

Legal Obligation Phase 1 (LOP1) (page 1)

OUR REF: LOP1/2017/SS/BZL/lrb

DATE: 07 April 2017

Dear Sheriff

SUBMISSION OF LEGAL OBLIGATIONS: SHERIFFS ACT, 1986 ACT 90 / 1986 AS AMENDED (The Act) FOR THE FINANCIAL YEAR 2016/2017

Please be reminded that the 1st phase of the legal obligations in terms of Section 19(1) and 23(1)(b) of the Act is now due for submission to the South African Board for Sheriffs, (hereinafter referred to as the SABFS) and the Fidelity Fund, respectively. The submission comprises of the following:

- Annual Levies Returns and payment of the prescribed levies;
- Audit Certificate / Magistrate Certificate (12 month bank statement) and payment of interest to the Fidelity Fund, IT3(b) Income Tax Certificate and Bank Certificate; and a
- Declaration of Residue/unclaimed monies in the Trust Accounts i.e. Residue Form

The table below indicates which bank account MUST BE USED to transfer the Legal Obligations into. We encourage you to do internet banking transfers or deposits at the bank. DO NOT POST any cheques to the board. To ensure proper and speedy allocation of payments received from sheriffs, please use your unique reference numbers when making a deposit or EFT.

Statement of Levies (Form 16)

The sheriff must sign this statement personally. Unsigned forms will not be accepted and will be regarded non-compliant.

Please note the definition of “gross income” and “net income” respectively, in Regulation 1 as amended by Regulation 3 of Regulation No: 31658 of 2008 and Regulation 34605 of 2011. Only the **actual expenses** - recovered by way of returns of service - should be deducted to determine net income. “**NET INCOME**” means gross income after deduction of the actual expenses incurred by the sheriff in respect of advertisements 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. The above expenses **MUST NOT EXCEED 20%** of the sheriff's gross Income. The amount to be deducted from gross income is the lesser of actual expenses and the 20% of gross income.

The Board reserves the right to request documentary proof of deductions.

Audit Report (Form 7)

In terms of Section 23(1)(b) all Sheriffs must cause their Trust account records for the period **1 March 2016 to 28 February 2017** audited by a **Registered Accountant and Auditor (RAA)**. Please **note** that in terms of the Act an auditor is defined as, “a person registered as an accountant and auditor in terms of the Public Accountants and Auditors Act, 1991”. It was previously noticed that some sheriffs have submitted reports that were signed by persons other than those defined in the Act. Where it is found that a sheriff submits documents not complying with the Sheriffs Act 90 of 1986, this will be regarded as non-compliant.

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

Legal Obligation Phase 1 (LOP1) (page 2)

The interest and bank charges should be the same as that reflected on the IT 3(b) certificate and the certificate indicating the bank charges. Should there however be a difference, a written explanation for the difference supported by documentation must be forwarded to the SABFS.

Magistrate Certificate

In terms of section 23(4), the board may on such conditions as it may determine, exempt a Sheriff from submitting an audit report. The board has approved the following exceptions:

All sheriffs who handled less than 50 (Fifty) transactions on their trust account or who have received less than R50 000.00 (Fifty Thousand Rand) in their trust accounts for the period **1 March 2016 to 28 February 2017** do not need to have their trust accounts audited by an **RAA**. A certificate from their local magistrate certifying the amount of interest and bank charges levied must be submitted to the SABFS together with certified copies of the trust accounts' bank statements for full period of audit. **The Magistrate Certificate must be signed by the Magistrate.**

Where a sheriff does not submit the required documents as mentioned above, this will be seen as non-compliance to the Act. These forms will be returned to the sheriff informing him/her that these forms do not comply with the Act and the sheriff must correct the situation. A sheriff that does not comply with his/her legal obligations runs the risk of not being issued with a fidelity fund certificate for the following year or a recommendation will be made to the Minister of Justice and Constitutional Development to suspend the Sheriff.

