

# SiyanaZisa

March 2015 | quarterly newsletter

## From the Chairperson's Desk

The Minister of Justice and Correctional Services has appointed a new Board effective 2 March 2015.

We welcome all elected members to the South African Board for Sheriffs. We wish you well for the term ahead.

I would like to take this opportunity to thank the previous Board Members for the sterling work they have done and to reflect on our achievements of the last 3 years.

Let me highlight a few of these achievements:

- The appointment of new sheriffs after a 7 year moratorium on sheriff's appointments.
- Inducting the newly appointed sheriffs and providing them with formal training through the Sheriffs Introductory Course.
- The Boards participation in the Civil Justice Review Project (CJRP) by ensuring that our policies and procedures fit in with the aim of the CJRP.
- Improving viability of sheriffs' offices in partnership with the DoJCD, through the demarcation process.
- Our interaction with the Rules Board has seen the increase in Sheriffs tariffs, effective as from 24 February 2015. Within the next few weeks we will publish a user friendly table of fees on our website for your ease of reference.
- We have resurrected the old Sheriffs Handbook and have commissioned a respected academic supported by a Reference Group to lead the process of developing an enhanced version of the Handbook to more closely reflect the needs of modern sheriffing. The title of the new manual is the "South African

Sheriffs Guide: Practice and Procedure" and will be available in March 2015.

- We have participated in several outreach and awareness programmes such as Roadshows in Cape Town, East London, Durban, Midrand and Polokwane.
- Successfully hosted the Khayelitsha service delivery Imbizo in partnership with the DoJCD on 31 October 2014.

The Board has continued to build relationships and engage on a regular basis with our stakeholders. The Consultative Forum comprising representatives from both voluntary sheriffs' associations and Board members have met regularly to discuss issues of relevance. We continue to engage with the Law Societies and Banking Forums, it makes sense to foster a cooperative environment between the profession and our stakeholders.

**On behalf of the Board I would like to thank all our partners** who made our term a successful one, especially you, the sheriff.



### In this issue

- The liaison established between the South African Board for Sheriffs and the Law Society to discuss areas of mutual concern.
- Labour Relations Amendment Act 6 of 2014 - implications on sheriffs
- Sheriffs Guide Launch

## INAUGURATION OF THE NEW BOARD

The Minister of Justice and Correctional Services, Advocate Michael Masutha (MP), has appointed 11 members to serve on the newly constituted South African Board for Sheriffs. The new board commenced on Monday, 2 March 2015. In line with the Constitution and the Department's commitment to transform the sheriff's industry, the Minister has ensured that the newly appointed board is broadly representative in respect of race, gender and geographical composition. The board comprises six male and five female members from various provinces in the country.

The following are the new members of the Board:

- Mr Thamsanqa Tembe: *Law Society of South Africa representative*
- Mr Lesiba Mashapa: *The National Credit Regulator representative*
- Professor Lovell Fernandez: *designated by the Minister*
- Mr Meko Magida: *designated by the Minister*
- Ms Nomakhosi Skosana: *designated by the Minister*
- Ms Charmaine Mabuza: *sheriffs' profession*
- Ms Petro Roodt: *sheriffs' profession*
- Ms NomaJwara Victoria Soga: *sheriffs' profession*
- Ms Mmathoto Lephadi: *sheriffs' profession*
- Mr Ignatius Klynsmith: *sheriffs' profession*
- Advocate Hishaam Mohamed: *Department of Justice and Constitutional Development representative.*



**Back row (Left to right):** Mr T Tembe, Ms N Skosana, Mr L Mashapa, Mr M Magida, Mr B Luthuli, SABFS Acting Executive Manager, Prof L Fernandez.  
**Front row (Left to right):** Ms NV Soga, Ms ML Lephadi, Mrs C Mabuza Chairperson, Hon Mr J Jeffery MP, Deputy Minister of DoJCD, Mrs P Roodt, Adv H Mohamed

## The Liaison Established between the South African Board for Sheriffs and the Law Society to discuss areas of mutual concern

The South African Board for Sheriffs (SABFS) constantly receives complaints from attorneys regarding poor service delivery from sheriffs and similarly receives complaints from sheriffs regarding late or non-payment of sheriff's fees by attorneys. It is against this background that the SABFS resolved to establish a liaison with the Law Societies, both at national and provincial level, in an attempt to address these and other issues affecting both professions.

