



Annexure A

**RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA**

PO Box 12168, The Yards, 97th Floor, One World Building, 225 Theba Golumbe Avenue, PRETORIA • Tel (012) 365 5044/5045, Fax (012) 325 5016

16 July 2014

Our ref: Raj Deyo

Your ref: Ms C Mabuza

Per E-mail:

South African Board for Sheriffs
PO Box 15223

8018

Attention: Ms C Mabuza
Email: contact@sheriffs.org.za

Dear Madam,

**FORMAL REQUEST BY SOUTH AFRICAN BOARD FOR SHERIFFS FOR AN IMMEDIATE
TARIFF INCREASE OF 33% ON THE CURRENT FEE STRUCTURE FOR SHERIFFS**

1. The above matter and your letter dated the 2nd of July 2014 together with your proposal have reference. We thank you for your submission.
2. This reply is being sent in terms of a resolution of the 11th of July 2014 by the Rules Board for Courts of Law.
3. The Rules Board has approved an increase to the tariff for sheriffs appearing in Uniform Rule 68 and Table C of Annexure 2 of the Magistrates' Courts Rules by applying the Consumer Price Index for the period June 2012 to April 2014 (compounded annually). The increase is motivated not on the basis of the Professor Bloom report but rather a regularized review of the tariff. The calculation for the increases is as follows:
 - 3.1 the annual average CPI rate for June 2012 to May 2013 is 5.5%
 - 3.2 the annual average CPI rate for June 2013 to April 2014 is 5.8%
 - 3.3 the amounts have been rounded off to the nearest fifty cents
4. The increase to the tariffs for sheriffs prior to the above recommended increase was for the period ending May 2012. All past increases were approved by the then Minister of Justice and Constitutional Development.
5. The Rules Board is committed to assessing the tariffs for sheriffs annually, however all recommendations by the Rules Board for tariff increases are subject to the approval of the Minister.

6. In order to determine whether an increase to a base level as envisaged by the Professor Bloom report is necessary, the following additional information needs to be gathered as the concerns of sheriffs are not necessarily attributable to the tariffs:
 - 6.1 an investigation must be undertaken to establish the methodology used and the empirical evidence gathered by the Department of Justice and Constitutional Development when creating the appointment of a sheriff, whether any research is conducted to establish the financial viability of a sheriff before such appointment is made;
 - 6.2 The Bloom report identified that there may be some problems with the tariffs, but it does not identify that the sporadic tariff increases have resulted in the closure of the offices of sheriffs;
 - 6.3 The Department of Justice and Constitutional Development is currently busy with the demarcation process of magisterial districts for the courts. This will have an impact on the sheriffs appointed to these areas whose viability should be determined largely on the research conducted by the Department of Justice and Constitutional Development prior to making the appointment. The Department should develop a business model for the establishment of a sheriff's office that will be viable having regard to the demand for such services emanating from the particular court jurisdiction to be served by the said sheriff. The tariff alone cannot be used to ensure the viability of the sheriff's office;
 - 6.4 The Bloom report does not provide details regarding the 40 sheriffs that replied to the questionnaire. It is therefore difficult to determine whether these sheriffs constitute a correct statistical sample which reflects problems that may be attributed to the tariff. Can it be implied that the remaining 160 sheriffs that were contacted who did not respond to the questionnaire did not consider the tariff an issue? Can we interpret the fact that so few sheriffs responded as support for the contention that there is in reality not much of an issue with the tariff?
 - 6.5 An increase in the tariff cannot address any lack of skills amongst sheriffs in respect of financial and administrative management. Input would be required from the South African Board for Sheriffs to investigate what, if any assistance is given to impart skills particularly in the financial management and administrative areas to sheriffs;
 - 6.6 A comprehensive study should be conducted to determine whether it is necessary to distinguish amongst sheriffs from various and different socio-economic areas and whether this distinction would have application in the tariff. Considerations of whether the current tariff is sufficient irrespective of the area to which the sheriff is designated should be determined;
 - 6.7 In considering the effect of the tariff, statistics should be provided to establish the proportion of costs attributed to Small Claims Court matters as the tariff (albeit not within the powers of the Rules Board) in this respect has not been increased for many years. An increase to the tariff for Small Claims Court matters should perhaps be motivated to the Minister of Justice and Correctional Services as work done by the sheriff for Small Claims Court matters might have an effect (minor or major) on the viability of the sheriff.
7. Further to the above, the following proposed amendments were approved:
 - 7.1 an amendment to item 2(a) of Table C of Annexure 2 to the Magistrates' Courts Rules to provide for the execution of emoluments attachment orders; and

- 7.2 an amendment to Uniform Rule 66 to provide for the drawing up and issuing of interpleader proceedings.
8. In closing, we refer to herein that irrespective of the recommendations of the Rules Board, the final decision to approve any amendments to the bill for sheriffs rests with the Minister of Justice and Correctional Services.
9. Insofar as you have any of the above information available, it would be appreciated if you would furnish us with same.

