



27 October 2016

Dear Sheriff

RE: INSURANCE REQUIREMENTS FOR THE ISSUE OF A FIDELITY FUND CERTIFICATE

We are pleased to present sheriffs with the much awaited final insurance products.

The SABFS has worked hard to bring the profession a customised product that hopefully will be the answer to all our insurance concerns that the profession has been complaining about in the recent past. Sheriffs will be delighted to see that when compared to last year's PI insurance rates, the new rates are highly competitive.

At the end of the agreement with our current brokers, the Board went out on tender to secure the services of an insurance broker. Both SASS and SANAPS reviewed the Terms of Reference and gave it the green light before the tender was issued. STP Brokers (Pty) Ltd have been the successful bidder and were appointed as the official insurer of SABFS. STP will now replace Primak as our insurance broker and will advise the SABFS and place insurance coverage for sheriffs in respect of:

1. Professional Indemnity Cover
2. Third Party Liability for material damage to property –This will be held in a customised policy called Warehouse cover

As an introduction, we attach hereto a letter from STP Brokers, which introduces the broker and provides their contact details and the specifics in relation to the insurance cover. We also attach the Professional Indemnity Policy wording as well as the Warehouse Policy wording. A schedule of rates is also included. Warehouse cover has been secured with at a fixed rate for all sheriffs at a cost per office.

SABFS sets new prescribed minimum insurance cover for sheriffs

Apart from the Professional Indemnity Insurance, the Board has resolved to extend the *minimum cover*, required by sheriffs to be issued with a fidelity fund certificate, to include a requirement to hold **Third Party Liability**. This covers material damage to property as a result of an execution and cover the public against claims they have against a sheriff in respect of the actions or omission of the sheriff or his deputy sheriff in connection with carrying out his duties for which the sheriff or deputy sheriff are liable.

As this is a new directive from the SABFS, consideration has been given to the fact that sheriffs may have not prepared for this and will be afforded 6 (six months) by which to comply and secure third party liability cover for material damage to property.

88 Loop Street, Cape Town. PO Box 15223, Vlaeberg 8018
Tel: 021 426 0577, Fax: 021 426 2598, E-mail: contact@sheriffs.org.za
www.sheriffs.org.za

South African Board for Sheriffs - Established Act 90 of 1986
Mrs C Mabuza (Chairperson), Adv H Mohamed, Mrs P Roodt, Mr T Tembe, Ms N Soga,
Mr L Mashapa, Prof L Fernandez, Mr M Magida, Ms M Lephadi, Mr I Klynsmith, Ms K Sigenu

What is new about this insurance cover?

The Board has taken a decision that all sheriffs are required to have such insurance cover in order to be issued with a fidelity fund certificate. Sheriffs were not previously required to show the Board proof that they held indemnity cover for material damage to property – the Board only requested proof of cover for professional indemnity.

Why the change?

Consumers are getting increasingly litigious as they become aware of their rights. This means the incidences of consumers filing material damages claims are on the increase. Many sheriffs independently secure material damage cover and are able to deal with claims. However there are a number of sheriffs who don't have material damage cover and this exposes the Fidelity Fund as claimants will often choose to lodge their claim with the Fund, as opposed to directly with the sheriff. In cases where the sheriff resigns or retires and did not have material damage cover, then the Fund is faced with the claim.

The benefits of Group Cover

Group Cover rates are beneficial for the whole sector, because it allows for pooling of risks, and ultimately reduced premiums.

- The insurance broker liaises directly with sheriffs for invoicing and payment of PII and Warehouse Cover;
- The indemnity coverage required must be customised to meet all legislative requirements. SABFS oversees this alignment with the assistance of the broker;
- Statistics and trends can be established and this data can be used to do risk management;
- Quarterly reporting to the SABFS assists the Board to monitor the insurance provider

Why does the Board compel sheriffs to take out insurance before issuing them with a fidelity fund certificate?

The Fidelity Fund is liable as a Fund of last resort to cover the public against claims they have against a sheriff in respect of the sheriffs failure to deliver or pay out money or property or the actions or omission of the sheriff or his deputy sheriff in connection with carrying out his duties for which the sheriff or deputy sheriff are liable. Below is the relevant provisions of the Act.

35. Liability of the Fund.

– Subject to the provisions of the Chapter, moneys in the Fund shall be utilized to compensate any person who, after commencement of this Act, suffers any loss or damage-

(a) As a result of –

(i) The failure of the sheriff to pay out or deliver to any such person any money or property over which he acquired control by virtue of his office, or the proceeds of the sale of such goods; or

(ii) The act or omission of a sheriff or his deputy sheriff in connection with _

(aa) the service or execution of any process;

(bb) the arrest of any person; or

(cc) subject to section 55, the rescue or escape of any person arrested by him or committed to his custody; and

For which the sheriff and his deputy sheriff jointly or his deputy sheriff is liable in law.

