attorneys/applicant).
- In a rural/informal area one should consider appointing a translator or a liaison officer to communicate in a language understood by the respondent or defendant.

Chapter 3: Service of Documents

Service of processes, notices and other documents

1. A party requiring service of any process, notice or other document to be made by the sheriff shall deliver to him the original of such process, notice or document, together with as many copies thereof as there are persons to be served. Provided that the clerk of the court may, at the written request of the party requiring service, hand such process, notice or document to the sheriff.
2. (a) Except as provided in paragraph (b) or in the case of service by post or upon orders of the court, process, notice or other documents shall not be served on a Sunday or a public holiday.
(b) An interdict, a warrant of arrest or a warrant of attachment of person or property under Section 30b of the Magistrate's Courts Act may be executed on any day at any hour and at any place.
3. All processes shall, subject to the provisions of this rule, be served upon the person affected by means of a delivery of a copy thereof in one or other of the following manners:
 - (a) To the said person, personally or to his/her duly authorized agent;
 - (b) At his/her residence or place of business to some person apparently not less than 16 years of age and apparently residing or employed there ('residence' for the purpose of this paragraph, when a building is occupied by more than one person or family, means that portion of the building occupied by the defendant);
 - (c) At his/her place of employment to some person apparently not less than 16 years of age and apparently in authority over him or, in the absence of such a person in authority, to a person apparently not less than 16 years of age and apparently in charge at his/her place of employment;
 - (d) the person to be served has chosen a *domicilium citandi* at the *domicilium* so chosen;
 - (e) In the case of a body corporate at his/her local office or principal place of business, within the area of jurisdiction of the court concerned, to a responsible employee thereof or any other manner specifically provided by law;
 - (f) If the plaintiff or his/her authorised agent has given written instructions to the sheriff to serve by registered post, the process shall be so served;
 - (g) In the case of a Minister, Deputy Minister or administrator, in his/her official capacity, the State or provincial administration at the Office of the State Attorney in Pretoria or at a branch of that Office which serves the area of jurisdiction of the court from which the process has been issued:

Provided that where such service has been effected in the manner prescribed in paragraphs (b), (c), (e) or (g), the sheriff shall indicate in the return of service of the process, the name of the person to whom it was delivered and the capacity in which such a person stood in relation to the person, body corporate or institution affected by the process; and, where such a service has been effected in the manner prescribed in (b), (c) or (f), the court, or the clerk of the court as the case may be, may, if there is reason to doubt whether the process served has come to the actual knowledge of the person to be served, and in the absence of satisfactory evidence thereof, treat such service as invalid.

4. The sheriff shall, on demand by the person upon or against whom the process is served, exhibit to that person the original of the process.
5. Where the person to be served keeps his/her residence or place of business closed and thus prevents the sheriff from serving the process, it shall be sufficient to affix a copy thereof to the outer or principal door or security gate of such a residence or place of business or to place such a copy in the post box at such a residence or place of business (see amended rule below).
6. Where the sheriff is unable after a diligent search to find at the residence or *domicilium citandi* of the person to be served either that person or persons referred to in subrule 3(b) or, in the case of a body corporate referred to in subrule 3(e), a responsible employee, it shall be sufficient to serve to affix a copy of the process to the outer or principal door of such a residence, local office or principal place of business or leave a copy of the process at such *domicilium*.
7. Where the relief claimed in any action is limited to an order for ejection from certain premises or land or a judgement for the rent thereof and for the cost of such proceedings, and it is not possible to effect service in the manner prescribed in subrule (3), service of process may be effected by affixing a copy thereof to the outer or principal door of such premises or on some other conspicuous part of the premises or land in question.
8. Service of an interpleader summons, where claim is made to any property attached under process of the court, may be made upon the attorney of record (if any) of the party to be served.
9. Where two or more persons are to be served with the same process, service shall be effected upon each, except –
 - (a) In the case of a partnership, when service may be effected by delivery at the office or place of business of such partnership, or if there is none, then by service on any member of such partnership in any manner hereinbefore prescribed.
 - (b) In the case of two or more persons sued in their capacity as trustees of an insolvent estate, liquidators of a company, executors, curators or guardians, when service may be effected by delivery to any one of them in any manner hereinbefore prescribed.
 - (c) In the case of a syndicate, unincorporated company, club, society, church, public institution or public body, when service may be effected by delivery at the local office or place of business of such body or if there is none, by service on the chairman or secretary or similar officer thereof in any manner hereinbefore prescribed.
10. Service of a subpoena on a witness may be effected at a reasonable time before attendance is required in any manner hereinbefore prescribed, but need not be effected through the sheriff.
11. (a) Service of any notice, request, statement or other document which is not a process of the court may be effected by delivery by hand at the address for service given in the summons or appearance to defend (as the case may be) or by sending it by registered post to the postal address so given.
 - (b) An address for service or postal address so given may be changed by delivering of notice of a new address and thereafter service may be effective as aforesaid at such a new address.
 - (c) Service by registered post under this subrule shall, until the contrary appears, be deemed to have been effected at 10 o'clock in the forenoon on the fourth day after the postmarked date upon the receipt for registration.
 - (d) Service under this subrule need not be effected through the sheriff.

12. Where the court is satisfied that service cannot be effected in any manner hereinbefore prescribed and that the action is within its jurisdiction, it may make an order allowing service to be effected by the person and in the manner specified in such order.
13. Where service of an *ex parte* order calling upon the respondent to show cause at a time stated or limited in the order or of an interpleader summons is to be effected upon any party, service of such *ex parte* order or interpleader summons shall be effected –
 - (a) In the case where the party to be so served is the State, at least 20 days; or
 - (b) In the case where any other party is to be served, at least 10 days, before the time specified in such *ex parte* order or interpleader summons for the appearance of such party.
14. Except where otherwise provided, notice of any application to the court shall be served –
 - (a) In the case where the party to be served is the State or a servant of the State in his/her official capacity, at least 20 days; or
 - (b) In the case of any party, at least 10 days, before the day appointed for the hearing of the application, but the court may on cause shown reduce such a period.
15. (a) Unless otherwise provided, where service of process may be effective by registered post such service shall be effected by the sheriff placing a copy thereof in an envelope, addressing and posting it by pre-paid registered letter to the address of the party to be served and making application at the time of registration for an acknowledgment by the addressee of the receipt thereof as provided in Regulation 44(5) of the Regulations published under Government Notice R.55 of 14 April 1960.
 - (b) A receipt form completed as provided in Regulation 44(8) of the said regulation shall be a sufficient acknowledgment of receipt for the purpose hereof.
 - (c) If no such acknowledgment is received, the sheriff shall state the fact in his/her return of service of the process.
 - (d) Every such letter shall have a printed or typewritten notice on the envelope to the following effect:

“This letter must not be readdressed. If delivery is not effected before,
20., this letter must be delivered to the sheriff at”

Summary

A sheriff or his/her deputy, when serving any process, shall:

- Serve any process of court to the defendant personally or to his/her authorized agent, at his/her place of residence or place of business/employment or to a person apparently not less than 16 years of age either residing or employed there and in a position of authority.
- Should the place of residence or business be closed, preventing the sheriff from executing his/her duties, the sheriff must apply Amended Rule 9(5) - the reason for the amendment is to be strict, due to the lax law of service having resulted in a huge number of default judgements, which gave rise to many applications for rescissions.

When serving a process on a person other than the defendant, the sheriff must enquire:

- whether he or she knows the defendant;
- whether the defendant resides or works at the said address; and
- whether it would be possible to bring it to the defendant's attention within three (3) court days. The sheriff must note and record the responses to his/her questions on his/her return of service, to whom it was served and in what capacity.
- In the case of a Minister or his/her Deputy or Administrator in his/her official capacity, it must be served to the Office of the State Attorney in Pretoria or a branch thereof.

Please note:

There are minor differences but important to note relating to Rule 4 of the High Court:
Manner of service –

Divorce matters

Applications for sequestration

Subpoenas

MUST BE SERVED PERSONALLY

As from 15 October 2010, the jurisdiction of the regional courts has been extended to enable civil disputes as well as divorce matters to be heard.

The matters that are now appearing before the regional courts are as follows:

- Divorce
- Maintenance
- Adoptions
- Disputes over movable and immovable property between the values of R100 000 and R300 000
- Credit agreements between the values of R100 000 and R300 000

Road Accident Fund claims with a monetary value of between R100 000 and R300 000 may now also be dealt with in the regional courts.

Chapter 4: Warrants

When executing any warrant the defendant or his/her attorney may inform the sheriff that he or she has applied for a rescission of judgement. However, this does not stop the sheriff from executing his/her duties. The sheriff may only stay the execution process upon receipt of a court order or instructions from the plaintiff's attorneys.

