



REPORT : SASS NATIONAL MANAGEMENT 28 MAY 2021

Dear SASS management,

Herewith a summary of the meeting resolutions, decisions and request for attention of provinces:

1. SASS AGM 2021

As a result of the COVID-19 pandemic SASS cannot conduct its normal Annual General Meeting for 2021 and the following resolutions were taken:

- 1) Postpone the 2021 physical elective conference, but conduct a virtual AGM, without elections
- 2) The refund of the deposit paid to Euphoria is referred back to the committee for further investigation and to establish if a full refund can be obtained without penalties.
- 3) Current leadership to continue to hold office until the next elective conference (national, provincial and SODESTA)
- 4) Online elections: Refer the matter back to the committee to consider constitutional amendments to provide for future online elections.
- 5) Update members on all SASS business on a regular basis.

2. SODESTA MATTERS

The SODESTA report was delivered by Mr Ralph Gie, deputy chairperson of SODESTA who thanked SASS for the opportunity and platform.

Matters affecting SODESTA members are the sheriff vacancies and vaccination of deputy sheriffs and staff members as essential workers.

It was reported that no feedback from the Provincial Advisory Committee, or from the Deputy Minister have been received and that SASS will follow up on correspondence relating to inconsistencies in shortlisting criteria and to request uniformity in the application of criteria in all provinces.

The importance of complete and correct application documentation was emphasized, as well as the preparation for the interview and it was agreed that a guideline be compiled, for the benefit of SODESTA members, to assist with applications and interviews.

The urgency for vaccination was also acknowledged.

3. LEVY CALCULATIONS

Subsequent to the request by SASS to review levies, the Board proposes that the formula be amended as follows:

Current calculation: 1.5% on NETT annual income (gross income less deduction of certain expenses)

Proposed new calculation: 1.1% on annual GROSS income

Members of management are not certain that the 1.1% on gross income as the new formula for levy calculation that include disbursements will benefit sheriffs and the matter was therefore referred back to EXCO for further investigation and recommendation to management.

4. LIMPOPO EVICTIONS AND CONFLICT

The presence of a new political party in the province has resulted in threats against Deon Herman while serving in certain areas and as a result, the operation of his office is severely affected. His stores were also set on fire, causing extensive damage and the burn out of a bakkie. The SAPS is not assisting or protecting him and it was reported that the situation is more serious than initially anticipated. It was also established that more sheriffs in the province are affected and that it can easily overflow to other regions.

The meeting agreed that urgent assistance is required and the matter was referred back to EXCO for urgent attention and for escalation on national level.

5. RESERVE PRICE, RULE 46A(9)(d) REPORTS

Delays at courts to confirm sales below the reserve price is affecting sales in execution negatively and is now resulting in buyers losing interest in sales.

Provinces are requested to obtain information from their members and to report on the procedures followed by courts in different provinces and regions, in the enrolling and consideration of the Rule 46A(9)(d) reports.

SASS is promoting uniformity in all provinces and wishes to engage the respective Judge Presidents, if necessary.

FEEDBACK BY PROVINCES IS AWAITED BY 30 JUNE 2021

Once again, thank you for the participation of provinces in the meeting and for your continued support.

Provincial management can also distribute this report to members in your province as an update on SASS matters.

We look forward to receive the responses from provinces by 30 June 2021.