In terms of Section 30 of the Act as detailed below, the SABFS is authorised to direct the nature and type of insurance that sheriffs should hold in order to be issued with a fidelity fund certificate. By law Sheriffs are required to hold valid Professional Indemnity Insurance coverage before a fidelity fund certificate is issued to them by SABFS. The SABFS prescribed the minimum cover required.

Section 30.

Prohibition of performance of functions of sheriff in certain circumstances-

(1) A sheriff or his deputy shall not perform and functions assigned to a sheriff by or under any laws unless-

(b) the sheriff **obtains professional indemnity insurance to the satisfaction of the Board to cover any liability** which he or she may incur in the course of the performance of his or her functions in terms of this Act

(2) The Board may prescribe, in connection with indemnity insurance referred to in sub section (1) (b), the **minimum cover** required to be complied with, the contingencies to be covered by such insurance and the circumstances under which a person who could otherwise be required to obtain such insurance, shall be exempted therefrom.

SABFS is empowered in terms of the Act to negotiate group insurance on behalf of sheriffs against any loss, damage, risk or liability which they may suffer or incur. This is done annually through SABFS appointed broker and proof is sent to the SABFS, once the sheriff makes payment.

General functions of the Board.

– In addition to the other functions assigned by the Board by this Act, **the Board May-**

(i) By means of insurance provide for cover for the Board against any loss, damage, risk or liability which it may suffer or incur;

(j) **arrange for –**

(i) **cover, by means of insurance, for sheriffs against any loss, damage, risk or liability which they may suffer or incur;**

(ii) the establishment of a medical aid or pension scheme for sheriffs

What are the functions of STP Brokers?

The SABFS have appointed STP Brokers as an *independent* insurance broker to act as our adviser, manage claims and to assist in the procurement of various insurance services. The appointment of the broker has been made for a period of three (3) years. The Boards insurance needs are in respect of indemnity insurance for the Fidelity Fund for Sheriffs and Group Professional Indemnity and material damage insurance for sheriffs.

The following functions will be performed by the broker for the Board and sheriffs:

PROVISION OF ADVICE AND BROKERING INSURANCE COVER

- Provision of independent advice to the SABFS and sheriffs including advice alternative risk transfer mechanisms for risk that are prohibitively expensive to insure.

- Provision of risk management services and mitigation strategies.
- As the coverage required in terms of the Sheriffs Act is specific, the broker is required to find customised coverage that is compliant with the Act and which is competitive.
- Facilitate the procurement and placement of insurance with insurance carriers that have the ability and capacity to insure the risks.

PROVISION OF CLAIMS MANAGEMENT SERVICES

- Administer the invoicing and payment of insurance premiums on behalf of SABFS and sheriffs.
- Provide confirmation to the SABFS when sheriffs have secured insurance cover so that SABFS may issue them with a fidelity fund certificate.
- Administer the claims process on behalf of SABFS and sheriffs
- Attend quarterly meetings with the Fidelity Fund Committee of the Board at SABFS offices in Cape Town;
- Report monthly on claims statistics.
- Maintain claims statistics for the full period of appointment and make this available to the SABFS.

PROCUREMENT OF INSURANCE COVERAGE FOR SHERIFFS AND SABFS

- The broker is required to procure quotes from different insurance carriers to meet SABFS and sheriffs insurance needs for each calendar year.
- There are three areas viz a) Indemnification insurance for the Fidelity Fund b) Group Professional Indemnity insurance for sheriffs and 3) Group Liability Insurance for Third Party liability insurance for material damage to property.
- The broker must provide a technical evaluation of the quotes which will include an assessment of the quotes received for both the Fidelity Fund and the Group Professional Indemnity Insurance, identify if any coverage required has been excluded and the quote that best suits SABFS and sheriff's needs.

Is it compulsory for sheriffs to take out the minimum insurance cover through the SABFS approved broker?

It is not compulsory for sheriffs to use the SABFS approved broker. They can use their own broker and have to prove that they have secured cover on substantially equal terms and condition as set out in the policy wording and schedules or better conditions. This includes the limits of cover. Sheriffs who already have cover for **Third Party Liability (Warehouse cover)**, may submit their existing policy as proof, for consideration by the Board.

Professional Indemnity insurance will still be subsidised by the fidelity Fund for smaller offices, as was the practice in the past.

We trust that the above provides answers to all the queries that you may have. Should you still have any queries kindly contact the SABFS or STP Brokers for further assistance. Our GM: Finance Mr Andrew Simon will be able to assist you on andrew@sheriffs.org.za

Yours sincerely



Charmaine Mabuza
Chairperson - South African Board for Sheriffs