Before any warrant or order is granted from our courts, we must bear in mind that the Constitution, which is the cornerstone of our democracy in South Africa, enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

The sheriff must respect, protect, promote and fulfil the rights as contained in the Bill of Rights. The rights in the Bill of Rights are subject to the limitations contained or referred to in Section 36, and elsewhere in the Constitution.

For example, our Constitution (Bill of Rights), while stating that "Everyone has the right to have access to adequate housing" Section 26(1), and that "No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances" Section 26(3), also upholds the principle of judicial authority and gives independence to our courts, and states that "An order or decision issued by a court binds all persons to whom and organs of state to which it applies" (Chapter 8, Section 165[5]).

Warrant of delivery

It is an order from court instructing the sheriff to remove and deliver certain property e.g. furniture, motor vehicle, etc., and hand the said property to the applicant or to whomever the order may state. This order nullifies all contracts.

Warrant of ejectment or eviction order (please note to follow the checklist)

Before an eviction order is granted, sheriffs must bear in mind the constitution of our country. We must adhere to certain procedures (although we only serve).

Notice of motion must be served upon the occupier and the local municipality. In *ex parte* applications, notice also needs to be served to the occupier and municipality.

Once the sheriff receives the warrant of eviction for service:

A notice of eviction with a copy of the order is to be served to the following –

- **Occupier** – to give him or her time to find alternative accommodation
- **Municipality** – if the occupier is on the waiting list for an RDP house
- **Ward councillors** – who help to explain the process
- **The South African Police Service** – should you need their assistance
- **Residents' Association and community leaders** – normally in informal areas.

The reason for the notice is to verify the number of occupants and whether there are women and children or sick and elderly occupants (in order for the warrant to be amended, request social health services to assist).

Warrant of attachment and removal

After a default judgement has been obtained, the sheriff normally receives an instruction from the attorney or applicant to make an attachment in execution. At this point only an attachment is done with no removal instruction, allowing the judgement debtor to still make an arrangement with the attorney or applicant.

Before the attachment time lapses, the attorney or applicant would instruct the sheriff to remove the goods that were judicially attached. Always request written instructions for removals (follow the instructions as per the checklist and remember to request security or indemnity).

An attachment on movable property in a magistrate's court lapses after four months from the date of attachment (unless there are no pending interpleader hearings) while the attachment of movable property in the High Court does not lapse and remains in force until the judgement debt has been settled in full (withdrawal must be confirmed by the attorney and it is therefore advisable that the sheriff reminds the instructing attorney of the pending attachment every six months or else files will build up and the attorneys will not settle the withdrawal costs if not informed regularly).

Warrant of execution for immovable property

Rule 46 - this rule must be studied thoroughly by the sheriff and all his/her staff members.

A brief overview of this rule:

- The warrant of execution against immovable property must contain the full description of the property including the address.
- It must be signed and addressed to the sheriff by the registrar or clerk of the court.

The notice should be served like a summons as follows:

1. Occupiers/defendants must be served by hand by the sheriff/deputy sheriff, and it is preferred that it is done personally failing which to a person over the age of sixteen years being in charge of the premises at the time of the service.
2. Upon the Registrar of Deeds by hand by the sheriff's closest to the jurisdiction of the Registrar of the High Court.
3. Registered mail to the municipality.
4. Thereafter by registered mail to the bond holder.

The execution creditor shall prepare a notice of sale containing a full description of the property, date, time and venue of the sale and publish it once in a local newspaper and the Government Gazette, not less than five days and not more than 15 days prior to the sale. A set of conditions of sale shall be prepared and forwarded to the sheriff not less than 20 days prior to the date of sale.

Upon conclusion of the sale all proceeds shall be paid to the sheriff to be held in his/her **trust account**, who upon transfer shall prepare a distribution plan and account to creditors, ranking priority and, most importantly, pay out without avoidable delay.

Please note:

The manner of service is different in the Magistrate's Court. The abovementioned explanation accords with High Court procedures.

Chapter 5: Frequently Asked Questions

Who regulates the sheriffs' profession?

The South African Board for Sheriffs monitors the services of sheriffs and their deputies, ensuring they are executed in a humane manner in terms of the Code of Conduct for Sheriffs. Sheriffs operate independently from each other.

Disciplinary code and procedures for sheriffs

Section 8 of the Sheriffs Act, 1986 (Act 90 of 1986, hereinafter referred to as “the Act”), provides that the objects of the South African Board for Sheriffs (hereinafter referred to as “the Board”) shall be the maintenance of the esteem of, the enhancement of the status of, and the improvement of functions performed by sheriffs.

It is against this background that the Board has drafted the Disciplinary Code and Procedures for Sheriffs with the following objectives –

- To address unacceptable conduct by sheriffs
- To return a sheriff to an acceptable standard of discipline where appropriate and not to punish the sheriff
- To protect and promote the interests of the sheriff's profession
- To ensure that, as a result of disciplinary proceedings and in accordance with the principles of natural justice, a sheriff has a reasonable opportunity to state his or her case, and all relevant circumstances are fully and objectively considered before a decision is taken.

For the purposes of the Disciplinary Code and Procedures for Sheriffs –

- (i) “Compliance Committee” shall mean the committee established by the Board in terms of Section 16(a) of the Act to advise it on matters pertaining to disciplinary standards, proceedings and matters incidental thereto; and
- (ii) “Disciplinary Committee” shall mean the disciplinary authority established by the Board in terms of Section 18 of the Act.

Purpose and scope


The purpose and scope of the Code and Procedures are:

- to support constructive relations in the sheriff's profession
- to promote mutual respect between the sheriffs and the legal profession and the public in general
- to ensure that the South African Board for Sheriffs and sheriffs share a common understanding of improper conduct and discipline
- to promote acceptable conduct
- to provide a quick and easy reference for the application of discipline
- to avert and correct unacceptable conduct, and
- to prevent arbitrary or discriminatory actions.



Where do I obtain assistance with training?

The South African Board for Sheriffs has a training and development department. The Board has appointed certain sheriffs based in each province to serve as mentors to newly appointed sheriffs.



Who do I approach for financial assistance should I run into problems within the first three to four months of my business while awaiting my VAT registration certificate?

When applying for the sheriff's post, one of the requirements is that the applicant has financial backup (liquid capital) or sufficient assets to be used as collateral to secure a loan. It is also advisable to approach the banks used by the previous sheriff as they would have an idea of the financial strength of the office.



Are there any associations/organisations for sheriffs in my province?

South African Sheriff's Society (SASS)

Secretary: Petro Roodt, tel: (016) 976 0988, fax: (016) 976 3401,
email: petro@sasolburgsheriff.co.za, website: www.sassoc.co.za

South African National Association of Progressive Sheriffs (SANAPS)

Secretary: Iqubal D Mahomed, tel: (011) 760 2505, fax: (011) 760 6525
email: Iqubaldawood@gmail.com, website: www.sanaps.org.za



Does the profession provide medical aid benefits and/or a provident fund for the staff and sheriff?

The sheriff's profession does not have a selected service provider for this requirement. It is left to the individual sheriff to communicate with his/her own service provider.



Is there any insurance cover that is required?

Upon your appointment you must obtain insurance to cover theft and damage of third party goods, including public liability insurance.



How would attorneys know of my appointment?

The sheriff must forward his/her introduction letter to the local law society in his/her province. They will inform their members accordingly.

It is important to notify attorneys of your appointment as well as your credit policy and all your contact details.



How do I prevent fraudulent activity from taking place in my office?

It is the sheriff's responsibility to make sure that the management constantly monitors staff behaviour and all transactions within the establishment, especially involving his/her trust account. The sheriff is also required to monitor the daily movements of his/her deputies as this area is open to fraudulent activities.



What are my options should an attorney refuse to settle my account within 30 days?

In terms of Section 14(7) you may ask the local magistrate to communicate with the attorney, notifying him that a service will not be rendered to him until he settles your account.

What are the appropriate law books that I must have in my office?

The Supreme Court Act and Magistrate's Court Act and Rules (Juta)

Magistrate's Court Act and High Court Act (Buckle & Jones)

The Sheriff's Handbook (Nexis)

Is there a set uniform for my staff and what logo should I use in my office and on my letterheads?

There is no set uniform for the sheriff or the deputy sheriffs. However, it is imperative that your staff are dressed neatly at all times. All sheriffs are encouraged to use the logo of the South African Board for Sheriffs in all their official documentation, i.e. letterheads, signage and all other branding. Your Fidelity Fund Certificate and the Service Charter of the SABFS must be clearly displayed in all offices for all members of the public to read and view.

What is the procedure to follow should I go on leave?

It is a requirement that you appoint a capable person to manage the office during your absence and this notice must also be submitted to the Board for Sheriffs.

What type of sheriff's computer programmes are available and who do I contact to obtain one?