Yours faithfully,



Raj Dwyer
Deputy Chief State Law Advisor
Secretary to the Board
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off: +27 (0)86 7940081 | m: +27 (0)834382150
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GOVERNMENT NOTICE
GOEWERMENSKENNISGEWING

Annexure B

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 568

18 July 2014

SHERIFFS ACT, 1986 (ACT NO. 90 OF 1986): AMENDMENT OF REGULATIONS
RELATING TO SHERIFFS, 1990

The Minister of Justice and Correctional Services has under section 62 of the Sheriffs Act, 1986 (Act No. 90 of 1986), and after consultation with the South African Board for Sheriffs, made the regulations in the Schedule.

SCHEDULE

Definition

1. In this Schedule "the Regulations" means the Regulations relating to Sheriffs, 1990, published by Government Notice No. R. 411 of 12 March 1990, as amended by Government Notices Nos. R. 2207 of 14 September 1990, R. 3440 of 31 December 1992, R. 1836 of 1 October 1993, R. 1566 of 16 September 1994, R. 1218 of 11 August 1995, R. 1193 of 25 September 1998, R. 1668 of 18 December 1998, R. 256 of 1 March 1999, R. 957 of 5 October 2001, R. 1293 of 5 December 2008 and R. 742 of 14 September 2011.

Amendment of Contents of Regulations

2. The Contents of the Regulations are hereby amended—
- (a) by the insertion of the following expression after the expression "2 Vacancy in office of sheriff":
"2bis Minimum requirements for appointment";
- (b) by the addition of the following expressions after the expression "2E Appointment of more than one sheriff for particular area":
"2F Appointment of acting sheriffs
2G Designation of official and manner in which fees are payable in terms of section 6A
2H Recognition of professional society or association representing sheriffs"; and
- (c) by the addition of the following expressions in the Annexure after the expression "8 Summons":
"9 Designation of official to serve process or document
10 Invoice regarding service of process or document by designated official: Sheriffs' fees
11 Fees chargeable regarding service of process or document by designated official".

Amendment of regulation 1 of Regulations

3. Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "magistrate" of the following definition:



"**magistrate**" means a magistrate appointed under section 9 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), read with section 10 of the Magistrates Act, 1993 (Act No. 90 of 1993);".

Insertion of regulation 2bis In Regulations

4. The following regulation is hereby inserted after regulation 2:

***Minimum requirements for appointment**

- 2bis.** No person shall be appointed as a sheriff unless he or she—
- (a) is a South African citizen or has been lawfully admitted to the Republic for permanent residence therein and is ordinarily resident in the Republic;
 - (b) is a fit and proper person to hold the office of sheriff;
 - (c) demonstrates the financial and any other ability required to establish and operate an office of a sheriff; and
 - (d) is competent to conduct the business of sheriff and has at least—
 - (i) an appropriate post Grade 12 qualification;
 - (ii) an understanding of civil law; and
 - (iii) knowledge and an understanding of the relevant aspects of the—
 - (aa) Constitution of the Republic of South Africa, 1996;
 - (bb) Insolvency Act, 1936 (Act No. 24 of 1936);
 - (cc) Magistrates' Courts Act, 1944 (Act No. 32 of 1944);
 - (dd) State Liability Act, 1957 (Act No. 20 of 1957);
 - (ee) Prescription Act, 1969 (Act No. 68 of 1969);
 - (ff) Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (gg) Sheriffs Act, 1986 (Act No. 90 of 1986);
 - (hh) Security by Means of Movable Property Act, 1993 (Act No. 57 of 1993);
 - (ii) Labour Relations Act, 1995 (Act No. 66 of 1995);
 - (iii) Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
 - (kk) Maintenance Act, 1998 (Act No. 99 of 1998);
 - (ll) Rental Housing Act, 1999 (Act No. 50 of 1999);
 - (mm) National Credit Act, 2005 (Act No. 34 of 2005);
 - (nn) Consumer Protection Act, 2008 (Act No. 68 of 2008);
 - (oo) Superior Courts Act, 2013 (Act No. 10 of 2013);
 - (pp) Rules Regulating the Conduct of the Proceedings of the Supreme Court of Appeal of South Africa (Government Notice No. R. 1523 of 27 November 1998) as amended;
 - (qq) Rules Regulating the Conduct of the Proceedings of the several Provincial and Local Divisions of the High Court of South Africa (Government Notice No. R. 48 of 12 January 1965) as amended; and

- (rr) Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa (Government Notice No. R. 740 of 23 August 2010) as amended."

