

# Memo



**Date:** 19 April 2017

**Re:** Trust Money – Interest Bearing Accounts

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Dear Sheriff

The South African Board for Sheriffs is aware that most sheriffs do not inform our office of their investment of trust money in interest bearing accounts, other than your trust account. To those sheriffs that do always comply, we wish to commend you for your diligence.

The Board would prefer to keep a record of all transactions involving interest bearing accounts to ensure that your compliance is regulated and that these accounts will not be viewed suspiciously should an inspection of your office, occur.

## WRITTEN MANDATE FOR SPECIAL INVESTMENTS

It is in the best interest of the sheriff and the person on who's behalf the written mandate for a special investment is made, to inform our office of the transaction by providing details that would include;

- Case number
- Name of the bank
- Type of account
- Investment in the name of the sheriff, on behalf of the person who requested the investment in terms of the Act
- Name and ID of the person on who's behalf you are investing
- The amount invested, etc.
- The account must be separate from the sheriffs' trust account. It cannot be in the same account as the trust account.
- Signed and dated by the client.

For these reasons, we thought it best practice to remind you of the extract from the Sheriffs Act 90 of 1986 (as amended) – please see next page.

The SABFS would appreciate your co-operation and compliance with this request.

Thank you.

**Vincent Nel**  
Training Manager

**CHAPTER III**  
**POSITION OF TRUST OF SHERIFFS (ss 22-42)**

**Accounts for trust moneys (ss 22-25)**

**22 Accounts for trust moneys**

*(1) Every sheriff shall open and keep a separate trust account, which shall contain a reference to this subsection, with a banking institution or building society, and shall forthwith deposit therein the moneys held or received by him on account of any person.*

*(2) (a) A sheriff may invest in a separate savings or other interest-bearing account opened by him with a banking institution or building society any money deposited in his trust account and not immediately required for any particular purpose.*

*(b) A savings or other interest-bearing account referred to in paragraph (a) shall contain a reference to this subsection.*

*(3) The amount standing to the credit of an account opened by a sheriff in terms of subsection (1) or (2), shall not form part of the assets of that sheriff or, if he dies or becomes insolvent, of his deceased or insolvent estate.*

*(4) Interest on money in an account mentioned in subsection (1) or (2) shall, unless the person on whose behalf the sheriff is holding or has received those moneys, in writing indicates otherwise, be paid in the prescribed manner to the Fund by the sheriff concerned: Provided that, before a sheriff pays the interest to the Fund, he or she may deduct his or her expenses incurred in respect of his or her trust account, from the interest accrued on the trust account in accordance with a tariff and procedure prescribed by the Board.*

[Sub-s. (4) substituted by s. 25 of Act 139 of 1992 and by s. 7 of Act 74 of 1998.]

**23 Book-keeping and auditing of accounts**

*(1) A sheriff shall, subject to the provisions of subsection (4)-*

*(a) keep separate record of moneys deposited or invested by him in, and payments made by him out of, an account mentioned in section 22 (1) or (2);*

*(b) cause the records referred to in paragraph (a) to be audited by an auditor at least once annually.*

[Sub-s. (1) substituted by s. 2 (a) of Act 3 of 1991.]