Legal Information Technology (LIT)

Contact: Eugene Schilz, tel: 082 490 1700, fax: (011) 507 5519

Sheriff's Office System (SOS)

Contact: Diets Niewoudt, tel: (051) 436 1488, fax: (086) 6531 910,
email: diets@sheriffnet.co.za, website: www.sheriffnet.co.za

Pro Systems

Contact: Roy Erasmus, tel: 082 565 0258, fax: (044) 698 1266,
email: lolli.erasmus@prosystems.co.za, website: www.prosystems.co.za

How do I control attached assets in my warehouse?

It is important to note that all assets placed under judicial attachment are the responsibility of the sheriff until sold in auction through a sale in execution. Therefore it is advisable that you allocate a person in your office to control your storeroom as strictly as possible. It is very important to label each item with the defendant's name and the case number as soon as the goods are brought into your storeroom. It is further advisable to make sure that small items such as TVs, Hifis, computers, DVD players, etc. are stored in a safe and secure room.

Are there any requirements that I must adhere to when setting up and holding an auction?

Yes, in terms of the Consumer Protection Act (Act 68 of 2008), sheriffs are now required to register all buyers on their database. The buyer must comply with FICA requirements by handing in a copy of his/her ID document, proof of residence and a utility bill not older than three months. The buyer must pay a registration deposit in order to obtain a buyer's card (this amount is currently R500,00 for movable property and R10000,00 for immovable property). It is also advisable to have a pay point system (from your bank) in your office, which will avoid large sums of cash being handled at the auction.



What types of reports does ITC give to any consumer applying for credit?

NOTICE

This is an indication that you were overindebted and had to either be sequestrated, or go under administration or later rehabilitation. This means that you have allowed somebody else to administer your account as you have been deemed financially unfit to do so on your own.

A notice remains on your credit profile for up to 10 years and after rehabilitation up to five years. You will need a legal expert to be able to rescind the notice and have it removed from your credit report.

JUDGEMENT

This is a court order requested by your creditors due to him/her not receiving payment on your account. Once the court order has been granted, your creditor has the legal right to collect this debt from you for a period of 30 years.

Before the judgement is taken, a summons informs you of your appearance date and allows you to present your case. If you fail to appear in court, a court order gets issued and sent to the bureaus for a default judgement. The default judgement appears under your name with the bureaus for a period of five years before it is automatically removed. However, you can have it rescinded and removed by instructing an attorney once the debt has been settled.

ADVERSE INFORMATION

A default listing means that you are in default of your obligations to pay your debt as per your agreement with the creditors. There are two types of adverse information.

Enforcement action: Listing remains on your credit profile for two years and means that a creditor has listed you for non-payment and is planning to enforce payment by handing over the account for collection to an attorney and to take further legal action.

Subjective listing: Remains on your credit profile for one year and means that a creditor has listed you for non-payment. The creditor can stop this listing or take further action.

Settling the debt in full does not automatically qualify for the removal of the default listing. However, the creditors are obligated to update the account as settled in full. An adverse listing can be challenged on procedural and substantive grounds and, if determined to be unfair, will be immediately deleted.

PAYMENT PROFILE

Your payment profile is a reflection of your past and current credit obligations and exposes your credit behaviour and payment conduct with your creditors.

A negative payment act remains on your record for a period of two years.

TRACE ALERT

A trace alert indicates that a creditor to whom you owe money has asked to be notified the next time you submit your contact details to any credit provider or credit history contribution. This is so that they can make contact with you to arrange the payment of the outstanding monies.

ENQUIRIES

Every time you apply for credit, the creditor conducts a check on your current credit information. This appears on your report as an enquiry and provides a history of all your credit applications.

Chapter 6: Examples of Forms



EXAMPLE 1:

FORM 4: Application for Fidelity Fund Certificate

Please bear in mind that the form has changed in terms of the new regulations

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve

REGULATIONS RELATING TO SHERIFFS, 1990 APPLICATION FOR FIDELITY FUND CERTIFICATE

[Regulation 3]

1. Title
2. Surname
3. Forenames
4. Sex
5. Date of birth
6. Identity number
7. Nationality
8. Residential address Postal code
9. Telephone number
- 10 Business address Postal code
11. Telephone number
12. Postal address Postal code
13. From which date will you be able to act as sheriff?
14. Were you previously in possession of a Fidelity Fund Certificate? If so, give details:
.....
.....
.....
15. Have you at any time been dismissed from a position of trust by reason of improper conduct involving a breach of such trust? If so, give details:
.....
.....
.....
16. Have you at any time been convicted of any offence involving dishonesty, or of any other offence for which a sentence of imprisonment without the option of a fine was imposed? If so, give details:
.....
.....
.....
17. Have you ever been declared insolvent? If so, give details:
.....
.....
.....
18. Were you previously the holder of a Fidelity Fund Certificate which was cancelled under Sections 34(1) or 49 of the Sheriffs Act, 1986? If so, give details:
.....
.....
.....



EXAMPLE 2:

PRIMAK

**PROFESSIONAL INDEMNITY
APPLICATION FORM**

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve



VERSEKERINGSMAKELAARS · INSURANCE BROKERS

FIRST FLOOR, TYGERVALLEY CHAMBERS TWO, 27 WILLIE VAN SCHOOR DRIVE, BELLVILLE, 7530
P O BOX 3814 ♦ TYGERVALLEY ♦ 7536 ♦ T: 021 945 4376 ♦ F: 021 949 9542
PRIMAK@PRIMAK.CO.ZA ♦ WWW.GARRUN-GROUP.CO.ZA

REGISTRATION NO: 2009/009562/07
FSP LICENSE NO: 5320
PRIMAK (PTY) LTD

PROFESSIONAL INDEMNITY INSURANCE FOR SHERIFFS

INSURER	:	SANTAM INSURANCE CO
BROKER	:	PRIMAK INSURANCE BROKERS (PTY) LTD
TEL	:	021 945 4376
FAX	:	021 949 9542
E-MAIL	:	primak@primak.co.za
FINANCIAL SERVICE PROVIDER NUMBER	:	5320
PHYSICAL ADDRESS	:	FIRST FLOOR, TYGERVALLEY CHAMBERS TWO, 27 WILLIE VAN SCHOOR DRIVE, BELLVILLE
POSTAL ADDRESS	:	PO BOX 3816, TYGERVALLEY 7536

Description of professional indemnity insurance

Professional indemnity insurance indemnifies the sheriff against his/her legal liability to pay compensation, including claimant costs, in accordance with the law of any country, excluding the USA or Canada, as a result of any actual or alleged negligent act, or omission in the performance of his/her professional duties undertaken in the course of the business.

Payment of premium

Professional indemnity insurance for sheriffs is payable annually in advance; however, Santam has made exceptions to this rule and Primak has also assisted clients who need relief in their commitments. This exception is made by discretion of the insurer.

How are premiums calculated

Premiums are calculated in accordance with the size of the sheriff's practice which would be determined by the number of deputies employed by each sheriff.

Period of insurance

1 December to 30 November of each year. Premiums must be paid on or before 1 December of each year or on a monthly basis if agreed to by the insurer.

Claims procedure

The minute that any sheriff receives a notification of a claim, either by summons or attorney letter, Primak must be informed and all documentation forwarded to their office in Cape Town. Primak will then assist in dealing with this matter. Please note that with all the claims an excess also known as a first amount payable of R10 000 for the first claim, R15 000 for the second claim and R20 000 for the third claim is payable by the sheriff. The insurer will pay the balance.

• DIRECTORS: M PRIEM (SNR). AJ GUTHRIE •



SANTAM HEAD OFFICE, 1 SPORTICA CRESCENT, TYGERVALLEY, BELLVILLE 7530
 TEL: 021 915 7000 FAX: 021 914 0700
 REG. No. 1918/001680/06

SHERIFF'S PROFESSIONAL INDEMNITY PROPOSAL FORM

(TO BE COMPLETED FOR ALL NEW BUSINESS & RENEWALS)

1. TITLE, INITIALS AND SURNAME OF PROPOSER

- 1.1 Title of insured/practice _____
- 1.2 Tel _____
- 1.3 Fax _____
- 1.4 Postal address _____

- 1.5 VAT registration number _____
- 1.6 Appointment (mark relevant box)
- | | | |
|-------------|------------|------|
| Lower Court | High Court | Both |
|-------------|------------|------|
- Area/district _____
- 1.7 Qualification of sheriff _____
- 1.8 Number of deputy sheriffs _____

2. ADDRESSES OF PRACTICE

Partner/principal in charge	Address

3. DATE OF COMMENCEMENT OF PRACTICE

- 3.1 As currently constituted _____
- 3.2 As initially established _____

DECLARATION

I/we hereby declare that the above statements and particulars contained in this proposal are true and complete at the present time. I/we have no reason to anticipate any claim under the insurance now being requested. I/We agree that this proposal and declaration shall be the basis of the contract between me/us and the insurers.

