

# Siyazanazisa!

## Informing You

Volume 2 April 2014

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



## From the **CHAIRPERSONS DESK**



**Chairperson**  
Mrs Charmaine Mabuza

On 21 March we celebrated Human Rights day, this national day is a reminder of the tragic Sharpeville massacre and is also a celebration of South Africa's unique Constitution. 27 April 2014 is Freedom Day and we also celebrate 20 years of freedom in our new democracy, we are guided by the values and principles of our constitution, we embrace these values and celebrate the legacy of our freedom.

The Constitution gives equal rights to all South Africans and that all people are entitled to basic human dignity. The South African Board for Sheriffs' tagline "Upholding the dignity of those we serve" is a true reflection of our firm belief in our Constitution.

The Deputy Minister of Justice, the Honourable John Jeffery, in his media briefing on 6 March

2014, has applauded the new Code of Conduct for Sheriffs as it is now in line with our constitutional imperatives. The Code promotes human rights and obligates all Sheriffs to respect the rights of all citizens in performing their functions.

All Sheriffs are reminded to complete and submit their signed Service Level Agreements and Code of Conduct to the South African Board for Sheriffs.

We thank the 154 Sheriffs who have already submitted.

All Sheriffs will by now have received the framed pledge and sheriffs information pamphlets. We urge you to display it in a visible location in your office so that the public may access it. If you have not received it, please contact the office of the Board so that we may forward same to you.



(L-R): Mrs Petro Roodt, Sheriff Bloemfontein East & SABFS Board Member; Dr. Johnathan Bloom of the University of Stellenbosch; Mr Jacques Tarica, Legal Counsel to the SABFS



Honourable Madam Justice Nkabinde, Justice of the Constitutional Court & Chairperson of the Rules Board; Mrs Petro Roodt, Sheriff Bloemfontein East & SABFS Board Member

It was evident from all Sheriffs participating in the Indaba that the critical matter was travel allowance. This is a matter that cannot be put on hold any longer as it directly affects Sheriffs in performing their duties.

To this end the Board was mandated by the Sheriffs profession to urgently seek relief from the Minister of Justice and Constitutional Development via the Rules Board. The Dr Bloom report has significantly shown that travel allowances currently in force has a lag time of 5 years as a result of the petrol price increases during the same period.

It was therefore recommended by the SABFS that the Rules Board urgently considers an approval of travel allowance increase for both the Magistrate and High Courts. After consultation with the Sheriffs fraternity the Board recommended the following for immediate amendment to the relevant Magistrate and High Court Rules.

- 1. Travel allowance be increased from the current R3.50 per kilometre to R6.30 per kilometre**
- 2. That the calculation of travel begins at the office of the Sheriff**
- 3. That the rule one charge for travel for many processes be retained.**

In conclusion we believe these recommendations will allow immediate relief for Sheriffs taking into account the continuous raise in fuel prices and it will greatly relieve the burden of rural Sheriffs.

## **RULES BOARD INDABA**

The Rules Board Indaba held on 22 February 2014 allowed the Sheriffs fraternity to raise many challenges about the inconsistency of tariff related expenditure towards the profession over the past decade.

To this end the South African Board for Sheriffs (SABFS) commissioned a significant report by Dr Jonathan Bloom and the University of Stellenbosch to assist both the Sheriffs fraternity and the Rules Board in better understanding the challenges we face as a profession in respect of the deficit in tariff increases over the past decade.

The Indaba generally endorsed the findings of the SABFS study by Dr Bloom and the Rules Board committed itself to working towards a system of greater parity in respect of tariff increases in the future.

As a Board we understand the challenges faced by the Rules Board in reviewing matters of such a substantive nature, that will require extensive consultation with role players and final approval by the Minister of Justice and Constitutional Development.

## **In this Issue**

Volume 2 April 2014

- Deputy Minister Media Briefing Sheriffs Appointments
- Rules Board Indaba
- Consultative Forum Meeting with Sars
- Kagiso Court Launch & Imbizo

# DEPUTY MINISTER OF JUSTICE & CONSTITUTIONAL DEVELOPMENT, MR JOHN JEFFERY:

## Media Briefing on new Sheriffs appointments and Sheriffs Code of Conduct.

On 6 March 2014 the Deputy Minister of Justice and Constitutional Development, the Honourable, John Jeffery held a media briefing at the Imbizo Media Centre in Parliament, Cape Town.

In 1994, the government inherited a racialised and exclusive system which denied the majority of the people their fundamental right to access to justice. A deliberate decision was taken to change the face of justice and bring it in line with the aspirations and values enshrined in the Constitution.

The sheriff's profession is one of the critical components of the justice system and contributes immensely in the quality and accessibility of justice. Sheriffs play a critical role in the administration of the civil justice system and are an important interface between the public and the justice system. Their work is critical in the promotion of constitutional rights, which characterizes our democratic society.