Amendment of regulation 2A of Regulations

5. Regulation 2A of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

- "(2) The advertisement contemplated in subregulation (1) shall state the following:
- (a) The area or areas of jurisdiction of the lower or superior court in respect of which the vacancy occurs or will occur;
 - (b) the—
 - (i) minimum requirements for appointment as sheriff, as contemplated in regulation 2*bis*; and
 - (ii) application requirements prescribed by regulation 2B(2);
 - (c) that preference will be given to fit and proper applicants whose appointments will promote—
 - (i) equitable demographic representation and inclusiveness in respect of race, gender, disability or any other constitutionally recognised ground; and
 - (ii) the values enshrined in the Constitution of the Republic of South Africa, 1996;
 - (d) that a person appointed as sheriff may not perform the functions assigned to a sheriff, unless he or she complies with the provisions of section 30 of the Act;
 - (e) that a person appointed as sheriff may not, without the approval of the Minister in terms of section 53 of the Act, perform or engage himself or herself to perform remunerative work outside the office as sheriff;
 - (f) that applications shall be lodged with the Director-General;
 - (g) the name, address and contact number of the person for enquiries regarding the vacancy; and—
 - (h) the closing date for applications, which date shall be at least 21 working days after the advertisement was posted in terms of subregulation (1)."

Amendment of regulation 2D of Regulations

6. Regulation 2D of the Regulations is hereby amended by—
- (a) the substitution for subregulation (2) of the following subregulation:

"(2) For the purposes of compiling a shortlist of applicants for an interview for a vacancy in the office of sheriff, an Advisory Committee shall consider, among others, whether the applicant is a fit and proper person who—

 - (a) has properly completed the form contemplated in regulation 2B(1)(a);
 - (b) complies with the requirements set out in regulations 2A and 2B(2); and
 - (c) if appointed, will promote the objectives contemplated in regulation 2A(2)(c)."



- (b) the substitution for subregulation (4) of the following subregulation:
- "(4) If—
- (a) from the applications received; or
- (b) from the interviewed candidates,
- an Advisory Committee is of the opinion that there are no fit and proper applicants to be shortlisted, as contemplated in subregulation (2), or to be appointed as a sheriff, as contemplated in subregulation (7)(a), as the case may be, that Advisory Committee shall inform the Director-General accordingly, in writing and request the Director-General to—
- (i) re-advertise the vacancy in the office of sheriff concerned, as contemplated in regulation 2A; or
- (ii) give further directions to the Advisory Committee in question with regard to the filling of the vacancy in the office of sheriff in question.";
- (c) the substitution for subregulation (5) of the following subregulation:
- "(5) An Advisory Committee shall, subject to subregulation (4), compile—
- (a) a list of the applicants interviewed by the Advisory Committee and who of the applicants the Advisory Committee deems to be the most fit and proper persons to be appointed as a sheriff; and
- (b) a report for the Minister, containing the Advisory Committee's substantiated comments in respect of each applicant contemplated in paragraph (a) and in which it is indicated which of the applicants are, in the opinion of that Advisory Committee, the most fit and proper applicants to be appointed as sheriff.";
- (d) the substitution for paragraph (a) of subregulation (6) of the following paragraph:
- "(a) list and report contemplated in subregulation (5); and;" and
- (e) the substitution for paragraph (a) of subregulation (7) of the following paragraph:
- "(a) The Minister may, after receipt of the list and report contemplated in subregulation (5); and if he or she is satisfied that all the requirements have been met, appoint an applicant mentioned in that list as sheriff to the vacant post."

Addition of regulations 2F, 2G and 2H in Regulations

7. The following regulations are hereby added to the Regulations after regulation 2E:

"Appointment of acting sheriffs

2F. (1) The Minister may, subject to the provisions of section 5(1B), in writing, appoint an acting sheriff contemplated in section 5 of the Act.

(2) The written appointment contemplated in subregulation (1) shall state the following:

- (a) The period for which the acting sheriff is appointed; and
- (b) the conditions, if any, of such acting appointment.

(3) An acting sheriff is entitled to the same fees and remuneration as those of the sheriff in whose place he or she is acting.

Designation of official and manner in which fees are payable in terms of section 6A

2G. (1) The Minister may designate any official in the employ of the Department contemplated in section 6A(1) of the Act in writing on a form which corresponds substantially with Form 9 of the Annexure.

(2) The official designated in terms of subregulation (1) shall, when serving any process of court or other document, identify himself or herself and show his or her official designation to the person on whom the process of court or other document is served.

(3) The fees payable to a sheriff or acting sheriff when serving any process of court or other document, shall be payable to the Department in the case of a designation contemplated in subregulation (1) and shall be payable by the person requiring the services of a sheriff or acting sheriff, within thirty days of the date of an invoice having been submitted to him or her.

(4) The invoice contemplated in subregulation (3) shall correspond substantially with Form 10 of the Annexure and shall be completed and signed by the official designated in terms of subregulation (1).

