



# **SASS**

## **NEWSLETTER**

**July 2017**

This is a report of the latest matters of interest to sheriffs.

### **NEW SHERIFFS APPOINTED**

We have by now welcomed the newly appointed sheriffs to the profession. We wish them all the best with training that is currently taking place, the setup of offices and everything they must encounter to get their offices going. Management contacted these sheriffs and offered assistance by SASS and our members.

We are pleased to announce that several new sheriffs have joined the SASS family and we are looking forward to engaging and assisting them.

Mr Maluleke attended the induction day on 24 July 2017 and engaged with some of the new sheriffs.

### **SHERIFF TARIFF INCREASE**

The Deputy Minister once again confirmed on 24 July 2017 that the tariff increase has been approved and signed by the Minister. The date when the new tariffs will come into operation will be published in the Government Gazette.

We believe the new auctioneers commission structure will also be implemented, whereby the maximum amount (currently R10,777) will be increased substantially.

We will provide members with more information soonest.

### **FORUM MEETINGS FEEDBACK:**

#### **1. CONSULTATIVE FORUM MEETING ON 26 JUNE 2017**

SASS participated in the Consultative Forum meeting on 26 June 2017. The forum was established for the Board to consult with sheriffs, through voluntary associations.

Attached hereto the draft minutes of the meeting.

## **2. MEETING WITH CCMA ON 18 JULY 2017**

Management met with the CCMA and discussed all the issues reported by members. See attached report – please read carefully.

We have submitted a list of outstanding accounts of SASS members. Please refer to the attached report for CCMA undertaking.

We will request Provinces to place this matter on the agenda at the provincial meetings which will be conducted soon, to afford all members to raise their challenges.

### **PAYMENT OF LEGAL OBLIGATIONS TO THE SABFS AND FIDELITY FUND**

Members are reminded to submit their completed forms along with proof of payments to the Board's dedicated email address or fax number:

Email: [legalobligations@sheriffs.org.za](mailto:legalobligations@sheriffs.org.za)

Fax: 086 5316180

Audit forms and payment of interest on trust accounts, levy assessment form and payment, and other documents as stipulated must be submitted and paid by Monday 31 July 2017.

It is advisable to confirm receipt of your submission with the Board's officials.

It is also important that your office reference number appears on all your documentation.

Kindly contact the office of the secretary if you need assistance – we will assist you and give guidance where possible.

### **PROVINCIAL MEETINGS AND WORKSHOPS**

Thanks to our provincial management who have started preparations for the next round of provincial meetings and workshops - it is a "must attend" event for new sheriffs and SASS members.

Members are encouraged to communicate with SASS provincial management and share your difficulties and challenges. We will deal with it and provide guidance and training where possible.

### **PAYMENT OF SHERIFF ACCOUNTS BY ATTORNEYS**

The attached notice by the Law Society was previously circulated to SASS members and is once again enclosed for your attention.

## **ILLEGAL VEHICLE REPOSSESSIONS BY BANK AGENTS**

Thanks to Fanie and his team dealing with the matter and who will represent SASS at the banking forum next week Thursday 3 August 2017.

Members can still send examples to us where it is found that bank agents impersonate the sheriff by presenting and serving Court orders and Warrants on defendants in an effort to facilitate a voluntary surrender.

SASS noted the matter where Wesbank is currently before the National Consumer Tribunal in a dispute about voluntary surrender of motor vehicles.

**NB!! CAN ALL SASS MEMBERS WELCOME NEW SHERIFFS IN THEIR NEIGHBOURHOODS AND NOT LEAVE THEM IN ISOLATION!! KINDLY GIVE HIM/HER A WELCOME CALL AND OFFER ANY ASSISTANCE HE/SHE MAY NEED. WE ARE THERE FOR EACH OTHER!!**

Best regards,

Prince Maluleke, SASS President



## **REPORT OF THE MEETING OF SASS AND THE CCMA ON 18 JULY 2017**

### **ATTENDEES:**

SASS:

(I) TF Seboka

(II) Prince Maluleke

CCMA

(I) Wabile

(II) Charmaine

(iii) Thandiwe

Lists of issues prepared by SASS secretariat were taken up with the CCMA. Below are these issues and the resolutions/agreements taken.

### **1. ACCOUNTS:**

We have submitted a list of all outstanding Sheriffs Accounts and requested the CCMA to attend to the payment as a matter of urgency.

A great concern was expressed regarding the long time the CCMA takes before settling the accounts of sheriffs. More emphasis was put on huge amounts owed by the CCMA to the sheriffs. The CCMA team was advised that at this time of the year in particular sheriffs are anxiously in need of funds to pay amongst others their obligations to the SABFS. Examples used were those of offices in KZN - Pinetown—in this regard emphasis was put that if a leader of a province is not paid, he has no incentive to encourage the rest of the sheriffs to comply.

Halfway House was also cited as one of the offices owed a huge sum of funds and the CCMA gave an assurance that its invoices will be approved.

SASS insisted that it is the principle of payment that must be addressed and not individual cases so that the delay in payment can be properly addressed. SASS insisted on finding out what the challenges of the CCMA are in their failure to pay;

The CCMA's response was:

- Sheriffs don't send invoices to the CCMA
- A circular was sent to all regional offices of CCMA to settle accounts of sheriffs

In order to improve the relationship between the CCMA and the profession the CCMA will soon appoint a new Commissioner, with decision making powers, to focus exclusively on Sheriffs matters.

SASS will be informed as soon as the appointment of the new commissioner has been made.

