



NEWSLETTER, JANUARY 2020

Dear SASS member,

Compliments of the season and we wish members all the best for 2020.

We start the New Year with a newsletter, reporting on some 2019 matters and also bringing you up to date with the latest developments in the profession.

Passing of members

It is with great sadness that we report the recent passing of two of our long standing members:

1. Piet Smith, Winburg, Free State
2. Trudie Vermeulen, Westonaria, Gauteng

We will miss their presence in the profession and in our lives.

1. Fidelity Fund Certificates

We trust that members have received their Fidelity Fund Certificates for 2020.

SASS management assisted some members with submission of documents and follow up correspondence.

Don't hesitate to call upon SASS for assistance in this regard.

2. SASS legal Committee

We acknowledge and thank our legal committee for the excellent work they do for SASS and the profession.

We truly appreciate your dedication.

Members: Tami Tembe (chair), Hannalie Erasmus (Secretary), Harry van Nieuwenhuizen, Prince Maluleke, Fanie van Wyk and Thaka Seboka.

3. SASS provincial meetings

The 2019 provincial meetings and workshops were successfully concluded and very well attended. Members are encouraged to attend these meetings and be informed of all developments.

P.S. Please tell us where we can improve!

4. SODESTA (Society for Deputy sheriffs and staff)

SODESTA was successfully launched in 2019 and representatives elected in all provinces.

We are preparing a report and statistics for management to review.

Members will receive regular updates on the progress.



5. Sheriff tariffs

Members must take note of the following amendments:

- Travelling fee was increased to R6.00 per km for both High and Magistrates Courts, effective 22 November 2019
- New tariffs were introduced in the Government Gazette of 31 May 2019.
The majority of these new fees relate to immovable property attachments and sales
- A new fee in the amount of R165 was published for urgent and after hours service.
SASS indicated to the SABFS that this amount is not sufficient, as it doesn't cover the reasonable expenses to facilitate an urgent service.
SASS is recommending the appointment of an expert to attend to scientific calculation of this tariff.
- The SABFS is attending to a unified submission to the Rules Board, requesting an urgent inflation related general fee increase.

Members will be updated of any progress in this regard.

6 Auctioneering Conference: 21 November 2019

It is with a great sense of excitement to report of the prospects of resumption of auctioneering training for sheriffs, deputies and staff as part of the skill development initiatives.

The envisaged training will see the sheriffs and their employees obtaining a qualification at a level that will enable them to compete within the broader industry. To this end a Committee of Expert Practitioners (CEP) constituted by various industry players including sheriffs was formed to develop and review the qualifications. As part of planning the 1st Annual SA Auction conference was held on 21st November 2019 at Leriba Hotel in Centurion.

Stakeholders and various industry leaders within the auctioneering industry, including sheriffs were in participation as they shared industry insights about the future of the industry and deliberated on current research findings on how they relate to the markets, the value chain and on the constitution of the macro view of the industry. The current challenges that various sectors are faced with were also deliberated upon at great length.

One of objectives of bringing industry leaders under roof was to create opportunities for new linkages within the industry in an effort to ultimately unify and transform the industry.

SASS was well represented with 8 members in attendance at this momentous event. As an organization we are grateful for the opportunity to make an impact in shaping the future of the industry.

7 Consultative Forum meeting: 22 November 2019

As our members have come to expect, SASS has presented and articulated a number of issues affecting sheriffs before the Consultative Forum. We continue to play a leading role and trail blaze a number of matters affecting our members and sheriffs generally. In the last sitting of the Forum we presented the following matters as raised by our members on the ground:

Desktop inspections and investigations against sheriffs

We informed the Forum and the Board that SASS supports the principle of inspections and investigations with regard to sheriffs as we believe in good conduct and efficient office management by our sheriffs and strongly condemn mismanagement and misappropriation of Trust Funds.

However, we are still not certain as to what kind of conduct by sheriffs triggers the various actions which are initiated by the Board to hold sheriffs accountable and what are the consequential outcomes of such actions. We requested the Board to explain what it seeks to achieve by conducting the following categories of investigations:

- (1) Desk top investigation against sheriffs
- (2) Physical inspection of sheriffs records
- (3) Fully fledged investigation of a sheriff.

We informed the Board that it is important for sheriffs to understand upfront what the purpose and consequences of these different actions lead to.

We said It is important for sheriffs to understand under what circumstances the Board implements corrective measures to assist a deviant sheriff other than always adopting punitive actions.

We recommended the following in order to assist the Board achieve its regulatory role over sheriffs:

- (i) That the Board outline the different kinds of actions (list of transgressions) against sheriffs and their consequences
- (ii) That the Board outline the different kinds of consequences meant to address transgressions by sheriffs
- (iii) That the Board outline the circumstances under which bank statements are/can be obtained without the consent of the sheriff
- (iv) The reasonable time frames to conclude an investigation and to close the matter

- (v) That the Board not to investigate matters dating back more than two years unless such matters have recently been discovered.