It is therefore necessary that this sector must be regularly capacitated and transformed to ensure that it is in line with the Constitution. The transformation of the sheriff's profession remains our priority in the Department of Justice and Constitutional Development, and several steps have been taken to change its outlook and functioning.

I am pleased to announce that I appointed 18 sheriffs on 27 February 2014 to various vacant sheriff offices, of which 11 are African (61%), 3 are White (17%), 2 are Coloured (11%) and 2 are Indian (11%). Amongst the 18 sheriffs appointed, 6 are women. These newly appointed sheriffs bring the total number of permanent sheriffs currently operating in the country from 348 to 362.

The Department is determined to close the gender gap in the sheriff profession and enhance the economic empowerment of women. To this end, I am also proud to announce that of the 6 women appointees, 4 have been appointed to large Sheriffs' offices. These 4 women are:

- Adv Nonkosi Princess Cetywayo at Bellville High Court in the Western Cape (in this regard Ms Cetywayo is the first African female to be appointed in the Western Cape following the first three African male appointments made during 2013 – two in Cape Town and one in Knysna);
- Ms Adelaide Misiwe Mzimela at Pietermaritzburg High Court in KwaZulu Natal;
- Ms Kausher Goolam at Brits High and Lower Courts in North West; and
- Ms Lydia Dikoro Monyamane at Mookgopong High and Lower Courts in Limpopo.

Also of fundamental importance to the work of a sheriff is the Code of Conduct. The Sheriff's Code was last updated in 1990 when the Sheriff's Act was amended (this was 23 years ago). This resulted in the Sheriff's Code not being in line with the Constitutional imperatives of our democratic dispensation.

I am, therefore, proud to announce that the South African Board for Sheriffs, with the approval of the Minister, has adopted a new Code of Conduct and Pledge for Sheriffs with effect from 1 March 2014.

The full brief is available on our website [www.sheriffs.org.za](http://www.sheriffs.org.za)



(L-R): DoJCD Spokesperson, Mithunzi Mhaga; Deputy Minister of Justice, John Jeffery; DoJCD Western Cape Regional Head, Hishaam Mohamed; SABFS Executive Manager, Hoosain Kagee.



Newly Appointed Sheriff for Bellville High Court, Advocate Nonkosi Cetywayo



SASS representative, Faan Van Wyk and SANAPS representative, Estelle Carelse endorsing the SABFS Service Level Agreement and Pledge

## SHERIFFS SERVICE LEVEL AGREEMENT

The South African Board for Sheriffs thank all Sheriffs who have submitted their signed Service Level Agreements (SLA). To date we have received 154 duly completed SLA's, we urge all sheriffs who have not yet submitted, to do so as a matter of urgency.

PROVINCE	SLA'S RECEIVED PER PROVINCE	OUTSTANDING SLA'S PER PROVINCE
Eastern Cape	19	32
Free State	14	16
Gauteng	27	15
Kwazulu-Natal	30	9
Limpopo	12	17
Mpumalanga	18	11
Northern Cape	4	14
North West	8	19
Western Cape	22	27

## LAUNCH OF THE NEW KAGISO COURT



(L-R): Honourable Deputy Minister of Justice, Mr John Jeffery; Honourable Minister of Justice, Mr Jeff Radebe unveiling the Plaque; Honourable Deputy Minister of Public Works, Mr Jeremy Cronin

Residents of Kagiso in Gauteng will no longer have to travel long distances to get access to basic justice services all thanks to the newly revamped Kagiso Magistrates Court. This is part of commemorating Human Rights month and an endeavour to bring justice closer to the people. "As you will all know, the struggle for democracy was a struggle for Justice, Freedom and Human Rights," said Minister of Justice and Constitutional Development (DOJ&CD), Jeff Radebe during the launch.

In attendance was the Deputy Minister of Justice and Constitutional Development, Mr. John Jeffrey, Deputy Minister of Public Works, Mr J Cronin, Hon Madam Justice Nkabinde, Justice of the Constitutional Court and Chairperson of the Rules Board, Judge President of the North and South Gauteng High Courts, Judge D Mlambo, MEC for Community Safety, Gauteng, Ms F Mazibuko, Executive Mayor of Mogale City, Cllr K Seerane and others.

After the official launch of the new Court it was time for the Imbizo where the community members had the opportunity to interact with the Minister and Deputy Minister on justice related issues.

The SABFS and other stakeholders from the Public Protector, LSSA, the Department of Public Works, representatives from Community Safety and the Human Rights Commission had all setup exhibit tables and were available to provide the community with advice and information.