The SABFS held meetings in 2014 with the Law Society of South Africa as well as the various provincial law societies at which meeting invitations were issued to the sheriff's voluntary associations, the SA National Association of Progressive Sheriffs (SANAPS) and the SA Association of Sheriffs (SASS) to participate in order to share issues of mutual concern.

The issues that were raised at these meetings included the following:

### Poor Service Delivery of sheriffs

Attorneys complained about poor service from the sheriffs countrywide, in particular:

*Clear written instructions were not always carried out.*

*Delays in service / execution of processes*

*The information on the sheriff's return is not always fully descriptive.*

### Sheriffs' Representation at the National and Provincial Efficiency Enhancement Committees

As these meetings discuss issues affecting Case Flow Management, sheriffs are now represented and making contributions thereat in the interest of efficient service delivery.

### Late or Non Payment of Sheriff's Fees by Attorneys

### Unlawful Enforcements of Warrants for the Repossession of Motor Vehicles

It was noted that attorneys are handing original warrants or repossession orders to agents who are using these documents to effect the repossessions in the absence of the sheriff and that, only in circumstances where they meet resistance, do they engage the sheriff.

It was ultimately agreed that a National Conference should be convened early in 2015 to be attended by all stakeholders in order to formulate a broad policy pertaining to the service delivery of sheriffs as well as prompt payment of sheriff's accounts.

### Sales in Execution of Immovable Properties

The sheriffs reported that they are receiving Conditions of Sale that do not conform with the standard conditions that had been agreed and finalised at various forum meetings, especially with the Banks who constitute the largest percentage of execution creditors.

### Lapsing of Attachments

Attorneys expressed concern that sheriffs are claiming fees for the lapsing of an attachment long after the file has been closed and the client can no longer be debited.

### Section 19 Insolvency Act Inventories

The office of the Chief Master expressed concern at the non-compliance of Sections 19 of the Insolvency Act 24 of 1936.

It was ultimately agreed that a National Conference should be convened early in 2015 to be attended by all stakeholders in order to formulate a broad policy pertaining to the service delivery of sheriffs as well as prompt payment of sheriff's accounts. It was also agreed that an invitation should be extended to the Rules Board to attend this conference as many of the rules affecting these issues had become archaic.

*Visit our website at [www.sheriffs.org.za](http://www.sheriffs.org.za) to read the full article*

## LABOUR RELATIONS AMENDMENT ACT 6 OF 2014 - Implications for sheriffs

**The Labour Relations Amendment Act 6 of 2014 (LRA) was signed into law on 17 August 2014 and published in the Government Gazette No 37921. This article will deal only with the issue that have an impact on the sheriffs.**

### 1. CCMA

In terms of Section 115 (2) (bA) the CCMA may provide administrative assistance to lower earning employees in relation to the service of pleadings relating to proceedings in the CCMA.

### 2. ENFORCEMENT OF ARBITRATION AWARDS

Amendments to Section 143 of the LRA seek to provide mechanisms for enforcing arbitration awards of the CCMA and are aimed at making these mechanisms more cost effective for lower earning employees. An arbitration award which has been certified by the CCMA can be presented to the sheriff without having to issue a Labour Court Writ of Execution Section 143 (1) (a).

Enforcement of awards for monetary amounts will now be executed as if it was a Magistrates Court Order Section 143 (5), thus simplifying and reducing the costs of execution of awards. It should be noted that these arbitration awards issued by a Commissioner must be certified by the CCMA Director. They are enforceable like any other of the Labour Courts.

Once an award has been certified and the other party still fails to comply with the award, the applicant may request the sheriff to execute. The applicant may require the sheriff to attach property belonging to the other party, and if necessary to sell it in execution. The sheriff's fees will however be for the applicants account.

