



14 April 2020

Per Email

Mr RO Lamola
Minister of Justice and Correctional Services

Cc. Bruce Sarela
Chief of Staff
Email: BSarela@justice.gov.za

Dear Honorable Minister Mr Lamola

RE: THE IMPACT OF THE COVID 19, THE LOCKDOWN AND THE ECONOMIC DOWNTURN ON THE SHERIFFS PROFESSION

We acknowledge receipt of your correspondence dated 7 April 2020 regarding the aforementioned matter and wish to thank the Minister for giving the Board and the Profession an opportunity to respond on how the lockdown has affected the Sheriffs Profession.

Before, I proceed to highlight the plight of the profession in detail, I would like to take this opportunity to very briefly create a background to the sheriffs profession within the Justice system of our country.

As you know there is a sheriff appointed for every Magisterial district in all nine Provinces. Sheriffs are restricted and governed by Legislation and therefore, largely depend on the Legal profession and a few State departments to provide them with processes to serve and execute.

Sheriffs offices differ from one another as we have rural, urban and semi urban offices, majority of them serve the rural towns, therefore making them more financially strained under normal circumstances.

The Sheriffs income and survival is dependent on the legal profession and the State departments settling their bills timeously.

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South African Board for Sheriffs - *Established Act 90 of 1986*
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Ms M Lephadi, Mr I Klynsmith, Ms K Sigenu, Mr A Nkhumise, Mrs A Singh, Mrs S Mashaba

The Board has conducted the following assessment and wish to propose possible solutions set out below with the contribution from the profession itself.

IMPACT OF THE LOCKDOWN ON THE SHERIFFS PROFESSION

The impact of the lockdown on sheriffs can be separated into various categories. The impact of each individual category may not be catastrophic but when considered holistically, as one must, the combined effect will be disastrous for many sheriff's offices and will take months, if not years for full recovery.

These categories may be loosely described as financial, operational, technological and human resources.

Financial consequences:

Revenue for sheriffs comprises of fees billed and collected. The expenses for a sheriff's office remain unchanged during lockdown and approximately 80% of these expenses are allocated towards salaries, office rental, levies and other operational expenses.

Due to the lockdown start date being the 26 March 2020, which is the normal month end closure period for all sheriffs, they have missed the opportunity to collect revenue for work done for all the months prior to and including March 2020.

Most sheriffs have already experienced a downturn in revenue during the lockdown and expect it to continue, now that the lockdown has been extended. One of the reasons is that clients are either shutdown or working with limited staff and more importantly they are trying to save as much cash flow as possible for their own survival and elected not able to pay their accounts during the lockdown.

All sheriffs are suffering serious financial losses due to their income during the lockdown period being less than 5% and in some cases nil, especially in the rural and semi urban areas. Sheriffs are still burdened with the operational expenses for the period March, April, May, June and we expect it to continue for a few months later.

The concerning factor is meeting the monthly operational commitments as stated above.

Operational and Technological Consequences:

Sheriffs largely depend on deputy sheriffs physically attending the premises of the defendants/respondents to serve and execute the legal processes which immediately became impossible to achieve due to movement restrictions.

Due to the impact on the deputy sheriffs there is no need to have the administration departments working, even remotely, as they cannot capture and process returns/invoices.

In order to adhere to the social distancing regulations, sheriffs were forced to cancel all auction sales already planned for the month of April, which equates to a huge loss of income in fees.

Due to the manner in which the sheriffs offices are setup they are unable to work remotely due to lack of access to computer hardware and/or the IT facilities required. This is especially prevalent in rural sheriffs' areas, even if they had the opportunity.

Human Resources Consequences:

Pre-existing challenges which sheriffs were facing were lack of transformation, a weak economy and a weak rand.

It must be further noted that majority of the deputy sheriffs are paid in the form of commission, which means they get paid for the work actually done. A further concern is the possible movement of staff, which will hamper service delivery from these offices, as the process of training new staff is a lengthy one.

We are unable to establish the actual time the profession will reach normal status, the consequence is that unless financial aid is provided we foresee an increase in job losses, movement of staff and possibly closure of some offices.

THE SABFS INTERVENTIONS DURING LOCKDOWN PERIOD

The following are solutions which the Board has implemented so as to ensure that there is continuity within the administrative functions of the Board and that we are able to assist sheriffs and other stakeholders during lockdown.

1. ARRANGEMENTS FOR CRITICAL STAFF TO WORK REMOTELY.

The SABFS has made arrangements with 12 key staff members that serves as an Essential Service Team for the Profession. These staff members work remotely to assist sheriffs and continue with the SABFS services during the lockdown period.