DATE _____ SIGNATURE OF PROPOSER _____



EXAMPLE 3:

FORM 14: Application for Appointment of Deputy Sheriff

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve



SOUTH AFRICAN BOARD FOR SHERIFFS



AANSOEK OM AANSTELLING AS ADJUNKBALJU APPLICATION FOR APPOINTMENT AS DEPUTY SHERIFF

(Artikel 6 [1] van Wet 90 van 1986)

L.W: Hierdie vorm moet in druk- of tikskrif voltooi word.

(Section 6 [1] of Act 90 of 1986)

Please note: This form must be completed in block letters or typing.

Ek,balju/waarnemende balju vir
.....(plek of gebied van aanstelling)
doen ingevolge artikel 6 (1) van Wet 90 van 1986 aansoek om die aanstelling van die persoon wie se
besondere op **bylae A** verskyn, as adjunkbalju op my personeel.

I, sheriff/acting sheriff
for(place or area of appointment)
in terms of Section 6 (1) of Act 90 of 1986 apply for the appointment of the person whose
particulars appear in **schedule A** as deputy sheriff on my staff.

* Hierdie aansoek is vir 'n addisionele adjunkbalju of

* Hierdie aansoek is ter vervanging van.....wie se aanstellingsertifikaat aangeheg is en
wat my diens verlaat het as gevolg van

* This application is for an additional deputy sheriff or

* This application is in substitution of whose appointment certificate is attached
and who left my employ as a result of

Ek verklaar dat ek my behoorlik vergewis het van(Voorletters en van van adjunkbalju)
se bekwaamheid vir aanstelling as adjunkbalju in my diens en dat ek by die Raad aanbeveel dat sy aanstelling
as adjunkbalju goedgekeur word.

I declare that I have satisfied myself that(Initials and surname of deputy sheriff)
is duly competent and qualified to be appointed as deputy sheriff in my employ and recommend that
his/her appointment as deputy sheriff be approved by the Board.

* Skrap wat nie van toepassing is nie / Delete whichever is not applicable.

.....
Handtekening van balju/Signature of sheriff

.....
Datum/Date

OPMERKINGS / REMARKS:

Hierdie aansoek moet vergesel word deur -
This application must be accompanied by -

- (i) Twee paspoortgrootte foto's. Die balju moet op die keersy van die foto's soos volg sertifiseer:
Two passport size photos. The sheriff must certify on the reverse of the photos as follows:
"Gesertifiseer 'n juiste foto van "(naam van aansoeker);
"Certified an authentic photo of "(name of applicant);
- (ii) afskrif van identiteitsdokument / copy of identity document;
- (iii) 'n Gesertifiseerde afskrif van die aansoeker se hoogste opvoedkundige kwalifikasie; en
A certified copy of the applicant's highest educational qualifications; and
- (iv) Twee gewaarmerkte onlangse getuigskrifte / Two certified recent testimonials.

**AANSOEK OM AANSTELLING AS ADJUNKBALJU OP DIE PERSONEEL
VAN DIE BALJU VIR.....** (plek of gebied van aanstelling)

**APPLICATION FOR APPOINTMENT AS DEPUTY SHERIFF ON THE STAFF OF
THE SHERIFF FOR** (place or area of appointment)

LW: Hierdie vorm moet in druk- of tikskrif voltooi word. Please note. This form must be completed in block letters or typing.

**A. PERSOONLIKE BESONDERHEDE VAN AANSOEKER / PERSONAL PARTICULARS OF
APPLICANT**

MNR/MEV/MEJ

MR/MRS/MISS

1. Geslag/sex
 2. Huwelikstaat/marital status
 3. Geboortedatum/date of birth
 4. Burgerskap/nationality.....
 5. Identiteitsnommer/identity number.....
 6. Woonadres/residential address.....
.....Poskode/postal code
 7. Tel
 8. Posadres/postal address
 -Poskode/postal code
 9. Huidige beroep/present occupation
 10. Werkadres/work address
 -Poskode/postal code
 11. Tel
 12. Ly u of het u ooit aan enige liggaamlike of geestelike gebrek of enige ernstige siekte gely? *JA/NEE. Indien wel, verstrek besonderhede.
Do you, or did you at any time, suffer from any physical or mental disability or any serious disease?
*YES/NO. If so, give details.
.....
.....
.....
 13. Is u ooit aan enige strafregtelike oortreding skuldig bevind? *JA/NEE. Indien wel, verstrek besonderhede.
Have you ever been convicted of any criminal offence? *YES/NO. If so, give details.
.....
.....
 14. Is u ooit insolvent verklaar? *JA/NEE. Indien wel, verstrek besonderhede.
Have you ever been declared insolvent? *YES/NO. If so, give details.
.....
.....
 15. Is daar in die verlede siviele vonnisse teen u aangeteken? *JA/NEE. Indien wel, verstrek besonderhede.
Have civil judgements been noted against you in the past? *YES/NO. If so, give details.
.....
.....
- *Skrap wat nie van toepassing is nie. / Delete whichever is not applicable.

B. TAALBEDREWENDHEID/LANGUAGE PROFICIENCY

	Afrikaans Afrikaans	Engels English	Ander (spesifiseer) Other (specify)
	Goed Good	Redelik Fair	Swak Poor
Praat Speak			
Lees Read			
Skryf Write			

C. OPVOEDKUNDIGE KWALIFIKASIES/EDUCATIONAL QUALIFICATIONS

- Hoogste graad op skool geslaag
Highest grade attained at school
- Jaar waarin geslaag
Year attained
- | Sertifikate, diplomas of
grade verwerf
Certificates, diplomas or
degrees obtained | Naam van onderwysinrigting
of sentrum
Name of educational institution
or centre | Jaar waarin
verwerf
Year obtained |
|--|--|---|
| | | |
| | | |
| | | |

D. ONDERVINDING/EXPERIENCE

Enige ander inligting wat u onder die Baljuraad se aandag wil bring, veral met betrekking tot kennis van die Wet op Landdroshowe, 1944 (Wet 32 van 1944) of die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959), en die reëls daarkragtens uitgevaardig, asook kennis van die werksaamhede en pligte van 'n adjunkbalju.

Any other information you wish to bring to the attention of the Board for Sheriffs, particularly with reference to knowledge of the Magistrate's Courts Act, 1944 (Act 32 of 1944) or the Supreme Court Act, 1959 (Act 59 of 1959), and the rules promulgated thereunder as well as knowledge of the duties and functions of a deputy sheriff.

.....

.....

.....

.....

.....

.....

.....

Ek verklaar dat die besonderhede wat ek verstrek het, in alle opsigte volledig en korrek is.
I declare that the particulars furnished by me are in all respects complete and correct.

.....

Handtekening van aansoeker
Signature of applicant

.....

Datum
Date

OPMERKINGS/REMARKS

Ingevolge die Regulasies betreffende Balju's, 1990, is dit 'n misdryf om besonderhede of inligting te verstrek of 'n verklaring te doen wat vals of misleidend is.

In terms of the Regulations relating to Sheriffs, 1990, it is an offence to furnish particulars or information or to make a statement which is false or misleading.

Ingevolge artikel 6 van die Wet op Balju's, word adjunkbaljus met die goedkeuring van die Baljuraad aangestel en volgens die voorwaardes wat die Raad bepaal.

In terms of Section 6 of the Sheriffs Act, 1986, deputy sheriffs are appointed with the approval of the Board for Sheriffs and on such conditions as determined by it.



EXAMPLE 4:

Audited Financial Statements

First legal obligation - annual Audited Financial Statements must be submitted on or before 31st July each year

Second legal obligation - sheriff's and deputy's fees and insurance to be paid by 31 August of each year

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve



SOUTH AFRICAN BOARD FOR SHERIFFS



STATEMENT OF LEVIES PAYABLE TO THE BOARD FOR THE PERIOD

1 MARCH _____ TO 28 FEBRUARY _____

(Regulation 6 of the Regulations relating to Sheriffs, 1990)

I, _____ (full names and surname)
 sheriff/acting sheriff for _____ (place or area of appointment)
 hereby declare that the information below is to the best of my knowledge true and authentic.