### 3. RECISSION OF AWARDS OR RULINGS

Section 144 of the LRA has been amended to confirm previous decisions of the Labour Court in terms of which rulings can be rescinded if good cause is shown.

### 4. REVIEW APPLICATIONS IN THE LABOUR COURT

A number of amendments are more in relation to the process of applications for the review of arbitration awards of the CCMA in terms of Section 145.

The amendments are aimed at reducing the number of review applications that are merely brought to frustrate or delay compliance with arbitration awards, and also to expedite the finalisation of review applications brought to the Labour Court.

To speed up the finalisation of review applications, Section 145 (5) requires that an applicant must, within six months of delivery of a review application apply for a date for the hearing. An applicant

may however apply for condonation if this requirement is not complied with.

Prior to the amendments a review application did not suspend the operation for an arbitration award. In terms of Section 145 (7) where a review application is brought it does not suspend the operation of an arbitration award, unless an applicant furnishes security in terms of Section 145 (8).

The security that must be provided by the applicant is the amount of compensation payable or in cases where reinstatement is ordered, 24 months remuneration, or any lesser amount permitted by the Labour Court.

In terms of Section 145 (9), filing of a review application interrupts prescription in terms of the Prescription Act in respect of the award sought to be reviewed.

## PWC Training Strategy and Skills Assessment group interview sessions

The SABFS, together with PwC, held group interview sessions in each province during the week of 19<sup>th</sup> – 23<sup>rd</sup> January.

The purpose of these sessions was to gain input from sheriffs into the development of a training strategy for the profession so as to ensure further professionalisation of the industry. The sessions (13 of them) attracted a total of 128 attendees, which included a range of sheriff offices from both urban and rural areas. We would like to express our gratitude to those who attended the sessions and shared their insights – your input is critical in guiding the development of the strategy. Our thanks, too, to the Board members who attended the sessions and to the Chairperson for her personalised message. We hope to have a draft training strategy by the end of February which will be shared in due course.”

Here is a breakdown of the numbers for each location.

Venue	Number of Actual Attendees
Cape Town 1	9
Cape Town 2	7
Port Elizabeth	9
East London	3
Umtata	15
Durban	19
Nelspruit	9
Bloemfontein	13
Johannesburg	13
Pretoria	8
Polokwane	11
Mafikeng	5
Kimberley	7

## Sheriffs' Guide: Practice and Procedures

First published in 1998, the Sheriffs' Handbook has been an indispensable tool not only for sheriffs but also for many working in the justice space. In recent years, however, this publication has become outdated as new laws and case law have come into play.

The South African Board for Sheriffs (SABFS) has commissioned a respected academic to lead the process of developing an enhanced version of the Handbook to more closely reflect the needs of modern sheriffing. We anticipate that this publication will not only be a resource for sheriffs but will also become a standard item in legal libraries and law offices throughout the country.

The Original Service reflects the law as at 1 July 2014. Consequently, the amendments of 18 July 2014 to the Sheriffs Act 90 of 1986 and the Regulations thereto are not reflected in the body of the main text. However, in anticipation of these amendments coming into force, the provisions are discussed in the footnotes of the various chapters.

The first update will contain the law up to and including 31 August 2015.

However, it is also our intention to add further chapters:

- Execution proceedings against the State
- Insolvency
- Matrimonial and Family Law
- Small Claims Courts
- Costs

The Guide has been published with a new title “The South African Sheriffs' Guide: Practice and Procedure”, and the official book launch was held on 26 February 2015 at the office of the SABFS in Cape Town.

We had a very good response, delegates who attended the event were:

- Deputy Minister of the Department of Justice and Constitutional Development
- Regional Head of the DoJCD, Ms H Mohamed
- Head of Office of the Deputy Minister of the DoJCD, Mr B Williams
- Members of Legal Aid South Africa
- Members of the Law Society
- Sheriffs nationally
- Juta Law
- SABFS Board Members

In total we had 54 persons in attendance. The programme included an address by the Chairperson of the Board,



a special address by the Deputy Minister of the department of Justice and Constitutional Development (DoJCD) and a word from the author, Prof M Paleker.