(5) The official designated in terms of subregulation (1) shall submit the original invoice to the person requiring the services of a sheriff or acting sheriff and a copy of the invoice to the magistrate's court in whose area of jurisdiction the service was rendered.

(6) The fees payable for the service of any process of court or other document contemplated in this regulation are set out in Form 11 of the Annexure and are payable—

(a) at a magistrate's court; or

(b) directly into the following bank account of the Department:

- (i) ~~Department of Justice and Constitutional Development Vote~~ Account Deposits;
- (ii) ABSA Corporate;
- (iii) Account number 4053764491; and
- (iv) Branch code 632005.

(7) The reference to be used regarding the payment of the fees contemplated in subregulation (6)(a) and (b) shall be—

(a) "sheriff's fees"; and

(b) the case number.

Recognition of professional society or association representing sheriffs

2H. (1) The Minister may, after recommendation of the Board, recognise any society or association which, in the opinion of the Minister represents the sheriffs' profession, as a professional society or association representing sheriffs.

(2) Any society or association recognised by the Minister contemplated in subregulation (1), shall be published on the websites of the Department and the Board.”

Addition of Forms 9, 10 and 11 to the Annexure to Regulations

8. The following forms are hereby added to the Annexure to the Regulations after Form 8:

***FORM 9
DESIGNATION OF OFFICIAL TO SERVE PROCESS OR DOCUMENT
REGULATIONS RELATING TO SHERIFFS, 1990
[Regulation 2G(1)]**

By virtue of the authority vested in the Executive Authority in terms of the Sheriffs Act, 1986 (Act No. 90 of 1986), I, TM Masutha, MP Minister of Justice and Correctional Services, hereby designate the following official for purposes of section 6A of the Sheriffs Act, 1986 to serve any process of the court or any other document as if the said official had been appointed as a sheriff or acting sheriff of that court:

Full names:			
Surname:			
Identity number:			
Persal number:			
Court for which official is designated:			
Period of designation:	From:		To:
Conditions of designation, if any:			

Signed at.....this.....day of.....20.....

TM MASUTHA, MP (Adv)
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES



**FORM 10
INVOICE REGARDING SERVICE OF PROCESS OR DOCUMENT BY
DESIGNATED OFFICIAL: SHERIFFS' FEES
REGULATIONS RELATING TO SHERIFFS, 1990
[Regulation 2G(4)]**

Note:

1. The prescribed fee is payable in terms of regulation 2G(6).
2. The amount indicated on this invoice is payable within 30 days of the date of this invoice.
3. This invoice must be submitted when payment is made.

A SERVICE OF PROCESS OR OTHER DOCUMENT (Please indicate with "x")

Service of summons, notices, letters order or other documents of Superior Court

Service of summons, notices, letters order or other documents of Magistrate's Court

B DETAILS OF CASE

Court for which official is designated:	
Case number:	
Full names of person on whose behalf process or documents were served and who is responsible for the payment of this invoice:	

C SERVICE RENDERED (Please indicate with "x")

Superior Court	
1	For service of summonses, petitions together with notice of motion or set down, other notices, orders or any other documents.
2	For attempted service of summonses, petitions together with notice of motion or notice of set down, other notices, orders and any other documents.
Magistrate's Court	
For service or attempted service of any process or document:	

AMOUNT PAYABLE: _____

Name of designated official: _____

Signature of designated official: _____

Date: _____

FOR OFFICIAL USE:

Receipt No/ Bank Deposit Ref: _____

Amount: _____

Signature: _____

Date: _____



FORM 11
FEEs CHARGEABLE REGARDING SERVICE OF PROCESS OR DOCUMENT BY
DESIGNATED OFFICIAL
REGULATIONS RELATING TO SHERIFFS, 1990
 [Regulation 2G(6)]

Note:

- (1) The fees and charges as set out below shall be chargeable and allowed.
- (2) Where any dispute arises as to the validity or amount of any fees or charges, or where necessary work is done and necessary expenditure incurred for which no provision is made, the matter shall be determined by the taxing officer of the court whose process is in question.
- (3) A request to tax an account of an official shall be done within 90 days after the date on which the account of which the fees are disputed has been rendered.

SUPERIOR COURT

Item	R	C
1 For service of summonses, petitions together with notice of motion or set down, other notices, orders or any other documents, each: Provided that- (i) Whenever any document to be served with any such process is mentioned in the process or forms an annexure thereto, no additional fee shall be charged for the service of such document, but otherwise a fee of R7.00 may be charged in respect of each separate document served; (ii) No fee for the service of a separate document shall be charged in respect of the service of process in criminal cases.	49	00
2 For attempted service of summonses, petitions together with notice of motion or notice of set down, other notices, orders and any other documents: Provided that an attempted service of more than one document on the same person shall be treated as an attempted service of one document only.	36	50

MAGISTRATE'S COURT

Item	R	C
For each service or attempted service of any process or document: Provided that service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.	7	00