Best regards

Allan Murugan
SASS Secretary

FEE GUIDELINE

ITEM	DESCRIPTION	FEES (EXCL VAT)	COMMENT
1	Normal execution (within 5 business days) - removal of vehicle	R3 500.00 (Incl. one hour waiting time / excl towing)	
2	Urgent & special execution (within 24 hours) - removal of vehicle	R4 500.00 (Incl. urgency fee, call out fee and one hour waiting time / excl towing)	
3	After hours execution (before 07h00 and after 19h00) - removal of vehicle	R4 500.00 (Incl. urgency fee, call out fee and one hour waiting time / excl towing)	
4	Removal of trucks and interlinks	R5000.00 (Incl. urgency fee, call out fee and one hour waiting time / excl towing)	
5	Removal of motorbike / small trailer	R3 500.00 (Incl. urgency fee, and call out fee)	
6	Each attempt - make 3 attempts i.e.: during the day between 07h00 and 19h00, one after hours after 19h00 & one early morning before 07h00	R650.00 during hours R850.00 after hours including driver (maximum of 3 attempts)	
7	Waiting time after first hour	R150.00 per hour	
8	Travelling – Sheriff to specify in their returns the distance travelled	R5.00 per km – add an extra R1.50 if distance exceeds 50km	
9	Attachment	As per tariff	
10	Storage – Sheriff must notify the execution creditor in writing within 24 hours. Execution creditor is only liable from date of receipt of written notification	R150.00 per day	
11	Insurance	As per service provider	
12	Disbursement for locksmith – Sheriff must attach copy of invoice to the return	As per invoice from service provider	
13	Disbursement for tow trucks – Sheriff must attach copy of invoice to the return	As per invoice from service provider	Waiting for submissions from forum members in respect of heavy duty and light duty towing so that guidelines can be agreed to
These fees exclude the normal prescribed costs e.g. registration, return, execution, telephone calls and any other admin costs			

REVIEW OF SHERIFF TARIFF FEES & RECOMMENDATIONS

*South African Sheriff
Society*

Tariff Committee

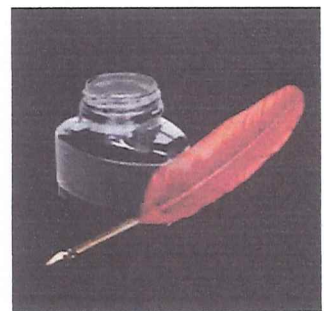


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INTRODUCTION:

This report, in conjunction with Prof. Jonathan Bloom's report (14 February 2014), serves to provide current data and methodologies to propose annual tariff increases for sheriffs. Revision of fees and expenses should occur on a regular basis (at least 6-monthly) and sheriff's fees should be adjusted on a regular basis (at least annually).

ANALYSIS:

According to Prof. Bloom, a reorganization was required to simplify the categorization and the classification of the tariff structures, with which we agree.

The main objective of the reclassification is to identify categories that would require different escalation approaches. The different tariff categories were assigned to four main categories.

These are:

1. Service and Execution

- Service of summons, notices, and letters order of court (execution and non-execution)
- Warrant of arrest (service-execution and non-service execution)
- Arrest and attending
- Registration
- Returns
- Serving of sale notice
- Affix sale notice at court and office
- Sale held
- Collection commission
- Transport (travelling)
- Execution of warrant of execution, court orders, warrant of deliveries, emolument attachment orders, - Movable property (execution and non-execution)
- Inventory stock-take – movable property
- Notice of attachment – Movable and Immovable property
- Withdrawal of attachment – Movable and Immovable property
- Execution of warrant of execution – Immovable property (execution and non-execution)
- Attachment of fixed property
- Improvements – Immovable property

2. Facilitation

- Movable property –
 - Removal
 - Towing
 - Locksmith
 - Storage
 - Sale stayed
 - Legal costs
 - Other disbursements.
- Immovable property –
 - Sale stayed
 - Sale held
 - Perusing conveyancer's certificate
 - Perusing conditions
 - Perusing notice of sale
 - Affixing sale notices at court and office
 - Collection commission
 - Legal costs

3. Administration

- Postage (ordinary and registered)
- Telephone and cell phone calls
- Faxes received and sent
- Copies
- Bank charges
- Letters written and received
- Internet and electronic communications

4. Other: cannot directly be attributed to either services and execution, facilitation, or administration.

IDENTIFICATION OF REVENUE DRIVERS AND COST CATEGORIES

As per Prof. Bloom, the following cost categories were identified at Sheriff Offices:

- Fuel and related travelling expenses
- Employee costs
- Rental of premises (office and warehouse) and equipment
- Communication costs (telephone, cellphone, internet)
- Office Expenses (stationery, postage, courier costs, and consumables)
- Facilitation Costs (removal and storage costs)
- Insurance (both short term and professional indemnity)
- Utility Costs (refuse removal, property rates and taxes, water, and electricity)

CONTRIBUTION OF DIFFERENT REVENUE DRIVERS AND COST CATEGORIES TO TOTAL REVENUE AND COSTS

COST CATEGORIES:

Table 1:

COST CATEGORY	ESTIMATED % CONTRIBUTION TO TOTAL COSTS
Fuel and related travelling expenses	30%
Employee Costs	45%
Rental of Premises or Equipment	15%
Communication Costs	2%
Office Expenses	1%
Facilitation Costs	1.5%
Insurance Costs	2%
Utility Costs – Excluding Electricity	1.5%
Utility Costs – Electricity Only	2%

*Table showing estimated extent to which each cost category contributes to total costs.

REVENUE CATEGORIES:

Table 2:

REVENUE CATEGORY	AVERAGE % CONTRIBUTION TO TOTAL REVENUE
Services and Execution Services	63%
Facilitation Services – Movable Property	30%
Facilitation Services – Immovable Property	6%
Administration Services	1%

*Table showing the estimated average percentage contribution of each revenue category to total revenue.

THE IDENTIFICATION, USE, AND APPLICATION OF COST INDICES

The following indices and sources were identified as the appropriate basis to calculate annual escalation costs that are relevant to the operational costs incurred by a sheriff's office:

- Historic fuel price increases – Automobile Association of South Africa (AA)
- CPI (Inflation) – Statistics South Africa
- Telkom Tariff Adjustments – Telkom
- Rental Lease Agreement Escalations – Rode's Report on the South African Property Market
- ESKOM Tariff Adjustments – ESKOM
- Industry Sectoral Determinations of Employee Cost Adjustments – Department of Labour

CALCULATION OF CURRENT COST INDEX ESCALATIONS

FUEL PRICE ADJUSTMENTS AND RELATED COSTS:

Table 3:

Fuel	2014	2015	2016	2017	2018	2019	2020	Average % increase per annum
Petrol (Unleaded 93) - Coast	R13.51 (9.1%)	R11.96 (10%)	R12.00 (8.33%)	R13.00 (8.33%)	R14.75 (8.33%)	R15.05 (8.33%)	R14.00 (8.33%)	8.68%
Petrol (Unleaded 95) – Coast	R13.56 (9.1%)	R12.06 (10%)	R12.16 (8.33%)	R13.14 (8.33%)	R14.86 (8.33%)	R15.11 (8.33%)	R14.06 (8.33%)	8.68%
Petrol (LRP) – Coast	R13.56 (9.1%)	R12.06 (10%)	R12.16 (8.33%)	R13.14 (8.33%)	R14.86 (8.33%)	R15.05 (8.33%)	R14.00 (8.33%)	8.68%
Petrol (Unleaded 93) – Reef	R13.74 (9.1%)	R12.22 (10%)	R12.35 (8.33%)	R13.39 (8.33%)	R15.19 (8.33%)	R15.48 (8.33%)	R14.50 (8.33%)	8.68%
Petrol (Unleaded 95) – Reef	R13.96 (9.1%)	R12.49 (10%)	R12.63 (8.33%)	R13.63 (8.33%)	R15.42 (8.33%)	R15.74 (8.33%)	R14.75 (8.33%)	8.68%
Petrol (LRP) – Reef	R13.74 (9.1%)	R12.22 (10%)	R12.35 (8.33%)	R13.39 (8.33%)	R15.19 (8.33%)	R15.48 (8.33%)	R14.50 (8.33%)	8.68%
Average % per petrol type	9.1%	10%	8.33%	8.33%	8.33%	8.33%	8.33%	8.68%
Diesel – 500ppm – Coast	R12.53 (9.1%)	R10.45 (8.33%)	R10.26 (8.33%)	R11.36 (8.33%)	R13.50 (8.33%)	R13.86 (8.33%)	R12.43 (8.33%)	8.44%
Diesel – 50ppm – Coast	R12.58 (9.1%)	R10.51 (8.33%)	R10.32 (8.33%)	R11.41 (8.33%)	R14.78 (8.33%)	R13.92 (8.33%)	R12.40 (8.33%)	8.44%
Diesel – 500ppm – Reef	R12.83 (9.1%)	R10.78 (8.33%)	R10.64 (8.33%)	R11.75 (8.33%)	R15.27 (8.33%)	R14.39 (8.33%)	R12.93 (8.33%)	8.44%
Diesel – 50ppm – Reef	R12.87 (9.1%)	R10.83 (8.34%)	R10.69 (8.33%)	R11.79 (8.33%)	R13.98 (8.33%)	R14.44 (8.33%)	R12.99 (8.33%)	8.44%
Average % per Diesel type	9.1%	8.33%	8.33%	8.33%	8.33%	8.33%	8.33%	8.44%