Gross income for the period: _____ to _____ R _____

Less actual expenses (incurred in respect of returns of service) in respect of:

- | | | |
|--|---|--|
| (i) Advertising (w.r.t. sales in execution) | R | |
| (ii) Postage | R | |
| (iii) Telephone calls | R | |
| (iv) Control and possession of goods | R | |
| (v) Tending of livestock | R | |
| (vi) Removal and storage of goods | R | |
| (vii) Employment of locksmith | R | |
| Total of actual expenses incurred | R | |
| Total of actual expenses recouped | R | |
| Regulation 14(b) of Regulation No 34605 of 2011
of the Sheriffs Act 90 of 1986, the sheriff's expenses
(20% of gross income) | R | |

Net income (see definition of "net income" in Regulation 1 as amended by Regulation 4 of Regulation No 34605 of 2011).
 Gross income less total of actual expenses up to a maximum of 20%

Amount of levy due to the Board (1,5% of net income) R _____

Plus 14% VAT R _____

TOTAL R _____

CONDITIONS

1. This statement must be signed by the sheriff personally.
2. Please note the definition of "gross income" and "net income" respectively in Regulation 1 as amended by Regulation 4 of Regulation No 34605 of 2011 and Regulation 3 of Regulation No 31658 of 2008 respectively. Only the **actual expenses** - recovered by way of returns of service - should be deducted to determine net income i.e. "**NET INCOME**" means gross income after deduction of the actual expenses incurred by sheriff in respect of advertisement with regard to sales in execution and in respect of postage, telephone calls, control and possession of goods, tending of livestock, removal and storage of goods and the employment of a locksmith to open any door or piece of furniture, however the above expenses **MUST NOT EXCEED 20%** of the sheriff's gross income.
3. In terms of the Regulations relating to Sheriffs, 1990 as amended by Regulation No 31658 of 2008, it is an offence to furnish details or information or to make a statement which is false or misleading.
4. Should the Board have doubt about the correctness of any information furnished it can order an inspector (appointed in terms of Section 56 of the Act) to visit a sheriff's office and to act in terms of the provisions of Section 57 of the Act. The Board reserves the right to require documentary proof of deductions.
5. **Sheriffs and acting sheriffs** must submit the statement for each financial year up to the end of February.
6. By appending my signature hereto I affirm the conditions above.

Signature of sheriff

Date



EXAMPLE 5:

Trust Receipt Book

TO SERVE AS PROOF OF PAYMENT
INTO TRUST ACCOUNT

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (area) TRUST RECEIPT NO

Contact number

No 1200

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"

SHERIFF (area) TRUST RECEIPT NO

Contact number

No 1201

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"

SHERIFF (area) TRUST RECEIPT NO

Contact number

No 1202

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"



EXAMPLE 6:

Business Receipt Book

TO SERVE AS PROOF OF PAYMENT
INTO BUSINESS ACCOUNT

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (area) BUSINESS RECEIPT NO

Contact number

No 1200

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"

SHERIFF (area) BUSINESS RECEIPT NO

Contact number

No 1201

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"

SHERIFF (area) BUSINESS RECEIPT NO

Contact number

No 1202

Received from :

The amount of : Rand

and Cents

Re Cash

Ct Cheque

EFT

Received without prejudice

Ref/case no: Date

Execution/removal cost not included

--	--	--	--

"Payment without prejudice"



EXAMPLE 7:

In Person/Small Claims Notice

TO BE SIGNED BY THE
PLAINTIFF/CREDITOR ON STIPULATED
TERMS AND CONDITIONS OF SHERIFF

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (_____)

SHERIFF'S
CONTACT
DETAILS

SHERIFF'S
PHYSICAL
ADDRESS

IN PERSON / SMALL CLAIMS

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____

IN THE MATTER BETWEEN:

Case no: _____

Plaintiff : _____

Cell no: _____

Defendant 1 : _____

Cell no: _____

2 : _____

PLAINTIFF'S ADDRESS

DEFENDANT'S ADDRESS

Special instructions: _____

I, _____ am the execution creditor/plaintiff/applicant in the above matter, and acknowledge herewith that the sheriff/deputy sheriff has explained the following:

1. Before an attachment can be made, payment in the amount of R _____ is required.
2. The sheriff will attend to the premises of the defendant and attempt to attach property which is executable in terms of Section 68 of the Magistrate's Courts Act. Note that property such as beds, bedding, clothing, household utensils, tools and implements of trade, food and drink are exempt from the attachment.
3. Once an attachment has been made in terms of your written instructions, for security to remove the property placed under attachment, a further deposit in the amount of R _____ must be paid in advance to cover the costs for the transport/removal.
4. **The sheriff cannot guarantee the amount of the goods attached and removed, nor the value of goods if sold on an auction as is required by law.**
5. I am responsible for the storage costs, unless the defendant's goods are released from the attachment upon payment of the judgement debt and all the costs incurred.
6. If the property is sold in execution, the proceeds might not be enough to satisfy the outstanding debt or any part thereof, nor any costs incurred.

DESPITE THE ABOVE, I WISH TO INSTRUCT THE SHERIFF OR HIS/HER DEPUTY TO PROCEED WITH THE ATTACHMENT/REMOVAL

Dated at: _____ on this the _____ day of _____ 20 _____

Signed _____



EXAMPLE 8:

Urgent Notice: Maintenance Act

TO BE SERVED WITH SUBPOENA BEFORE
COURT DATE STIPULATING PENALTIES
FOR NON-COMPLIANCE

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (_____)

SHERIFF'S
CONTACT
DETAILS

SHERIFF'S
PHYSICAL
ADDRESS

URGENT NOTICE

MAINTENANCE ACT, 1998 (ACT 99 OF 1998)

IN THE MATTER BETWEEN:

Case no: _____

Plaintiff : _____

Defendant 1: _____

Address: _____

The Defendant / HR Department / Attorney

Please be informed that in terms of Section 9 (2) of the Maintenance Act, 1998 (Act 99 of 1998) a SUBPOENA has been issued against you to appear in person before a MAGISTRATE on the date and time as stated on the SUBPOENA.

WARNING

1. Should you fail to comply with the abovementioned subpoena, you may be arrested and on conviction, sentenced to a fine or a term of imprisonment.
2. A warrant of execution may be issued, which means the sheriff of the court will attach and sell your movable property (furniture, cars, etc.).
3. A garnishee order may be granted against your salary.

The sheriff can and may request the assistance of the South African Police Service, in terms of Section 1 of the Police Act, 1958 (Act 7 of 1958).

SERVED ON:

Name: _____ Contact no: _____

Name of deputy: _____

Date: _____ Time: _____



EXAMPLE 9:

Warrant of Arrest: Notice to Appear in Court (Sec.65a[1])

TO BE SERVED ON THE DEFENDANT TO COME
TO COURT BRINGING ALL NECESSARY
DOCUMENTS TO COMPLETE FINANCIAL
INQUIRY AND FACE CONSEQUENCES OF
NON-APPEARANCE

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (_____)

**SHERIFF'S
CONTACT
DETAILS**

**SHERIFF'S
PHYSICAL
ADDRESS**

WARRANT OF ARREST NOTICE TO APPEAR IN COURT (SEC 65A[1])

IN THE MATTER BETWEEN:

Case no: _____

Plaintiff : _____

Defendant 1: _____

Address: _____

Please be informed that you are hereby required to appear in court in terms of Section 65A(1) of the Magistrate's Courts Act, Act 32 of 1944 on the date and time as stipulated in the warrant. To enable the court to inquire into your/the juristic person's financial position and to make such order as the court may deem just and equitable, as you/the juristic person failed to satisfy -

You are further required to submit a full statement to the said court-

- a. of your/the juristic person's assets and liabilities;
- b. of your weekly/monthly income and expenditure, supported by documentary proof inclusive of a statement by your employer giving full particulars of your emoluments and, in the case of a juristic person, the latest financial statements.

WARNING

1. If the court is satisfied on the grounds of sufficient proof or otherwise -
 - a. that you have the knowledge of a notice referred to in a Section 65A(1) of the Act and that you have failed to appear before the court on the date and at the time specified in the notice; or
 - b. that you, where the proceedings were postponed in your presence to a date and time determined by the court, have failed to appear before the court on that date and at that time; or
 - c. that you have failed to remain in attendance at the proceedings or at the proceedings so postponed;the court may, at the request of the judgement creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest you and to bring you before a competent court to enable that court to conduct a financial inquiry. (Section 65A [6] of the Act).
2. Any person who -
 - a. is called upon to appear before a court under a notice in terms of Section 65A(1) or 8(b) of the Act (where the sheriff, in lieu of arresting a person, hands to that person a notice in writing to appear before the court) and who willfully fails to appear before the court on the date and at the time specified in the notice; or
 - b. where the proceedings were postponed in his/her presence to a date and time determined by the court, willfully fails to appear before the court on that date and at that time;is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months (Section 65A [9] of the Act).

SERVED ON:

Name: _____ **Contact no:** _____

Name of deputy: _____

Date: _____ Time: _____



EXAMPLE 10:

Notice of Attachment in Execution

COPY 1

To be served on defendant and/or occupant stating conditions of sheriff attachment and what action is required if attachment belongs to a third party

COPY 2

To be attached to return of service. If an attachment is done in an informal area inform the applicant/attorney of the nature of the goods attached

COPY 3

Archives or filing copy

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (_____)

SHERIFF'S
CONTACT
DETAILS

SHERIFF'S
PHYSICAL
ADDRESS

URGENT NOTICE YOUR GOODS HAVE BEEN DULY ATTACHED AND THEY WILL BE REMOVED IN DUE COURSE

Name of defendant: _____ Case no: _____

Please take notice that in terms of a warrant I have been instructed to IMMEDIATELY remove and sell the goods that were attached on _____. In order to avoid such drastic steps it is in your own interest to report to my office on or before _____ in order to:

- (i) Pay the indebted amount of R _____ plus costs; **or**
- (ii) Hand in the documentary proof if the goods attached do not belong to you; **or**
- (iii) Make the urgent arrangements with the execution creditor's attorney.