LIST OF ALL CLERKS IN THE CIVIL AND CRIMINAL COURT – PRETORIA CLUSTER

ATTERIDGEVILLE	Ms BT Ntuli	Civil Supervisor	Mr. T. Nhlapho 012 373 1139/0798736413
	Mr AR Rakhale	Civil clerk	
BRONKHORSTSPRUIT	U Godla	Civil clerk	Ms K Othokwa 013 932 2901
	Mahlangu L M	Civil Supervisor	
CULLINAN	Ulanda Estag	Civil clerk	Mr. E. Maunatlala 012 734 1024
EKANGALA	DS Gulube	Civil clerk	Ms O. Ditshego 013 934 4249
	Thoko Mnguni	Civil Supervisor	
MAMELODI	Eulanda Molautsi	Civil clerk	Mr. Themba Malatjie 012 805 4001
	Thabo Sekgaolelo	Civil Supervisor	
SOSHANGUVE	NA Maluleka	Civil supervisor	Ms Caroline More 012 730 1001
	ND Mothibe	Civil clerk	
PRETORIA	Cecilia Moloko E Prinsloo	Civil Supervisor Civil clerk	Mr. M.Nduzulwane 012 319 4000
PRETORIA NORTH	Keabetswe Mashalane	Civil Supervisor	Ms S. Mohoasa 012 521 1000
	Betty Mathibela	Civil clerk	
GAUTENG NORTH DIVISION(HIGH COURT	Mr Sphiwo Mniki	Chief Registrar	Ms Jeanette Ngobeni 012- 315- 7606
GAUTENG SOUTH LOCAL DIVISION(HIGH COURT)	Mr Viven Pather	Chief Registrar	MS Zoleka Sondlo 011-335- 0151

Boksburg	Ms Hendricks DH Mdungwane AM Phahlamohlaka	Civil Supervisor Civil clerk Civil clerk	Ms Leatitia Bezuidenhout 011 917 9620/6
Kempton Park	Du Plessis A Rossier Jh Deen T.	Civil Supervisor Civil clerk Civil clerk	Mr. I Thebe 011 395 6304
Daveyton	Mr. Nkabinde	Civil Section	Ms Prisca Ntshangase 011 424 1199
	Ms Mngomezulu	Criminal Section	
Tsakane	Mr. Moloji	Criminal Only	Ms H. Sebola (acting) 011) 739-1600
Benoni	F. Labuschagne Y Boysen C.Govender K. Polo	Civil Section	Ms Mashalaba Thandeka 011 746 7601
Tembisa	Ms Mashiyani Ms Makitla Mr.Hlahla Ms Morati	Civil Section	Mr. . Nkuna(acting) 011 281 0319
Springs	Ms Jacobs Mr. Mathumb Ms Msweli	<u>Civil Section</u>	Ms Rashree Ramcharitar 011 811 2180
Nigel	Mr. Muvhango Ms Mathebula Ms Mashigo Ms Sibanyoni Mr. Nkgotho	Both Criminal and Civil	Mr. Ludwick Mphahlele 011 814 8261
Brakpan	Ms Coerand Ms Mohlala Ms Voster	Civil Section	Ms Ancabe Van Zyl 011 746 8300

Palmridge	Elize Smith	Civil Section	M Natasha Naidoo 010 232 2000
	Thabitha Makgatho		
	Steven Seema		
	Mpho Molakeng		
	Elize Smith		

Sebokeng	J. Mokgabudi	Civil Section	016 1320 1320
	T. Caluza		
Vereeniging	H.J. Lombard	Civil Supervisor	Themba Nkosi 016 422 0071
	AS Swart		
	TM Thabe		
	MP Mathebe		
Hadarch Street	Elizabeth Shibambo	Criminal section	Adel Louw 011 873 0195
Edenvale	Minette Roodt	Criminal Section	011 453 9996
Germiston	Virgina Ndungane	Supervisor Civil Section	Adel Louw 011 873 0500
	Grietha Weilbach		
	Euginia Magidela		
Roodepoort	A. Uys	Supervisor Civil Section	Mr T Makhaula 011 766 1004

	T. Malinga	Civil clerk	
	H.T. Sibentla	Civil Clerk	
Randburg	Abdine NS	Civil clerk	Mr. A .Nemukula 011 998 5300/078 734 3669
	Ally Y		
	Jaftha M		
	Kapetshu Z Z		
Krugersdorp	Moroke ET	Civil Section	Mr. Cliff Chauke 011 660 3711
	Mahlabiso O L		
	Tau Faith		
	Atumani P		