Average fuel price movements from 2014 to 2020 – aa.co.za/fuel-pricing

FUEL PRICE INDICATOR – 2021:

Table 4

Fuel	January	February	March	April	Average per liter	Average % increase
Petrol (unleaded 93) – Coast	R 14.18	R 14.99	R 15.64	R 16.58	R 15.35	25%
Petrol (unleaded 95) – Coast	R 14.16	R 14.97	R 15.62	R 16.61	R 15.34	25%
Petrol (LRP) – Coast	R 14.18	R 14.99	R 15.64	R 16.58	R 15.34	25%
Petrol (unleaded 93) – Reef	R 14.69	R 15.50	R 16.15	R 17.10	R 15.86	25%
Petrol (unleaded 95) – Reef	R 14.86	R 15.67	R 16.32	R 17.32	R 16.04	25%
Petrol (LRP) – Reef	R 14.69	R 15.50	R 16.15	R 17.10	R 15.86	25%
Diesel (500ppm) – Coast	R 12.40	R 12.98	R 13.52	R 14.16	R 13.27	25%
Diesel (50ppm) – Coast	R 12.43	R 13.02	R 13.58	R 14.20	R 13.31	25%
Diesel (500ppm) – Reef	R 13.00	R 13.58	R 14.12	R 14.77	R 13.87	25%
Diesel (50ppm) – Reef	R 13.03	R 13.62	R 14.18	R 14.81	R 13.91	25%

aa.co.za/fuel-pricing

Travelling Fees: As deducted from table 1 above, fuel and travel related expenses contribute to 30% of the sheriff's total cost revenue, therefore, with reference to information provided above, I propose that travelling fees, which is currently R6,00 per km, should be calculated using a cost-based approach, at an average percentage of the fuel price increase per annum of the previous year.

Estimated escalation factor for 2022 is a 25 % increase in travelling fees.

Therefore, the proposed travelling fee for 2022 would be as follows:

R 6.00 (per km) x 25% = R 1.50

New travelling fee (2022) would be R 7.50.

PROPOSAL

FEES IN THE MAGISTRATES COURT ANNEXURE 2 TABLE C

SERVICE FEES:

The different fees structure in the Magistrates Court charged per radius should be scrapped and the current 12-20km radius fee should be accepted as a single service fee as it is the case in the High Court.

The current fee structure still makes provision for different service fees within a certain distance travelled.

The different fee structures were based on a service which included travelling and is in conflict with the current structure.

When the allowance for travelling as per item 4 comes into effect, the current service fee difference does not make sense anymore as it excludes travelling and therefore became absolute.