NB: Disregarding this warning will result in the removal of goods attached without further notice. If necessary the service of a locksmith and/or the South African Police will be used to execute the said warrant.

Removal and/or alienation of the goods without permission is a criminal offence.

SHERIFF'S OFFICE HOURS: 08:00-13:00 : 14:00-16:00

PLEASE NOTE:

1. The sheriff has been ordered by the clerk of the court to attach the execution debtor's movable assets and is therefore entitled to **gain entry to ANY premises** or remove any piece of furniture in order to execute the warrant of execution.
2. If the goods, mentioned in the aforementioned inventory, belong to any other person or institution, **written proof** to this effect and/or an **affidavit** by such person or institution must be submitted to the sheriff **immediately** to enable him to institute interpleader proceedings.
3. A claimant of any of the goods attached in this case will be summoned by the sheriff **to appear in court** to prove his or her claim on the goods, if the claim on the goods is not admitted by the plaintiff.
4. **Payment of the outstanding amount** as specified in the warrant plus interest and costs can be made to the sheriff whereupon the attachment on the goods will be lifted. Arrangements for paying the debt installments should be made with the plaintiff or his/her attorney.
5. If no payment or satisfactory arrangements are made with the plaintiff or his/her attorney, the goods mentioned in the inventory **will, without any further notice, be removed and sold** by means of a public auction.
6. You are not allowed to **remove, dispose of or use the goods** judicially attached. Such action would a criminal offence and you will be prosecuted.

NB: PLEASE DO NOT IGNORE THIS NOTICE OF ATTACHMENT - IT WILL BE TO YOUR DETRIMENT.

KENNISGEWING VAN BESLAGLEGGING IN TENUITVOERING NOTICE OF ATTACHMENT IN EXECUTION

IN THE MAGISTRATE'S/HIGH COURT OF THE DISTRICT: _____ HELD AT: _____

IN THE MATTER BETWEEN: _____ (creditor) case no: _____

and _____ (Debtor)

Execution debtor's address: _____

Please note that I have this day laid under judicial attachment the property comprised in the following inventory in pursuance of a warrant directed to me under the hand of the clerk of the court/registrar for the district of _____ whereby I am required to cause the raise of your property in this district the sum of R _____ + interest recovered against you by the judgement of the said court in this action and my charges in respect of the said warrant.

Copy of warrant/writ and inventory served on _____

Dated at TEBBISA on _____ day of _____ 20 _____

Attorney's name: _____ Ref: _____

SHERIFF (AREA) - CONTACT DETAILS

QTY	INVENTORY	APPROX. VALUE	QTY	INVENTORY	APPROX. VALUE
	Television set			Bedroom suite (headboard)	
	DVD			Computer & screen	
	Music system			Computer stand	
	Fridge			Table and chair	
	Washing machine			Printer	
	Tumble dryer			Scanner	
	Dishwasher			OTHER:	
	Lounge suite				
	Coffee table				
	Wall unit				
	Television stand				
	Dining room suite				
	Sideboard				
	Kitchen table & chairs			TOTAL	

1. If the abovementioned property belongs to a third party/hire purchase, written evidence must be produced to the sheriff immediately.
2. The goods attached will be removed to a place of safety if payment is not received or arrangements made.
3. Removal or use of the goods is a criminal offence.
4. All correspondence must be handed in at the office of the sheriff.

PLEASE NOTE:

1. **That every effort is made to attach movable assets of value, also bearing in mind the socio-economic problem arising from informal areas.**
2. **Tebbisa is a predominantly rental community.**



EXAMPLE 11:

Notice of Removal and Inventory

IT IS OF PARAMOUNT IMPORTANCE THAT THE GOODS THAT WERE JUDICIALLY ATTACHED ARE PROPERLY DESCRIBED STATING THE FOLLOWING:

- ITEM NUMBER
- DESCRIPTION
- SERIAL NUMBER
- ANY DEFECTS

This would protect the sheriff from fraudulent claims that the goods were damaged while being removed and/or in storage

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve



EXAMPLE 12:

Nulla Bona Certificate

TO BE SIGNED BY JUDGEMENT
DEBTOR STATING THAT HE/SHE HAS NO
MOVABLE OR IMMOVABLE ASSETS

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF

HELD AT Case number

IN THE MATTER BETWEEN:

PLAINTIFF/APPLICANT

And

DEFENDANT/RESPONDENT

NULLA BONA CERTIFICATE

I,
being the ***judgement debtor/representative of the judgement debtor** against whom the relevant judgement has been given, acknowledge that the *sheriff/deputy sheriff served on me a copy of the warrant in the above matter after exhibiting the original and explaining the nature and the contents thereof to me. He demanded from ***me/the judgement debtor** payment of the amount due thereunder to satisfy the judgement. I informed him that ***I/the judgement debtor** did not possess any disposable property to satisfy the judgement.

The consequences of signing the certificate, inter alia that -

1. ***my/the judgement debtor's** estate could be ***sequestered/liquidated,**

or

2. ***I/the judgement debtor** could be called before the court during which ***my/the judgement debtor's** financial position could be investigated,

and

3. if found that ***I/the judgement debtor** falsely declared that ***I/the judgement debtor** did not possess or have sufficient property to satisfy the warrant or neglected or refused to point out such property, ***I/the judgement debtor** could be found guilty of an offence and sentenced to a fine or imprisonment,

have been explained to me. ***I/the judgement debtor/representative of the judgement debtor**, am willing to sign this document and have no objection to it being forwarded to the instructing attorneys.

Dated at on day of 20.....

Signature

Sheriff's name
Contact details



EXAMPLE 13:

Sale in execution Immovable property invoice

**THIS IS AN INVOICE TO BE ATTACHED AS
PROOF OF PAYMENT TO YOUR
CONDITIONS OF SALE**

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF'S NAME
CONTACT DETAILS
VAT number

VAT INVOICE
Inv No: 00203

Tel: 011 394 9182 Fax: 011 394 8758
VAT no: 4180255202

Date: _____ Case no: _____

In the matter between:

Plaintiff: _____ Defendants: 1. _____

Attorney: _____ 2. _____

Ref no: _____ 3. _____

Buyer

Name: _____

ID number: _____

Address: _____

Contact no: _____

Description

Purchase price

Deposit: R _____

Further amounts: R _____

Commission: R _____

VAT on commission: R _____

Total amount due



EXAMPLE 14:

Execution Receipts

**NORMALLY ISSUED BY DEPUTY
WHEN A DEFENDANT PAYS A DEBT OR
A PART THEREOF ON A WARRANT**

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

SHERIFF (_____)

SHERIFF'S
CONTACT
DETAILS

SHERIFF'S
PHYSICAL
ADDRESS

EXECUTION RECEIPT

Case no: _____

IN THE MATTER BETWEEN:

Plaintiff: _____

Defendant 1: _____

2: _____

Received from: _____

Amount:

R	_____	C	_____
----------	-------	----------	-------

Partial payment Full payment

RECEIVED WITHOUT PREJUDICE

Interest & sheriff costs: INCL. EXCL.

Deputy name

Deputy signature

Date



EXAMPLE 15:

Urgent Notice

UPON THE DEPUTY SHERIFF'S FIRST ATTEMPT TO SERVE A PROCESS, THE DEPUTY WOULD LEAVE AN URGENT NOTICE AT THE DEFENDANT'S PLACE OF RESIDENCE OR EMPLOYMENT TO CONTACT THE OFFICE OF THE SHERIFF

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve



EXAMPLE 16:

Eviction Notice

TO BE SERVED ON THE DEFENDANT AND/OR OCCUPANT NOTIFYING THEM OF AN EVICTION ORDER

(It protects the sheriff in terms of the Constitution
Chapter 2: Bill of Rights &
Chapter 8: Independence of the Judiciary)

THIS HELPS THE SHERIFF TO FOSTER GOOD RELATIONS WITH THE COMMUNITY AND/OR OCCUPANTS

Giving the occupants an opportunity to find alternative
accommodation and serving with dignity

Taking cognisance of the number of occupants that may
be elderly/sickly or who may need medical attention so
that the order may be amended to include the
assistance of social services

Upholding the Dignity of Those We Serve

SHERIFF (_____)

SHERIFF'S
CONTACT
DETAILS

SHERIFF'S
PHYSICAL
ADDRESS

EVICITION NOTICE

IN THE MATTER BETWEEN:

Case no: _____

Plaintiff: _____

Defendant 1: _____

Defendant 2: _____

Address :

The Occupier/Occupants/Attorney

Please be informed that in terms of a warrant of ejectment dated _____, the sheriff has been instructed and is hereby authorised to evict the occupier/occupants of the said address.