Randfontein	Rina Theunissen	Criminal Section	Mr. Madiba Collins 011 412 1195
	Yvonne Peters Neil Pietersen	Civil Section	
Westonaria	Mahase MR	Criminal Section	Mr. Jimmy Mabena 011 753 2251/2
	Moaisi ET	Civil Section	
Obelthrozer	Ralph Catherina	Criminal Section	Ms Johanna Serfontein 018 788 2341/8
	Alina Mathebula Joel Mathikge	Civil Section	
Midrand	Maluleke ST	Criminal Section	
Alexandra	Vusi Sibiyi Mohammed Logart	Criminal Section 3. 5. 6.	Patience Mgolombane (Acting) 011 786 3600/0829698237

	Abrahams Yvonne Mokopo ES Page Y E Mabote L Dawson NL Matshikwe VS	Civil Supervisor	011 491 5000

AREA COURT MANAGERS

1.	Germiston Cluster Palm Ridge Heidelbeg Meyerton Sebokeng Vanderbiljpark Vereeniging	Ms. M. Sekgobela (Acting)	011 873 0500 / 082 214 0679	MSEkgobela@justice.gov.za
2	Kempton Park Cluster Boksburg Benoni Brakpan Daveyton Springs Kempton park Tsakane Tembisa Nigel	Ms. Violet Mudau/Mr. Thebe(Acting)	011 395 6392/3 / 082 075 0063	Vmudau@justice.gov.za or TThebe@justice.gov.za
3.	Johannesburg Cluster	Mr. D. Makhani Acting	011 491-5000	DMakhani@justice.gov.za

	Soweto/Protea Johannesburg Family Magistrate Newlands Orlando Lenasia Kliptown Meadowlands SCCC Hillbrow Jeppe	(Director)		
4.	Pretoria Cluster Atteridgeville Cullinan Soshanguve Bronkhorspruit Mamelodi Pretoria Pretoria North Ekgangala	Ms. S. Mohoasa (Acting)	012 319 4034 /	SMohoasa@justice.gov.za
5.	Randburg Cluster Alexandra Krugersdorp Randfontein Roodepoort Oberholzer Westonaria Kagiso Midrand	Mr. N. Nhlapho	011 998 5300 / 082 8242245	Nnhlapho@justice.gov.za



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Annexure D

**REPORT ON ANTI FRAUD AND AWARENESS SESSIONS HELD WITH
COURT MANAGEMENT AND SHERIFFS ON THE 27 AND 30 JUNE
2014**

GAUTENG REGION

1. INTRODUCTION

- 1.1 A briefing session was held with Court Management and staff on the 27th June 2014 to raise awareness on fraudulent activities involving Syndicates operating at the Courts. Court Management and staff were sensitised on the fact that Syndicates have targeted the Civil Section environment; in particular the Civil Court Orders in respect of Default Judgment and Consent to Judgment Applications filed in terms of Section 57 and 58 of the act no 32 of 1994 of the Magistrates Act. The attendance register is attached as Annexure "A".
- 1.2 The briefing Session was also extended to the Sheriffs on the 30th June 2014 to solicit co-operation from the Sheriffs in mitigation of fraudulent activities extending to writ of executions purported to be issued from the Courts and presented to the Sheriffs for Service. The attendance register is attached as Annexure "B".
- 1.3 The following Stakeholders were earmarked to attend the briefing Sessions:
- South African Police Services
 - Judiciary
 - Prosecution
 - Area/ Court Managers
 - Chief/ Registrars
 - Clerks of the Court
 - Sheriffs
 - Attorneys Association

2. SUMMARY OF PRESENTATIONS: 27 JUNE 2014

2.1 MR VIC MISSER - OVERVIEW ON INVESTIGATIONS:

Mr Misser informed Court Officials of the scourge of Fraud and Corruption at the Courts within the Civil Work Environment and the National Task Team that has been appointed to investigate these matters. He alerted Officials to the fact that there are Institutions that are generating high volume of Applications that are in Conflict with the Provisions of the National Credit Act and working in Collusion with Clerks in obtaining Irregular Court orders from different Jurisdictions at Nation Level. Circular 30 of 2014 was issued by National Office prohibiting Court Clerks from granting Orders pertaining to Section 57 and 58 which were not sounding in money. All such Applications not sounding in money had to be referred to Judiciary for Consideration.

2.2 MR RAMOLEFE - CIVIL PROCESS

- 2.2.1 Mr Ramolefe's presentation outlined the process to be followed on processing of default Judgment Applications and the requirements for granting of section 58 Applications and implications of the National Credit Act in processing of these Applications.
- 2.2.2 He also shared with all present on how Court Officials should detect suspicious applications, as more often such Applications would be in conflict with the Provisions of the National Credit Act.
- 2.2.3 In addition he also outlined the process for Execution of Judgment obtained in this type of Applications as follows:
- The judgment debt may be recovered either by way of a warrant of execution against property or an Emoluments Attachment Order.
 - An EAO is a court order directing the employer of the defendant (judgment debtor) to deduct a specific amount monthly/weekly from his employee's salary and pay the plaintiff until the debt is paid in full.