2. THE APPOINTMENT OF A NEW EXECUTIVE MANAGER.

The SABFS appointed a new Executive Manager, Mrs Jody van Wyk, she commenced duty on 1 April 2020. Mrs van Wyk is supported by the Management team and is the head of the Essential Service Team during the lockdown period and the link between the Board and Management.

3. DETAILS OF THE SABFS COMMUNICATION TO THE SHERIFFS' PROFESSION AND ACTIVITIES TO DATE.

We annex hereto the correspondence issued to the sheriffs' profession, marked **Annexure A** detailing the support offered by the SABFS.

The SABFS also established a special Sub- Committee that is tasked to investigate all the funding relief opportunities the profession could tap into. Some of these service providers are the Insurance and Software service providers to arrange for a three-month payment holiday for sheriffs from April to June 2020.

The Committee has further requested assistance from the Department of Trade and Industry (marked **Annexure B**) and the Legal Practice Council, as mentioned previously (marked **Annexure C**).

4. Fidelity Fund Certificates

All Fidelity Fund Certificates were issued and no sheriffs are operating without a valid Fidelity Fund Certificate.

5. Payments of salaries to staff, invoices to service providers are continuing.

Salary payments for the staff members of the SABFS will be effected 25 April 2020. All payments are made for suppliers on a weekly basis.

6. Board Communication

The Board is continuing to engage via electronic means and is in frequent contact with the Executive Manager and the Essential Services Team. The Board has further arranged a WhatsApp group consisting of all EXCO Members, the Chairpersons of the voluntary associations i.e SASS and SANAPS and the Management Team. The new Regulations from the Department of Justice has also been communicated to the Profession and both SASS and SANAPS had the opportunity to give input before it was finalised.

The Board has always maintained a hands on approach in dealing with the Profession and Management team and this has paid off in the strenuous times we are dealing with.

7. THE SUPPORT PROVIDED TO SHERIFFS DURING THE LOCKDOWN PERIOD AND PLANS TO SUPPORT THEM BEYOND THE LOCKDOWN.

The SABFS has been reviewing the funding initiatives so that we could guide the profession in accessing these financial relief avenues as we fully understand the devastating impact the lockdown will have on our profession.

Further to other communications already issued to the profession, the SABFS have identified the following Relief and funding initiatives that are available from Government and other NGO'S namely:

- UIF;
- Small Business Funding;
- Compensation Commissioner; and the
- Solidarity Fund
- Department of Trade and Industry (DTI) SMME relief fund
- Other NGO funding available

Possible internal SABFS relief funding

The Board is further reviewing the following option as a form of relief for sheriffs in this period:

- The staggering of Levies payments over period of three months from 31July 2020;

We include herewith the categories of turnover per annum for each sheriff office as per the sheriffs 2019 Legal Obligations Phase 1 submission, which clearly indicates the financial predicament the profession is facing.

Categories	Number of sheriffs
0 to 100 000	14
100 000.01 to 330 000	25
330 000.01 to 750 000	41
750 000.01 to 1 500 000	49
1 500 000.01 to 3 000 000	44
3 000 000.01 to 5 000 000	35
5 000 000.01 to 30 000 000	42
Total sheriffs	250

MINISTERS URGENT INTERVENTION IS REQUIRED

1. The Board wish to implore on the Minister to assist sheriffs to obtain funds from the Solidarity Fund as the present criteria disqualifies sheriffs and should be amended urgently.
2. The Board further requests the Ministers intervention with the funding opportunity of the Department of Trade and Industry (DTI), as here as well Sheriffs do not meet the criteria as they are not registered with CIPRO and therefore do not have an allocated business registration number
3. As stated above we largely depend on attorneys settling sheriffs outstanding accounts and therefore we have written to Legal Practice Council (LPC) to encourage its members to settle sheriffs invoices. We would appreciate any form of intervention through your department as well.
4. It would assist if you could encourage through your office all State departments who utilise the sheriffs service to settle all outstanding accounts; e.g Courts, State Attorneys, Legal Aid offices, SARS etc.
5. Lastly, it is imperative that works starts flowing to the respective Sheriffs offices immediately the lockdown is uplifted and to this end we humbly request your assistance in encouraging the Courts in all Provinces to utilise the service of the Sheriffs to serve all Maintenance subpoenas. This will have a positive impact on especially the rural sheriffs.

The Board wish to convey their thanks to the Minister for the continued support we receive from your office as well as that of the Deputy Minister.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Charmaine Mabuza', written in a cursive style.

Charmaine Mabuza
Chairperson
South African Board for Sheriffs