**We have been assured that all accounts will be paid by the end of the Month.**

### **2. Applicants do not understand the collection procedure**

A grave concern was expressed about the ignorance of judgmentcreditors in terms of all procedural requirements which a sheriff must follow in the enforcement of the award. Many of the judgment creditors do not understand and think that a submission of the award means a sheriff must just go and collect the funds. It was agreed to develop guidelines for generally indigent and illiterate awardees about the role and service procedure followed by the sheriff and the CCMA will inform/educate Applicants on the execution procedure at the point of hearing and when the award is granted. This should help divert the anger directed at the Sheriff.

### **3. Rule 38 Indemnity**

The CCMA head office will intervene in KZN where the region is reluctant to issue the RULE 38 indemnity.

#### **4. Interpleader Proceedings**

The CCMA currently does not have a mandate to instruct Sheriffs on Inter-pleader proceedings. In this regard we have agreed that once the Sheriff receives a third party claim, he or she must discontinue the execution process unless the applicant put the Sheriff in fund to cover the legal costs.

#### **5. Cost in the Execution of enforcement**

Unfortunately the CCMA cannot pay these costs (advertising et al) upfront unless an invoice is provided. However, we have agreed that where a sheriff has disbursed these costs that the CCMA must prioritize those accounts for payment in order to alleviate the out of pocket pain.

- **STORAGE COSTS**

Storage costs are a big issue in the CCMA – it is of the view that some of the sheriffs abuse this and submit a huge bill which always leaves the CCMA with the question whether they pay or not. SASS advised the CCMA that they might want to advise a sheriff that he shouldn't remove until accordingly advised.

- **ADVERTISING**

It was agreed that before the sheriff disburses on adverts, he/she must ensure that all payments due by the CCMA to the sheriff must have been made.

- **TOWING**

Where there is a need for the sheriff to tow a vehicle he/she must first get approval from the CCMA SASS impressed upon the CCMA that in the Magistrates court an attachment order lapses after 4 months and if an instruction is not furnished timeously the period of attachment may lapse.

The CCMA expressed their concern that some sheriffs are not clued up about this and they are therefore not able to advise the CCMA properly.

#### **6. RESCISSION OF JUDGMENT IN THE LABOUR COURT**

The difficulty here is that where the CCMA has awarded a plaintiff with an order which is then opposed, the defendant approaches the Labour Court for a rescission. The CCMA advised that the orders of the CCMA are just as binding as those of the Labour Court and a defendant should not approach the Labour Court for review/rescission. The CCMA 's position is that you cannot get rescission from the Labour court.

A concern expressed was that even some plaintiffs approach the sheriff with an award from the Bargaining Council. The CCMA rejected this position and requested examples thereof. They insisted that it is the CCMA that certifies Bargaining Council awards and which they enforce through the sheriffs.

## **Notice by the Law Society to attorneys that is self-explanatory:**

Payment of sheriffs' accounts, *ad hoc* appointments and  
general court matters

### ADVISORY FROM THE LAW SOCIETY OF SOUTH AFRICA

Dear Colleagues

The Law Society of South Africa (LSSA) has had a very productive meeting with the Deputy Minister of Justice and Constitutional Development, Mr John Jeffery, where matters of mutual interest were discussed.

The Deputy Minister has been delegated to deal with the sheriffs' profession and the sheriffs have raised some concerns with him, *inter alia* the issue of delayed or non-payment of their accounts.

It appears that some attorneys tend to delay the payment of sheriffs' accounts to the last possible date. They interpret the Magistrates' Courts Act in such a way as to allow them to pay the sheriff only after three months, and then they still want to have the bill taxed, thus delaying payment even further.

Practitioners are urged not to delay or withhold payment of sheriffs' accounts, unless it is for exceptional reason.

The issue of *ad hoc* appointments was also discussed. The concern is that, when the working relationship between the sheriff appointed for a particular area and the attorneys is strained, attorneys approach the Court Manager or the Registrar to appoint an acting sheriff (often an attorney) in terms of Section 5(1)(a) of the Sheriffs Act to serve processes, thereby undermining the office of the appointed sheriff. These *ad hoc* appointments may, of course, also lead to a conflict of interest when attorneys serve processes in the same area where they work.

Efforts should be made to desist from applying for *ad hoc* appointments and, in any event, *ad hoc* appointments should be applied for only if there is no potential conflict of interest on a specific matter.

We are conscious of the fact that there are also problems as far as the level of service provided by some sheriffs is concerned.

The Deputy Minister has invited practitioners to escalate any problem that cannot be resolved through this avenue to him.

#### **Other court matters**

The Deputy Minister has indicated that practitioners can also alert his office to other problems relating to the functioning of the courts.

Submissions can be copied to the LSSA, so that it can engage through its Court Committees.

E-mail the Deputy Minister at [deputyminister@justice.gov.za](mailto:deputyminister@justice.gov.za) and [blwilliams@justice.gov.za](mailto:blwilliams@justice.gov.za)  
Also copy the LSSA in at [professionalaffairs@LSSA.org.za](mailto:professionalaffairs@LSSA.org.za).

Regards

**NIC SWART**  
CHIEF EXECUTIVE OFFICER  
LAW SOCIETY OF SOUTH AFRICA

LSSA Advisory: 26 June 2017

Visit our website - [www.LSSA.org.za](http://www.LSSA.org.za)  
Telephone: (012) 366 8800 Email: [LSSA@LSSA.org.za](mailto:LSSA@LSSA.org.za)