2.2.4 Process followed in attachment of Emolument Attachment Order on all cases where a consent Clause is applicable is as follows:

- Consent to EAO is usually a clause contained in the written consent to judgment, which is relied upon for the issue of an Emolument attachment order. If consent is signed there is no need to call the debtor to court for an order. The plaintiff-
- Drafts and files an EAO which is signed by the Clerks of the Court.
- Plaintiff takes EAO duly signed by the Clerk of the Court and delivers same to the sheriff.
- Sheriff (serves) delivers EAO to employer and employer is obliged to deduct authorized amounts directly from the debtor's Salary.

2.2.5 Process to be followed in the absence of a consent Clause i.t.o. section 65 (J) (2) is as follows:

- Plaintiff drafts a written notice directing the defendant to appear in court on a specific date i.t.o. section 65 A (1).
- The draft court order is taken to the Clerk of the Court to check compliance, stamp and sign.
- The stamped and signed notice i.t.o. section 65 (A) (1) is delivered to the sheriff for service (delivery) of a copy thereof on the defendant (judgment debtor).
- If the judgment debtor appears in court and the court enquires into his financial affairs to determine how much he can afford and then makes a court order.
- If the judgment debtor fails to appear in court, the judgment creditor may apply for a warrant for his arrest, and once arrested an inquiry is conducted into his failure to appear and if found guilty a fine or imprisonment may be imposed, thereafter the process in fourth bullet above unfolds.
- The court order i.t.o. section 65 (A) may authorize the issuing of an EAO, and if so the process as in paragraph 2.2.4 "*Supra*" is followed: Copy of the Presentation is attached as Annexure "C".

2.3 MS JOYCE MOKOENA – CONTROL MEASURES :

2.3.1 Ms Mokoena also summarised identification features of Irregularities based on the presentations from Mr Misser and Mr Ramolefe as follows:

2.3.2 Identification features of the irregularities on Default Judgment Applications

- Defendants' written 'consents' to the jurisdiction of specific magistrate's court, e.g. Kempton park.(Unlawful)
- Sudden massive escalation of work volumes of civil extracts of defendants who do not reside or work in your court's area of jurisdiction.
- Sudden massive escalation of Emoluments Attachment Order (EAO) work volumes after judgment has been granted in a faraway jurisdiction in which the defendant does not reside or work.
- Requests for Default Judgment (RDJ's) whose case numbers are not recorded in the court's official summons register (Compromises Audits and expose us for a qualification on additional cases not recorded on the Manual Registers).This may be an indication of unauthorised judgments 'granted' by some of the clerks of the court.
- Signatures of defendants not matching when compared from the money lending contract and the consent to judgment.
- Blank spaces left in some clauses of the consent to judgment or to the jurisdiction of a specific magistrate's court.
- The name of the Magistrate's Court filled in with a different colour of pen, which reflects that it was filled in after the consent was signed.
- Different colours of pens used in the same document, e.g. a light black colour and a dark black colour.
- An endorsement on the Civil Extract to the effect that an EAO was authorised by the court where judgment was obtained.

- Reckless lending which manifests itself in the form of more than one loan granted to one defendant in a short space of time before the initial loan was settled. This you will notice by three to four consecutive case numbers or case numbers very close to one another with the same name of the defendant.

2.3.3 CONTROL MEASURES

- Establishment of Task Team
- Focused investigations in cooperation with JCPS stakeholders
- National Circular 30 of 2014
- Regional Office internal circular 3/2014
- Creation of Websites for Civil Regional Seats and High Courts, for access of information on divorce Court orders
- Distribution of Excel spread sheet for capturing of different categories of potential irregularities per court, e.g. # of fraudulent CCJ's, # of jurisdiction queries, # of queries per attorney/institution, # of RDJ's not recorded in summons register, etc.
- Immediate Reporting of all fraudulent cases to the Police by Court Managers.

2.3.4 RESOLUTIONS 27 JUNE 2014

- Hold a Separate briefing with Registrars at the High Court to facilitate implementation of control measures on Civil Court Orders. i.e Stamping machine with a water mark.
- Monthly reporting by Court Managers
- Signing of Monthly certificates by supervisor and Court Manager respectively, confirming that daily checking was done by the supervisor and weekly spot checks by the Court Manager as well as the fact that the supervisor and Court Manager made tick marks next to each entry and appended signature as proof of checking.
- Monthly return of irregularities uncovered and mitigating interventions implemented.
- Excel spread sheet to be designed by RO with columns for different categories of potential irregularities per court, e.g. # of fraudulent CCJ's, # of jurisdiction queries, # of queries per attorney/institution, # of RDJ's not recorded in summons register, etc. Unannounced visits by Regional management
- Monthly reporting of status of investigations by JCPS Stakeholders

3. SUMMARY OF PRESENTATIONS: 30 JUNE 2014.

The Regional Head welcomed everyone at the meeting and outlined the purpose of the Briefing session extend to all Sheriffs in the Region. She further pleaded for cooperation on part of the Sheriffs in implementation of Project Activities and the need to be vigilant in execution orders unlawful Attachment of Property, which lead to displacement of members of the Communities as a result of unlawful evictions.