The Board reserves the right to request documentary proof for submissions made regarding your Audit report.

IT 3(b) Income Tax Certificate and Bank Certificate indicating bank charges

Both these certificates are supposed to be issued by your bank for the period **1 March 2016 to 28 February 2017**. If you do not receive one or both, you must request them from your bank.

The Board reserves the right to require documentary proof for submissions made regarding the interest and bank charges.

Unclaimed Trust Monies in Trust Accounts

We request that all sheriffs declare all unclaimed trust monies in their trust accounts, to the Board. Please note that the submission of this information is compulsory for all Sheriffs. Should you have no unclaimed trust monies to declare you should complete the form by inserting R0.00 for amounts held.

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

Should the SABFS have doubt about the correctness of any information furnished, it can order its inspectors (appointed in terms of section 56 of the Act) to visit a sheriff's office and to do an inspection in terms of the provisions of section 57 of the Act.

Legal Obligation Phase 1 (LOP1) (page 3)

	Type of Obligation	Form to be used	Due date	Payee
1.	Levy of 1.5% of the net income of a sheriff. Sheriffs / acting sheriffs	Form 16 Regulation 6 of the Regulations relating to sheriffs, 1990 is amended by Regulation 9 of Regulation No: 31658 of 05 December 2008 and Regulations 34605 of 2011.	Due and payable on or before 31 July 2017 for the preceding financial year.	Transfer to: South African Board for Sheriffs (Acc No: 070614385, Code: 051001, Bankers: STANDARD BANK) <i>Correct deposit reference is your unique reference number;</i>
2.	Interest from Trust Account	<ul style="list-style-type: none"> Form 7 for sheriffs with more than 50 transactions or sheriffs who handle more than R50 000.00 per annum in their trust account. Magistrate Certificate for sheriffs who either handle less than 50 transactions or R50 000.00 per annum in their trust accounts. Must be accompanied by certified copies of your 12 month bank statement. 	Due and payable within 150 days after the last day of February, i.e. 31 July 2017	Transfer to: Fidelity Fund for Sheriffs (Acc No: 070614407, Code: 051001, Bankers: STANDARD BANK) <i>Correct deposit reference is your unique reference number;</i>
3.	Interest from Trust Account	IT 3(b) Income Tax Certificate from your Bank on interest accrued for the period 01 March 2016 to 28 February 2017 .	Due on or before 31 July 2017	N/A
4.	Interest from Trust Account	Bank Certificate indicating your accumulative bank charges for the period 01 March 2016 to 28 February 2017 .	Due on or before 31 July 2017	N/A
5.	Declaration of Residue/ unclaimed Monies in Trust Account	Unclaimed Trust Monies Form for unclaimed trust monies in your trust account.	Due on or before 31 July 2017	N/A
6.	Updates for Sheriffs	These updates are for record purposes.	N/A	N/A

Please ensure that all completed forms are duly signed as failure to do so will render them invalid and that only the above-mentioned prescribed forms are used. Further ensure that the above-mentioned forms are **sent to the SABFS via registered mail**. Should they be sent by ordinary mail and are subsequently lost in the post, we will presume that it was not sent and relevant penalties will be imposed for non-submission.

The forms are also available on our website www.sheriffs.org.za.

Please take note that the Act does not provide for extensions in terms of your submission.

Legal Obligation Phase 1 (LOP1) (page 4)

ALL SUBMISSIONS TO BE SENT TO THE FOLLOWING EMAIL ADDRESS AND FAX NUMBER ONLY:

Email: legalobligations@sheriffs.org.za

Fax: 086 531 6180

Should you require any further assistance or require clarity, please contact our office on 021 426 0577 and ask to speak to:

Ms Lindsay Bell ext. 54 or Mr Clement Heugh ext. 47.

Yours Sincerely



SHARON SNELL

EXECUTIVE MANAGER

South African Board for Sheriffs