The speeches were followed by the Ceremonial Handover. The Chairperson of the Board, the author and the Deputy Minister signed two copies of the Sheriffs Guide and the certificate of authenticity. The chairperson handed the first copy of the authenticated Sheriffs Guide to the Deputy Minister as per the ceremonial handover.

All the guests were presented with a complimentary copy of the Sheriffs Guide and a promotional handout of the Bill of Rights which was sponsored by Juta Law.

The event was a huge success and enjoyed by all who attended.

**“The South African Sheriffs' Guide: Practice and Procedure will be available for purchase directly from Juta as of 27 March 2015.”**

#### HOW TO ORDER:

- Contact Juta for an order form which will have to be completed and returned to Juta.
- Upon receipt of the completed order form, you will be registered on the Juta database as a subscriber to the publication.
- After receipt of payment you will receive a copy of the main volume and also be registered for future updates.
- You may also call the customer service department and be assisted telephonically through the process.
- The cost for the publication is R695.00 incl VAT. Please note that this price excludes courier costs.

**Juta contact details are as follows:**

**Tel.:** 021-659 2300 **email:** orders@juta.co.za

*See the launch pics on the next page*

Sheriffs Guide LAUNCH PICS



**Left to right:** Prof M Paleker, Author of the Sheriffs Guide; Hon J Jeffery MP, Deputy Minister of DoJCD; Mrs C Mabuza, Chairperson of the SABFS



**Left to right:** Mr A Mawela, ex-board member; Mr HM Ntsikeni, sheriff for Mthatha and ex-board member; Mrs AT Rahlelaka, sheriff for Polokwane and Mr MT Mangaba, sheriff for Johannesburg Central



**Left to right:** Mr I Adimoolum, Sheriff for Johannesburg West and reference group member; Prof M Paleker, Author of the Sheriffs Guide; Hon J Jeffery MP, Deputy Minister of DoJCD; Mrs C Mabuza, Chairperson of the SABFS; Mr HP Janse van Nieuwenhuizen, Sheriff for Witbank and reference group member; Adv HJ Choma, reference group member; Mr CJ Fourie, Sheriff for Simonstown and reference group member



**Left to right:** Mr AM Makwetu, sheriff for Port Elizabeth South and Chairperson of SANAPS; Prof M Paleker, Author of the Sheriffs Guide; Hon J Jeffery MP, Deputy Minister of DoJCD; Mrs C Mabuza, Chairperson of the SABFS; Mr P Maluleke, sheriff for Boksburg and Chairperson of SASS

## HUMAN RIGHTS DAY

### SERVICE DELIVERY IMBIZO- 19 MARCH 2015

As part of the Human Rights month celebrations the SABFS participated in a service delivery Imbizo hosted by the Department of Justice and Constitutional Development.

The event was held at the Strandfontein Secondary School Hall on 19 March 2015.

Legal Aid –SA, the South African Human Rights Commission, the National Prosecuting Authority, South African Police Services, Department of Correctional Services (DCS), Masters Office, Family Advocate and the local sheriffs of Mitchells Plain were also participants at the event.

Various Stakeholders were invited to participate on the panel for the Question and answer session

- South African Police Services

- Human Rights Commission
- Economic Development Forum (EDF)
- National Prosecuting Authority (NPA)
- Western Cape Dept of Community Safety
- DoJCD
- DCS
- Masters office

Advocate Hishaam Mohamed, the regional head of the DoJCD and Deputy Chairperson of the SABFS was the keynote speaker at the event, however he was not able to attend and Ms Samaai of the DoJCD represented him and delivered the speech on his behalf.

