

26 November 2021

Our Ref :

Chairperson's Circular 1 of 2021

TO : All Sheriffs

Voluntary Associations: SASS and SANAPS

CC : Minister of Justice and Correctional Services

Deputy Minister of Justice and Constitutional Development

Director General: Department of Justice and Constitutional Development

Acting Deputy Director General: Court Services

RE: CHAIRPERSON'S CIRCULAR 1 OF 2021 - SHERIFFS PARTICIPATING IN REMUNERATIVE WORK OUTSIDE OF THEIR OFFICE WITHOUT MINISTERIAL APPROVAL

1. It has come to the Board's attention that there are a substantial number of Sheriffs who are participating in various remunerative work or business activities and / or hold various remunerative office bearer positions in entities without having obtained the necessary Ministerial approval to section 53 of the Sheriff's Act 90 of 1986 ("Act").
2. I call on those Sheriffs who are participating without Ministerial approval to cease such participation with immediate effect and to vacate all the positions held in other institutions outside of their Sheriff's office, until such time that proper approval has been obtained from the Minister of Justice and Correctional Services in terms of section 53.
3. We have a list of all the Sheriffs who have been granted Ministerial consent under section 53.
4. Those who fail to immediately cease their unlawful participation in other remunerative work or immediately resign from occupying remunerative office bearer positions outside of their Sheriffs office, do so in contravention of the provisions of the Act and as such, the Board will take the appropriate measures to remedy the unlawful conduct, including but not limited to instituting disciplinary action for professional misconduct and non-issuance of a Fidelity Fund certificate for the upcoming financial year to the Sheriff concerned.

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South African Board for Sheriffs - *Established Act 90 of 1986*
Adv M Morgan (Chairperson), Ms Z Nkosi, Mr I Burton, Mrs A Titus, Ms P Mlandu
Ms T Tshoedi, Mr S Maremane, Mrs S Mashaba, Mr A Shabalala, Mr K Mahlaba

5. In the coming weeks, correspondence will be addressed to all Sheriffs who are alleged to perform remunerative work or hold remunerative office bearer positions in other entities outside their sheriff's practice absent the necessary Ministerial approval.
6. I call upon all those Sheriffs who are not willing to immediately let go of their participation in remunerative work or immediately resign from holding remunerative office bearer positions outside their Sheriff's office to act lawfully and within the dictates of the Sheriff's Act by first ceasing their participation or resigning from those office bearer positions and then applying for Ministerial Approval or resign from holding office as a Sheriff in terms of section 4(4) of the Act.
7. Importantly, a Sheriff currently participating in remunerative business activities without Ministerial approval must first cease or relinquish such participation and/or resign from the position unlawfully held prior to making an application for Ministerial approval. In short, a Sheriff cannot straddle both at the same time.
8. Sheriffs who wish to obtain Ministerial approval should send a comprehensive letter disclosing all information relating to the remunerative work and / or position they intend to participate in or hold outside of their Sheriff's office and stipulate reasons motivating for the Minister to exercise his discretion in their favour. Bearing in mind that in exercising his discretion, the Minister will take into account, amongst other, the conflicting interest that may be present in the performance of Sheriff's functions and duties as an office of the court. Letters should be addressed to the Minister and sent to the following address jmogoshane@justice.gov.za; ckok@justice.gov.za and CC_ministry@justice.gov.za; zanendlovu@justice.gov.za; deputyminister@justice.gov.za; blwilliam@justice.gov.za; docmashabane@justice.gov.za; simone@sheriffs.org.co.za; mmorgan@sheriffs.org.za .
9. The contents of this circular are retrospective in its effect and Sheriffs who are already participating unlawfully in remunerative work outside their Sheriff's office without the peremptory Ministerial approval will be subjected to disciplinary action.

End.

ADV. M MORGAN

CHAIRPERSON

SOUTH AFRICAN BOARD FOR SHERIFFS

Issued on 26 November 2021