In terms of the Act, refusing or obstructing the sheriff in his/her duties will result in prosecution.

The sheriff can and may request the assistance of the South African Police Service. Please be further informed that the eviction has been scheduled for:

_____ day _____ month _____ year

SHOULD YOU HAVE ANY QUERIES, KINDLY CONTACT THE ATTORNEY

Served on:

Name: _____ Contact no: _____

Name of deputy: _____

Date: _____ Served on: _____

Time: _____ Affixed: _____



EXAMPLE 17:

Rules of Auctions & Auction Forms

THE FOLLOWING MUST BE ADHERED TO IN COMPLIANCE WITH THE CONSUMER PROTECTION ACT

1. VENDUE ROLL
2. AUCTION BUYERS' REGISTRATION CARD
3. IMMOVABLE PROPERTY SALES ADVICE
4. MOVABLE SALES ADVICE - NO ADVERT REQUIRED
5. MOVABLE SALES ADVICE - ADVERT REQUIRED

South African Board for
SHERIFFS

Upholding the Dignity of Those We Serve

AUCTION BUYERS' REGISTRATION CARD

SHERIFF OF THE COURT

No. 0001

AUCTIONEER/SHERIFF

BUYER NO

OR

COMPANY NAME												
NAME/SURNAME												
PHYSICAL ADDRESS												
									CODE			
POSTAL ADDRESS												
									CODE			
HOME NO.												
WORK NO.						CELL NO.						
EMAIL ADDRESS						FAX NO.						
ID/PASSPORT NO.												
VAT REG NO.												
METHOD OF PAYMENT	BGC			EFT			CASH					
MANDATE LETTER												
	BUYER REGISTERED BY						REC NO.					

Where did you hear about this auction?

Would you like to receive further information and invitations? Yes No

SPECIAL CONDITIONS OF SALE AND REGISTRATION CONDITIONS MOVABLE PROPERTY ON AUCTION

1. The sale is held in terms of the applicable legislation, rules and regulations of the Supreme Court Act, Act 59 of 1959, as amended; the Magistrate's Court Act, Act 32 of 1944, as amended; the Consumer Protection Act, Act 68 of 2008, as amended; and the Financial Intelligence Centre Act, Act 38 of 2001, as amended.
2. The "Rules of Auction" are deemed to form part of the special conditions of sale and the registration conditions are incorporated herein.
3. By virtue of the Consumer Protection Act, Act 68 of 2008, as amended, every prospective bidder is required to register as a buyer prior to the commencement of the auction. Reg 26(2)
4. Every bidder is required to comply with the Financial Intelligence Centre Act, Act 38 of 2001 (FICA), prior to the commencement of the auction. Reg 26(2)
5. The auction shall be under the control of the sheriff of the court foror a duly authorised employee. The sheriff of the court or his/her duly authorized employee in his/her sole and absolute discretion, shall conduct, regulate and record (mechanically or otherwise) the auction proceedings.
6. By registration as a buyer, the prospective buyer confirms that he/she has familiarised himself/herself with the rules of auction and applicable conditions of sale of the relevant lots on auction.
7. A registration fee of **R500,00** is payable, which is conditionally refundable after conclusion of the auction, or after complying with all the conditions of sale in the event of the buyer having been the successful purchaser of a lot, whichever is applicable.
8. Upon acceptance of a bid and thereafter, non-compliance with the registration conditions and/or the conditions of the sale by the prospective bidder, the registration fee shall be forfeited as contribution to wasted costs incurred due to the purchaser's default.
9. If a bid has not been awarded to a prospective bidder, the registration fee is refundable.
10. The sheriff or his/her duly authorised representative may withdraw any item from any group of lots on the auction at any time before knockdown, without there being any penalty or the need for any prior notice. Reg 19(3)(a)
11. The highest bidder shall be the purchaser for the respective lot or lots offered for sale at the auction. Reg 28(6)
12. No person(s) may interfere, intimidate, and/or harass a buyer or bidder in any way. Any person(s) found to interfere with and/or disrupt the proceedings, may be required by the sheriff/auctioneer to leave the premises. A bidder may report the matter to the SAPS.
13. If the sheriff makes any mistake in selling, such a mistake shall not be binding on any of the parties but may be rectified according to the discretion of the sheriff and/or his/her representative.
14. All sales are "voetstoets". The prospective bidder shall be deemed to have inspected and thoroughly examined the lots and have irrevocably accepted the condition and the state thereof. The sheriff or his/her representative gives no warranties or guarantees or makes any representations in regard to the condition or state of any of the lots.
15. All bids made at the auction are exclusive of VAT.
16. On the fall of the hammer of each and every auction, a sale shall be finally and irrevocably concluded, subject only to any suppressive terms and conditions may apply to any lot(s).
17. The risk in and to the lots sold, shall pass to the purchaser on the fall of the hammer, even though delivery has not yet taken place. The purchaser shall bear the risk in and to the lots remaining on the premises of the sheriff, in particular for any shortages and/or damage that may occur. The purchaser shall remove the lots purchased from the sheriff's premises by close of business on the day of the auction.
18. No goods may be removed until paid for in full and after conclusion of the auction in its entirety.
19. No bids of less than **R10,00** will be accepted.
20. Payment shall be made in cash and be payable in full immediately after the conclusion of the auction sale.
21. Right of admission to the auction/sales room is reserved. Reg 28(3) and 28(5)

I, the undersigned hereby acknowledge and agree to the abovementioned conditions and registration requirements.

SIGNATURE _____ DATE: _____

001

DATE: _____ SIGNED: _____ DEPOSIT RETURNED: _____

IMMOVABLE PROPERTY SALES ADVICE TO ATTORNEYS

Messrs:
Your ref:

Date:
Ref:

Per fax:

Dear Sir/Madam

RE:

CASE NO: _____

I wish to advise that I have now allocated the (date) _____ at (time) _____
at the **SHERIFF'S OFFICE**, (address) _____
as the date, time and place for the sale in execution for the abovementioned matter.

I DRAW YOUR ATTENTION TO MY SALE REQUIREMENTS AS FOLLOWS:

1. In terms of Rule 46(5)(a) you are required to immediately notify the preferent creditor and local authority/body corporate of the intended sale and in due course furnish me with proof of their responses.
2. In terms of Rule 46(7)(b) kindly provide seven **(7)** copies of the notice of sale so that I can inspect the relevant documents and comply with Rules 46(7)(d) and 46(7)(e).
3. In terms of Rule 46(7)[©] you are required to advertise in the **Government Gazette** and once in a newspaper circulating in the district in which the immovable property is situated not less than five (5) days and not more than fifteen (15) days prior to the date of sale.
4. In terms of Rule 46(8)(a) three (3) copies of the conditions of sale must be forwarded to me not less than twenty (20) days prior to the date of sale, i.e. by _____
5. **Kindly furnish me with a certificate of balance as at date of sale.**
6. Proof of advertising must be forwarded to me by no later than **two (2) days** before the date of sale, together with outstanding rates, taxes, water & electricity.

Yours faithfully

**ALL ORIGINALS MUST BE AT THIS OFFICE
BY NO LATER THAN** _____

The following must be adhered to in compliance with the Consumer Protection Act:

The heading on the notice of sale must be "Auction".

The notice of sale must state that the sale in execution is conducted in accordance with the Consumer Protection Act 68 of 2008 as amended, in pursuant of a judgement granted against the defendant for money owing to the plaintiff.

Rules of auction and conditions of sale may be inspected at the sheriff's office,
_____, 24 hours prior to the auction.

All bidders are required to present their identity documents together with their proof of residence for FICA compliance.

All bidders are required to pay a R10 000,00 (refundable) registration fee prior to the commencement of the auction in order to obtain a buyer's card.

The auction will be conducted by the sheriff, _____.

MOVABLE SALES ADVICE

(NO ADVERT REQUIRED)

Date: _____
My ref: _____
Messrs: _____
Fax: _____ Ref: _____
PO Box/Docex/other _____
Case no: _____
Re: _____
vs _____

With reference to your instructions dated _____ received _____
to proceed with the sale in execution, I hereby inform you that the next suitable

DATE FOR THE SALE WILL BE _____

In my opinion the value of the goods attached does not exceed R5 000,00 and need not as such be advertised, but you must comply with Rule 41 (8)(b) and furnish me with THREE copies of the sale notice to be affixed to the noticeboard at the lower courts and at my offices not later than (10) ten clear days prior to the date appointed for the sale in execution.

IMPORTANT NOTICE:

LAST DAY TO LODGE SALES NOTICE _____

PLEASE NOTE THE TIME AND PLACE OF SALE IN EXECUTION

1. At the sheriff of the court - sales room (address of sheriff's warehouse) _____ at 11:00.
2. At the defendant's premises _____

NB: SECURITY I.T.O RULE 38(1) OPEN INDEMNITY TO BE FURNISHED (OPEN INDEMNITY)

NB: ACCORDING TO THE GOVERNMENT GAZETTE DATED 23/08/2010: IF THE VALUE OF THE ATTACHED GOODS DOES NOT EXCEED R5 000,00 THEN NO ADVERTISING IS NECESSARY.