*Please visit our website [www.sheriffs.org.za](http://www.sheriffs.org.za) to view Advocate Mohamed's Human Rights Day speech.*

# Legal Obligations

The South African Board for Sheriffs (SABFS) has received many queries with regards to submission of sheriffs' Legal Obligations. The finance division of the SABFS has provided a detailed table below which explains the different phases of Legal Obligations and the due dates for submission. We welcome you to contact our General Manager of Corporate and Financial Services, Mr Andrew Simon, if you require more information or further clarity. His contact details are: Tel.: 021-426 0577 (ext 51) email: [andrew@sheriffs.org.za](mailto:andrew@sheriffs.org.za)

## LEGAL OBLIGATIONS

### LEGAL OBLIGATIONS PHASE ONE

#### 1.5% LEVIES DUE TO THE SABFS

IN TERMS OF	Section 19(1), read with Regulations 6
REGULATIONS FORM	FORM 16 - LEVIES FORM
WHEN DUE	YEARLY ON OR BEFORE 31 JULY
PAYMENT DUE	YEARLY ON OR BEFORE 31 JULY
HOW DO YOU COMPLY	SUBMITTING FORM 16 & MAKE PAYMENT

### INTEREST ON TRUST ACCOUNT

IN TERMS OF	Section 23(1)(b), read with Regulations 8
REGULATIONS FORM	FORM 7 - AUDIT REPORT
OTHER FORMS	RESIDUE TRUST FUNDS FORM
	ANNUAL UPDATE
WHEN DUE	YEARLY ON OR BEFORE 31 JULY
PAYMENT DUE	YEARLY ON OR BEFORE 31 JULY
HOW DO YOU COMPLY	SUBMITTING ALL FORMS & MAKE PAYMENT

OR

FORMS	MAGISTRATE CERTIFICATE
	BANK STATEMENTS
WHEN DUE	YEARLY ON OR BEFORE 31 JULY
PAYMENT DUE	YEARLY ON OR BEFORE 31 JULY
HOW DO YOU COMPLY	SUBMITTING MAGISTRATE CERTIFICATE, OTHER FORMS & PAYMENT

### LEGAL OBLIGATIONS PHASE TWO

IN TERMS OF	Section 31, read with Regulations 3
REGULATIONS FORM	FORM 4 - APPLICATION FOR A FIDELITY FUND CERTIFICATE
OTHER FORMS	ADDENDUM TO FORM 4 - NO. OF DEPUTY SHERIFFS APPOINTED
	ANNUAL UPDATE
	PROOF OF INDEMNITY INSURANCE
WHEN DUE	YEARLY ON OR BEFORE 31 OCTOBER
PAYMENT DUE	YEARLY ON OR BEFORE 31 OCTOBER
HOW DO YOU COMPLY	SUBMITTING FORM 4, OTHER FORMS & MAKE PAYMENT

# SABFS REMEMBERS MADIBA

18 July 1918 - 05 December 2013



5 December 2014 marked one year since the passing of President Nelson Mandela. In memory of Tata Madiba the office of the Board honoured his memory by singing the National Anthem in the streets of Cape Town on 5 December 2014 and observing a moment of silence.



Ms Lucinda Delpert, *Administrative Assistant*

## Free Auctions Listing on our Website

An exciting feature on our website allows sheriffs to advertise their auctions directly to the public for free. With only four easy steps to complete, you can create a new listing in under five minutes. It's really simple just follow the steps as listed below.

1. Go to <http://www.sheriffs.org.za>.
2. Login with your username and password using the sheriff login button. If you don't have a username and password, use the 'Request Access' link to register.
3. Once in your sheriff member's area, click the 'Auction Upload' option in the sheriff menu on the right-hand side.
4. Fill in the fields on the 'Auction Upload' form. Your listing will now be added to the new auction area on our website.

### Some tips

- Use the description field to give a detailed inventory, or description, of the auction.
- Include up to six images to increase your chances of drawing attention.

We encourage all sheriffs to utilise this function to promote their sales in execution. It's quick, simple and absolutely free!

## New staff appointments

The SABFS has made a new appointment to the office of the Board.

The Training and Communications division has reinforced its unit with an Administrative assistant, Ms Lucinda Delpert. Ms Delpert will attend to all the administrative duties and provide support to the Training and Communications Manager.

### Contact Us

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