**The Minister's full speech is available on our website [www.sheriffs.org.za](http://www.sheriffs.org.za)**

## SHERIFFS INTRODUCTORY COURSE 2014 TRAINING TEAM



**Back row (L-R):** Estelle Carelse, Ivan Jacobs, Cornelia Mogami, Indran Adimoolum, Victoria Soga, Lubabalo Mdekazi, Allan Murugan, Francois van Greunen. **Middle row (L-R):** Eleminah Mofzoa, Julian Marsh, Elana Ross, Rantesh Rajkumar, Vincent Nel. **Front row (L-R):** Hendrik Tau, Tim Tshelwane, Sibusiso Zondi, Martin Akker.

## SHERIFFS INTRODUCTORY COURSE (SIC) 2014 INDUCTION DAY



**Seated (L-R):** SABFS Board Member, Thaka Seboka; Deputy Minister, John Jeffery and LSSA representative Ogilvy Ramoshaba with the SIC Pretoria learners

### The South African Board for Sheriffs (SABFS) hosted an induction day for the newly appointed Sheriffs on 31 March 2014.

The event was concurrently held in Cape Town, Durban, East London and Pretoria. As there were only 18 new Sheriffs appointments made, the SABFS invited interested persons from the Sheriffs and the legal fraternity to participate and attend the Sheriffs Introductory Course (SIC) at the various venues across the country.

In Pretoria we had 38 learners in attendance, 15 in East London, 11 in Cape Town and 8 in Durban. In total we had 72 learners participating in the 2014 Sheriffs Introductory Course.

The Deputy Minister of Justice and Constitutional Development Mr John Jeffery addressed the newly appointed Sheriffs along with the other SIC learners at the Burgers Park Hotel in Pretoria. In his address the Deputy Minister said that Sheriffs play an important role in the civil justice system, he encouraged the new sheriffs to execute their duties with respect, dignity and compassion. The Chief Magistrate of Pretoria Desmond Nair and Mr Ogilvy Ramoshaba of the Law Society of South Africa (LSSA) also addressed the new Sheriffs and learners.



SIC Learners- East London

**The complete list of names of the newly appointed Sheriffs is available on our website [www.sheriffs.org.za](http://www.sheriffs.org.za)**

# CONSULTATIVE FORUM (CF) MEETING WITH SARS

On 28 February 2014 the Consultative Forum met with Ms Marion Deason and Ms Hettie Lourens, representatives from SARS. The SARS representatives discussed various issues in relation to how to locate a Sheriff for a particular jurisdiction, Nulla Bona returns, valuation of attached goods and service of urgent processes.

The CF members had the opportunity to engage SARS in respect of issues relating to VAT administration and personal income tax. The CF members thought it apt to prompt the issues with SARS given that the new Sheriffs that have been appointed may possibly be obliged to register as VAT Vendors and may not entirely understand the process.

The following Questions were raised

- Who is liable to register/options available
- Vat payable vehicles sold in execution/ vehicles belonging to SARS vendors or non-vendors/
- How to claim vat back in respect of private persons vehicles sold.
- Duplicate vat registration by sheriffs, for the purpose of paying the collected vat to SARS.
- Under which circumstances is a vat certificate issued.
- Which expenses charged by other service orientated with vat can be deducted as input vat from output vat.
- Vendor identification by sheriffs
- Fixed property/ entities registered for vat/ charging of vat on proceeds of sales in execution circumstances under which vat is not chargeable.

Personal income tax related questions: Policy proposals.

- Deputies are paid on commission basis. Traveling allowances are paid under certain circumstances. The deputies are left out of pocket, having to pay 18% PAYE (PI) on gross monthly income, only being able to reconcile expenses at the end of the financial year. Deputies be assessed at lower than 18% standard directive application by SARS.
- The possibility of Sheriffs being included on a rebate on fuel prices, given that fuel is such a significant component of their daily operations.

SARS posed the following questions to sheriffs;

- How to locate the correct Sheriff and their jurisdictions
- How to deal with urgent process
- What is the expected feedback time of a process
- Non service, although the addresses have been confirmed
- How many attempts are reasonable
- Nulla bona returns while SARS has information of assets
- Valuation of attached goods
- Removals, only less valuable items itemized by sheriffs on the attachment inventory, no proper investigation alleged
- How to establish relationships with individual sheriffs

For further enquiries with regards to SARS matters you may contact Ms Marion Deason on [mdeason@sars.gov.za](mailto:mdeason@sars.gov.za) or Ms Hettie Lourens on [hlourens@sars.gov.za](mailto:hlourens@sars.gov.za)

## SHERIFFS PLEDGE

We have distributed the new Sheriffs framed Pledge and pamphlets to all Sheriff's offices across the country. The Department of Justice and Constitutional Development's regional offices will also receive the Pledge and pamphlets for distribution to the Courts in their regions.

If you have not yet received it kindly contact the office of the Board and we will ensure that the Pledge and pamphlets are couriered to your office.

*We have had some reports of damaged frames being received, if you have received a damaged frame please contact the SABFS and we will gladly replace it.*



### CONTACT US

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