3.1 MR VIC MISSER - OVERVIEW – Same content as the session held on the 27th June 2014.

3.2 MR RAMOLEFE - CIVIL PROCESS- Same in content as the session held on the 27th June 2014.

3.3 MS JOYCE MOKOENA – CONTROL MEASURES – Same content as the session held on the 27th June 2014.

3.4 RESOLUTIONS 30 JUNE 2014:

- Circulate a list of Clerks of Court and Court Managers to the Sheriffs for validation of Court orders and Writ of execution in suspicious cases to strengthen co-operation with Sheriffs on Departmental Anti-Fraud Corruption Strategy.
- Distribution of Circulars issued to staff on Control Measures to mitigate Fraud and Corruption on Civil Court orders to all Sheriffs.

COMPILED BY

**COURT OPERATIONS DIRECTORATE
REGIONAL OFFICE
31 JULY 2014**



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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**PROVINCIAL CIRCULAR: CIRCULAR 3 OF 2014
GAUTENG PROVINCE
DRAFT**

REGIONAL OFFICE: GAUTENG

Private Bag X 6, JOHANNESBURG, 2000 • 94 Schreiner Chambers, Cnr
Pritchard & Kruis - Tel (011) 332 9000


Sub Office File : 1/4/1
Provincial Circular No : 3/2014
(Regional File No : 9/3/4)

**IRREGULAR GRANTING OF SECTION 57 AND 58, CONSENT TO DEFAULT
JUDGEMENTS, AND EMOLUMENT ATTACHMENTS ORDERS BY CLERKS
OF CIVIL COURTS : GAUTENG PROVINCE**

**TO ALL AREA/COURT MANAGERS/ REGISTRARS/ SUPERVISORS /
SECTION HEADS/ CLERKS OF THE CIVIL COURTS**

1. The contents of Circular Number 30 of 2014 issued by the Department dated 17 March 2014 bears reference.
2. Your attention is once again brought to the provisions of Rule 12(5) of the Magistrate Court Act, No. 32 of 1944, which prescribes that all judgments wherein the claim is founded on a cause of action arising out of or based on an agreement governed by the National Credit Act, Act No. 34 of 2005, shall be referred by clerks of the civil courts to the courts for consideration.
3. Clerks of civil courts together with their respective supervisors / section heads of the civil courts are therefore obliged to refer these matters to court for consideration by a Judicial Officer and cannot legally grant the requests for judgments in their capacity as administrative functionaries.
4. All Area/Court Managers, Section Heads and Supervisors are instructed to ensure that urgent steps are taken to prevent the clerks of civil courts from granting section 58, consent to default judgment, wherein, the nature of claim is based on the National Credit Act, and or a Loan/credit agreement.

5. The efficiency in checking of all processess issued by clerks of civil courts is one of the most important duties of Heads of Offices and under no circumstances may there be a relaxation of such a task.
6. One of the reasons for granting of section 58, Consent Judgments irregularly, can mainly be attributed to the neglect on the part of checking officers, whose duty, amongst others, is to regularly and systematically check the work of their subordinates.
7. Routine spot checks and intensive checking is a fundamental control to deter malpractices on part of staff.
8. Court Managers remain the overall responsible officials for all operations within their courts and will be held liable for any losses that clients might suffer as a result of their negligence.
9. Area/Court Managers are requested to bring the contents of this Provincial circular to the attention of all Court Managers, Registrars, Section Heads, supervisors, clerks and officials in the civil court component, by ensuring that each official takes note of the contents of this circular read together with Circular No. 30 of 2014 and a signed receipted acknowledgment is filed off record on each officials' personnel file.
10. This directive should be implemented with immediate effect.



MS SE DHLAMINI
REGIONAL HEAD: GAUTENG
DATE: 25/06/2014

Annexure F

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Annexure G

SANAPS SHERIFF & ACTING SHERIFF MEMBERSHIP APPLICATION FORM:

I the undersigned _____

SHERIFF / ACTING SHERIFF OF _____ in

_____ Province,

hereby apply for membership to SANAPS.

I undertake to abide by SANAPS's Constitution. (See this at: www.sanaps.org.za)

My Contact Details are as follows:

1. E- mail Address: _____

2. Physical Address: _____

3. Postal Address: _____

4. Tel: No: _____

5. Cell No: _____

Signed at _____ on _____

Signature: _____

MEMERSHIP IS FREE

After completing the form please fax to (011) 760- 6525 or e- mail to lqubaldawood@gmail.com or post to P. O. Box 9118 Azaadville 1750.