It takes the same effort, skill and time to serve a process irrespective of the distance travelled to effect service. (As per Rule 68 in the High Court)

The suggested items to be amended is based on the fact that the Rules Board already allowed service and attempt fees in item 1B(a)(iii), 1B(b)(iii), 2(a)(iii), 2(b)(iii), as reflected in the current annexure 2 table c.

The amendment of annexure 2 table c should read as follows:

1B. (a) For the service of a summons, subpoena, notice, order or other document not being a document mentioned in item 2 : R 71.00

(b) For the attempted service of any of the documents mentioned in paragraph (a) : R 63.00.

2.(a) For the execution of a warrant, interdict, garnishee order or emoluments attachment order : R 88.00

(b) For the attempted execution of the documents mentioned in paragraph 2(a) : R 78.50.

Item 4 should also urgently be amended to accommodate the travelling for sheriffs that has been given more than one jurisdiction. Sheriffs that are serving process as mentioned above and in terms of the provisions of Item

4, cannot cover their expenses and serve process at a loss. Any other arrangements or negotiations entered into for relieve of the escalating travelling costs, will be in conflict with the Rules. They will not be in a position to tax their accounts successfully. Amendment of item 4 should accommodate the above mentioned by adding Subsection (d) to read as follows:

4(d) If a sheriff serve more than one jurisdiction or district, the travelling mentioned in 4(a), 5(a) and 5(c)(i) shall be calculated from the district or service area in which the office of the sheriff is situated.

FEES (OTHER THAN SERVICE FEES)

There are fees other than service fees that need urgent attention and amendment.

In item 1A , annexure 2 table C, the Rules board allowed the same registration fee as is reflected in Rule 68 in the High Court but did not consider item 3.

We are convinced that the fee in item 3 (return of service) should therefore also be amended to be the same as reflected in item 7 of Rule 68 in the High Court, as there is no difference in creating and typing a return of service, irrespective for which court.

Item 3 should be amended to read as follows:

3. Compilation of any return in terms of rule 8, in duplicate: R42.50

Fees in terms of Rule 34 in the Magistrates Court should be urgently amended as a result of the latest judgment whereby it is upheld that taxation of a Sheriff's account should take place at the Court where the process was issued. The current situation is abused by attorneys as it does not make sense for sheriffs to incur costs that amounts more than the disputed fees, by traveling across the country to attend the taxation of his/her accounts.

Sheriffs therefore scrap the fee (even when it is rightfully charged) and therefore be disadvantaged. A fee structure should be created to enable the sheriff to attend to the taxation to challenge the disputed account.

A fee subject to Section 14 in the magistrates court act should be applicable. The notice should also be presented to the court where the process was

use in that of the High Court. Other fees over and above service fees should be amended as proposed.

- ◇ RETURN TARIFF: A proposal that all returns of service for all the other courts be charged at the same rate as is the case in the High court.

CONCLUSION:

The primary objective of this report was to simplify and update Prof. Bloom's Report – Multi-purpose business solutions (14 February 2014), as well as to find appropriate methodologies for increases (adjustments) of the Sheriff's tariffs charged to the Magistrates' Court and the High Court, ideally, per annum. Escalation formulae were developed that were, realistically, deemed appropriate based on physical experience of the Sheriff's office, as well as on an equitable and reasonable basis. Sheriffs are finding it increasingly difficult to remain economically viable and sustainable, which inherently inhibits the access to justice as the affordability and cost effectiveness thereof are negatively influenced.

A fine balance is required to manage the affordability of costs and subsequently tariffs charged by sheriffs and the magnitude of the escalation applied thereto, however, I hope this report provides you with a guideline to introducing new tariffs and updating existing ones.

Harmonization of the rules for the Magistrates' and High Courts has become the focus of the Rules Board. The process, thereof, has implications for the way current tariff structures for Sheriffs are harmonized and aligned. It is, therefore, essential that the harmonization of the rules and specification of a base tariff structure to which the escalation formula would apply, be considered in the broader context of the harmonization of the rules.

End of report.