Taxation of sheriff's fees

In this regard, we pointed out that our Legal Committee has prepared a detailed submission on "Taxation of Sheriff's Fees" in combination with "non-payment of sheriff fees" and submitted same to the SABFS for consideration and, if agreed to, submit a unified response to the Rules Board on behalf of the profession.

Upon request to provide the SABFS with comments on the proposed amendments to Rule 33(a), SASS somewhat adopted a different approach in relation to its submission to the Rules Board and decided to lodge submission to the SABFS first for consideration in the preparation of a joint submission on behalf of the profession.

SABFS Complaints procedure

We proposed to the SABFS to review the complaints procedure to allow the Sheriff an opportunity to resolve the complaint before it is escalated to Board, as we believe that some of the complaints against Sheriff that are escalated to the Board could have resolved by the Sheriff before reaching the board if the Sheriff was provided an opportunity to do so.

SASS also raised matters which were raised with the former Executive Manager of the Board at the SASS AGM held in Mpumalanga

The previous Executive Manager, Adv. Rebaone Gaoraelwe, addressed SASS members at our AGM and various issues affecting sheriffs were posed to him.

We informed the Board that since Adv. Gaoraelwe is no longer with the Board, we would like to list these matters through the Consultative Forum, for consideration and response if possible.

They are:

- 1.1.1 SMALL CLAIMS COURT & LABOUR COURT – the claims relating to these courts are generally minimal and are below the tariffs pertaining to sheriffs.
Question: is it not apposite that the SABFS give a serious consideration for the subsidization of sheriffs in order to close the gap created by these courts in relation to sheriff's fees
- 1.1.2 DESKTOP INSPECTIONS: As stipulated under 1 above, what is the time frame for conducting and concluding of desktop inspections?

- 1.1.3 What are the normal measures considered in instances where sheriffs embezzle Trust Funds?
- 1.1.4 SARS and VAT: Sheriffs general encounter serious challenges with SARS wanting to tax them on trust accounts resulting in them not being able to get a certificate of good standing. This causes problems in receiving payment from entities like DOJ who require a certificate of good standing before they make payment.
- 1.1.5 ASSISTANCE TO SASS The board is usually reluctant to provide assistance to SASS with training, conference and workshop requests. SASS acknowledges the financial contribution towards our 2019 conference, but wishes to submit that its members pay annual levies to the board and therefore holds the view that the board should be in a position to assist with such similar requests.
- 1.1.6 VIABILITY OF MANY SHERIFFS' OFFICES – is there a program in place to assist non-viable or small offices.
- 1.1.7 LEVIES – SASS has dealt with this matter over many years where sheriffs pay the board levies on expenses, as these exceed 20% and sheriffs have to pay levies irrespective.
- 1.1.8 JURISDICTIONAL VIOLATIONS: In Limpopo there is a serious issue of sheriffs serving in other sheriff's jurisdiction. Various complaints have been referred to the board in this regard and little, if any action, has been done. Is there a solution to this issue that the board can bring to the table?
- 1.1.9 MARITIME LAW How is the training programmes informed in terms of the issues relating to maritime law? Sheriffs who serve in areas adjacent to the sea are bullied by attorneys who want to prescribe to the sheriff what procedures to follow and what they are willing to pay. Needless to say, Sheriffs whose responsibility extends into the sea need to charge for work done. Is the SABFS considering any special measures to assist sheriffs whose responsibilities extend into the sea?
- 1.1.10 IMPERSONIZATION OF A SHERIFF: If a member of the public impersonates a sheriff, the police cannot prosecute such a person as there is no rule on in the system that provides for prosecution of such a person. SASS recommends that the SABFS advocate for the amendment of the Sheriffs Act to criminalize

such a conduct SASS also recommends that in the meantime this matter be brought before the Judges presidents of various divisions

1.1.11 TRUST ACCOUNT MANAGEMENT: it was suggested that outgoing sheriffs provide mentorship to new incoming sheriffs, as the training on this aspect in the introductory course is limited.

We are also pleased to inform members that SASS was the only organisation that reviewed the Terms of Reference of the Consultative Forum to make it function more efficiently and address matters of high importance in a professional way. The TOR'S we adopted and endorsed by the Consultative Forum.

Another milestone by SASS was the contribution on the Guidelines on the Appointment of Deputy Sheriffs. Key to these guidelines are:

- The authority of the Sheriff over a Deputy Sheriff
- Statutory duty of a Sheriff over a Deputy Sheriff
- Minimum qualification and training of Deputy Sheriffs
- Disciplinary authority of the SABFS
- Remunerative work by the Deputy Sheriffs
- Employment relationship between the sheriff and a Deputy Sheriff

Once adopted by the Board, we believe that these Guidelines will be distributed to all members.

8 Trust Account designation

It came to our attention that the name and designation of some sheriffs Trust Accounts are incorrect.

Serious concerns were reported by members whose Trust Accounts are with FNB. We managed to meet with a delegation of FNB on 20 November 2019 to address these challenges.

Any member whose Trust Account is with FNB can send an email to msnyman@fnb.co.za to verify the name and designation.

This report will be published on the SASS website www.sassoc.co.za

Best regards and let the good work continue.

Petro Roodt and management

South African Sheriff Society

The Organisation of choice