KINDLY INSERT ON SALES NOTICE AS PER CONSUMER PROTECTION ACT 68 OF 2008.

SALE NOTICE MUST READ "AUCTION"

1. This sale is a sale in execution pursuant to a judgement obtained in the above honourable court.
2. The rules of the auction are available 24 hours prior to the auction at the office of the Sheriff _____, (sheriff's address _____).
3. Registration as a buyer is a pre-requisite subject to a specific conditions inter alia.
4. Directive of the Consumer Protection Act, Act 68 of 2008;
(url <http://www.info.gov.za/view/downloadfileaction?id-99961>)
5. FICA legislation i.r.o proof of identity and address particulars; payment of registration deposit of R _____ in cash.
6. The office of the sheriff Ladysmith will conduct the sale with the auctioneers being (sheriff's name - sheriff and/or _____ deputy sheriff.
7. Goods will be sold for cash only to the highest bidder or sold subject to confirmation as per the Consumer Protection Act upon instructions from the execution creditor.

YOURS FAITHFULLY

Sheriff's name
SHERIFF OF THE MAGISTRATE'S/HIGH COURT
DISTRICT OF

MOVABLE SALES ADVICE

(ADVERT REQUIRED)

Date: _____
 My ref: _____
 Messrs: _____
 Fax: _____ Ref: _____
 PO Box/Docex/other _____
 Case no: _____
 Re: _____
 vs _____

With reference to your instructions dated _____ received _____
 to proceed with the sale in execution, I hereby inform you that the next suitable

DATE FOR THE SALE WILL BE _____

In my opinion the value of the goods attached exceeds R5 000,00 and must as such be advertised in the local newspaper at least (10) clear court days prior to the date of the sale in execution. Rule 41(8)(c).
 (name of local newspaper: tel: _____, fax: _____, address _____)

LAST DAY FOR ADVERTISING IS: _____

IMPORTANT NOTICE: Kindly furnish me with the THREE copies of the sales notice in sufficient time to enable me to affix same to the noticeboard at the Lower Courts and at my offices at least ten (10) days prior to the date of the sale. Rule 41 (8)(b) and (c)

IMPORTANT NOTICE:

LAST DAY TO LODGE SALES NOTICE _____

PLEASE NOTE THE TIME AND PLACE OF SALE IN EXECUTION

1. At the sheriff of the Court - sales room, address _____ @ 11:00.
2. At the defendant's premises

NB; SECURITY I.T.O RULE 38(1) OPEN INDEMNITY AND PROOF OF ADVERTISING TO BE FORWARDED TO MY OFFICE.

NB: IN TERMS OF THE MAGISTRATE'S COURT RULE THAT APPEARED IN THE GOVERNMENT GAZETTE DATED 23/08/2010: IF THE VALUE OF THE ATTACHED GOODS EXCEEDS R5 000,00 SALE IN EXECUTION MUST BE ADVERTISED.

KINDLY INSERT ON SALES NOTICE AS PER CONSUMER PROTECTION ACT 68 OF 2008.

SALE NOTICE MUST READ "AUCTION"

1. This sale is a sale in execution pursuant to a judgement obtained in the above honourable court.
2. The rules of the auction is available 24 hours prior to the auction at the office of the sheriff (sheriff's address _____).
3. Registration as a buyer is a pre-requisite subject to a specific conditions, inter alia.
4. Directive of the Consumer Protection Act, Act 68 of 2008;
 (Url <http://www.info.gov.za/view/downloadfileaction?id=99961>)
5. FICA legislation i.r.o proof of identity and address particulars; payment of registration deposit of R _____ in cash.
6. The office of the sheriff will conduct the sale with the auctioneers being (name of sheriff - sheriff and/or _____ deputy sheriff.
7. Goods will be sold for cash only to the highest bidder or sold subject to confirmation as per the Consumer Protection Act upon instructions from the execution creditor.

YOURS FAITHFULLY

Sheriff's name
SHERIFF OF THE MAGISTRATE'S/HIGH COURT
DISTRICT OF



EXAMPLE 18:

Checklist of removal instructions

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve

REMOVAL INSTRUCTION

MAGISTRATE'S COURT / HIGH COURT

IN THE MATTER BETWEEN:

Plaintiff: _____	Case no. _____
Defendant (1): _____	Contact no. _____
(2): _____	Contact no. _____
	Contact no. _____

Address of removal: _____

CHECKLIST

- | | |
|---------------------------------------|--|
| 1 Warrant/writ: _____ | Date: _____ |
| 2 Attachment date: _____ | Date of lapse: _____ |
| 3 Instructions received: _____ | |
| Attorneys: _____ | Date: _____ |
| 4 Indemnity: _____ | Rule 38 Mag Court Rule 45 High Court |

Special instruction to proceed with removal:

Please make a note of all telephone calls made and received

Were the following informed or required?

- | | |
|----------------------------|--------------------|
| 1 SA Police: _____ | Date: _____ |
| 2 Attorney/s: _____ | Date: _____ |
| 3 Locksmith: _____ | Date: _____ |

Rule 41(1)(c)
 If the execution debtor pays the judgement debt and costs (or part thereof) on demand the sheriff shall forthwith endorse the amount paid and the date of payment on the original and copy of the warrant, which endorsement shall be signed by him and counter-signed by the execution debtor or his/her representative.

Receipt no. _____ Amount paid _____ Date _____

Checked by: _____ Date _____

Authorised by: _____ Date _____



EXAMPLE 19:

Eviction Notice

CHECKLIST OF EVICTION NOTICE OR WARRANT OF EJECTMENT

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve

EVICTON NOTICE

IN THE MATTER BETWEEN:

Plaintiff: _____
 Defendant (1): _____
 (2): _____

Case no. _____
 Contact no. _____
 Contact no. _____
 Contact no. _____

Address of eviction: _____

Number of rooms: _____

CHECKLIST

1 Receipt no.: _____ Date: _____
 2 Court order: _____ Date: _____

Were the following parties informed:

1 Defendants (1): _____ Date: _____
 Defendants (2): _____ Date: _____
 2 Occupant/s: _____ Date: _____

Prior to eviction inform the following:

1 SA Police: _____ Date: _____
 2 Municipality: _____ Date: _____
 3 Applicant: _____ Date: _____
 4 Attorney/s: _____ Date: _____
 5 Locksmith: _____ Date: _____

Time of arrival: _____ Time completed: _____
 Name of SAPS officer: _____ Vehicle reg no.: _____

NOTES: _____

New keys handed to applicant: _____ Yes No



EXAMPLE 20:

Checklist of execution against fixed property (Rule 46)

South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve

EXECUTION AGAINST FIXED PROPERTY RULE 46

Warrant of attachment in terms of Rule 46: **Date received:** _____ **Check domicile:** Y/N

Do deed search to confirm: deed number: address: defendants Date: _____

Make notice of attachment: Date: _____

Serve notice of attachment & warrant: Rule 4

A) Deeds office (sheriff) Date _____ Received date _____

DEPUTY MUST:

- | | | |
|---|---------------------------|----------------------------------|
| B) Deliver a copy of the notice to | DEFENDANT | personally (Rule 4) |
| C) Deliver a copy of the notice | LEAVING A COPY | to a person apparently in charge |
| D) Deliver a copy of the notice to | DOMICILIUM CITANDI | affixed to the outer door/gate |
| E) Deliver a copy of the notice to | OCCUPIER/ TENANTS | occupier/tenants |

Make a return of service Date _____

Confirm interdict (deed search) Date _____ (attach a copy)

Make return attachment complete and possible sale date: Date _____

Request the following:

- | | | |
|------------------------------------|---------------------|---------------|
| A) Conditions of sale _____ | Date received _____ | Checked _____ |
| B) Notice of sale _____ | Date received _____ | Checked _____ |
| C) Conveyancer's certificate _____ | Date received _____ | Checked _____ |
| D) Outstanding rates & taxes _____ | Date received _____ | Checked _____ |

Inform bond holder (registered mail) Date _____ Tracking no. _____

Return notice to inform bond holder Date _____

Confirmation of affixing "Notice of Sale" Date _____

Make return: service of notice of sale in execution - fixed property Date _____

Request adverts: newspaper and Gazette: _____ Date received _____

DAY OF SALE

Price realised _____

10% deposit _____ Receipt no. _____

Commission _____ Receipt no. _____

Make return Date _____

Guarantee Date received _____

Power of attorney Date received _____

TDI (SARS) Date received _____

Make return Date _____

Cancellation (affidavit) Date received _____

Bond registered _____ Date _____

Distribution prepared by _____ Date of payment _____