



15 MARCH 2018

**REPORT TO MEMBERS OF THE SOUTH AFRICAN
SHERIFF SOCIETY (SASS)**

SASS national management held its bi-annual meeting on 2 March 2018 and requested provincial management to bring the following matters to the attention of members and to discuss same at provincial meetings.

1. SASS Annual General Meeting (2018 AGM)

This event will take place 11 and 12 May 2018 at Kedar Lodge, Rustenburg, North West.

Planning of the AGM is underway and the event promises to be one of the highlights of the year in the sheriff profession.

2. Dates of upcoming provincial meetings

Free State, 16 March

Gauteng, 19 March

Limpopo, 24 March

Western / Northern Cape, 6 or 13 April

Eastern Cape, 24 March

North West, 14 April

Mpumalanga and KZN have been concluded

New management for provinces will be elected at these meetings and will be announced at the AGM.

3. WhatsApp groups

Management acknowledges the effectiveness of this manner of communication and encourages members to participate in the provincial WhatsApp groups.

Provinces without groups are requested to create a group.



4. Meeting with Law Society, Registrar of Deeds, Registrar High Court

Provinces are requested to engage with stakeholders and have regular meetings. Currently the amendments of Rule 46 and 43 must be implemented and meetings with Registrar of the High Courts and Registrar of Deeds must be arranged to agree on new procedures. See discussion under 11 below.

5. Planning of further meetings for the year

Provincial management must engage members on the requirements for training and must arrange a workshop for later in the year. Control of trust account and ethics are two topics for consideration.

6. Fee Guide - Vehicle repossession for banks

Herewith the Guideline for fees of bank vehicle repossessions. The fee schedule is a guide only, based on the principle that deviation must be motivated and is subject to taxation. Provinces are requested to have discussion session on this matter to ensure an understanding of the guide and the application thereof. The importance of good service delivery must be emphasized.

7. VAT increase – 1 April 2018

Members are reminded of the VAT increase and must ensure their computer systems are set accordingly.

8. Communication by the Board

Members raised their concerns about the disrespectful manner in which sheriffs are treated by the Board in some instances, and the tone of letters addressed to sheriffs. Management requests that examples of such communication be collected in order to report the conduct to the Board.

9. Services by SUCCEED Group

(1) Website for sheriff offices

After development of the SASS website, SUCCEED Group now also offers three website packages to sheriffs for their individual offices:

- One-pager – landing page only
R450 per month with once-off R1,150.00 setup fee
- Standard – 8-page website with option to advertise auctions and post photos
R900.00 per month with once-off R1,375.00 setup fee
- Premium – 13+ page, with option to advertise auctions, post photos and online auction registration
R1,350.00 per month with once-off R1,825.00 setup cost.

A Link will be provided to view existing websites.
Application forms enclosed.

(2) SASS branded email

A professional image of the sheriff can be enhanced when members make use of the SASS branded email.

The cost is R35 per user per month, setup is done through Teamviewer.

Provinces are requested to promote this service amongst members and to forward details of anybody who is interested.

10. Cooperation with SANAPS

Management supported the recommendation by SASS EXCO to work with SANAPS when mutual interest exist.

The following items have been identified:

- Reduction of levies
- Annual increase for sheriffs
- Funding of sheriff organizations by the Board

11. Immovable property attachment and sale

All members should by now have received some form of training on the amended Rule 46, 43 and Conditions of sale.

Sheriffs have implemented the new regulations and various challenges have been reported on mainly the reserve price and new Conditions of Sale.

A discussion was held at the management meeting of 2 March 2018 and the following grey areas have been debated and explained:

Provincial management are requested to share this information with members.

Reserve Price:

This is a new concept to the profession and many practical aspects must still be addressed and new processes established.

Through engagement by means of workshops and training, as well as meetings of the banking forum, some aspects have been identified that is not clearly defined in the rules and SASS can now give guidance to members.

What procedure should be followed when the reserve price is not achieved?

Apart from the report that must be filed with court within 5 days after the sale, the Regulations give no further guidance.

After consideration, the banking forum recommends that the person who made the highest bid should complete the Conditions of sale, pay the deposit and pay commission into the sheriff's trust account, awaiting consideration by the judge.

The best comparison is to adopt the process under the former regulations when a third party sale was conducted, subject to confirmation by the bond holder.

A major challenge is the fact that no time frames are prescribed for the courts to consider the highest bid, which puts the purchaser at a disadvantage.

Potential buyers should therefore be made aware of the following before the sale:

1. Should the reserve price not be achieved, the highest bid will be referred to court for consideration for possible approval.
2. It is uncertain how long the court will take to come to a decision and no time frames can be given to potential buyers.
3. The buyer will have to sign the Conditions of sale and pay the 10% deposit and auctioneers commission.
4. Refund will only be made to the purchaser after the court came to a conclusion.

Provinces are therefore encouraged to engage the courts to inform them of the new regulations and to agree on processes:

- Central contact point and email address where all sheriffs of the province can send the reports
- The format of the report
- It is presumed that the matter will be heard by a judge in chambers, the same manner in which Rule 46(11) applications are heard. This must therefore be discussed with the courts and we must assist to expedite processes at court

Interest

No interest can be charged to the purchaser while waiting for the court to confirm the sale.

The most controversial clauses of the CONDITIONS OF SALE were discussed:

Conducting the auction

Although there are different schools of thought, the most popular viewpoint is that a normal auction should be conducted, in order to get to the highest bid, even though the reserve price is not achieved.

Clause 2.3 Conditions of sale

A possible shortcoming was identified and proposed that wording be amended to read: No bids less than R1000 over and above the preceding bid

Two reserve prices

Rule 46(5)(a) provides for a preferent creditor to set a reserve price and the court can also set a reserve price in terms of the new Rule 46A. Which one do we use?

The reserve price that is set by court in terms of Rule 46A takes preference. The preferent creditor will be notified of the reserve price and the preferent creditor can object to the conditions of sale.

Clause 9.1 Possession & occupation

Sheriffs must ensure that there is no deviation to the new format. Sheriffs are not responsible for the collection of occupational rent. The banks and conveyancer will attend to this.

Clause 6.1 All amounts due to Municipality

Extensive debate was held at the Banking forum and it was resolved that this matter be clarified by the Rules Board. We are therefore addressing same with the Rules Board and further feedback will be forwarded shortly.

The confusion rests with the word "all" which some feel might be interpreted to include Section 118(3) amounts (historical debt), and not only Section 118(1) amounts.

Clauses 11.1 and 11.2 Insurance of property

This clause poses risk to the sheriff, as sheriff can be held liable in terms of this clause. The Board has been requested to look into the matter and it will also be addressed extensively at the next Consultative Forum meeting.

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