



Date: 06 April 2016

Our Ref: Report 1 of 2016

Per: E- mail

Dear Loyal SANAPS Members,

Report 1 of 2016

1. Membership:

- 1.1 We are now 152 members. Despite requesting members to resign through dual membership, we are proud to announce that not a single member has resigned. In fact our membership has increased.
- 1.2 These reports and future correspondence will be forwarded to SANAPS members only. It is up to you whether you wish to share this information with anyone else.

2. Training and the AGM:

- 2.1 A workshop is to be held in East London in the **Eastern Cape** on the **09 April 2016**. Attached herewith is an invitation for anyone who wishes to attend. (**Annexure A**)
- 2.2 A similar meeting is being arranged for Mpumalanga, North West, Gauteng, Limpopo and Free State (1 meeting) shortly. Workshops will also be held in the remaining provinces. We are awaiting tentative dates from the Provincial Leaders.
- 2.3 Our **AGM** will be held in the **Western Cape on 16 July 2016**. Please reserve this date. The appropriate notifications will be forwarded in due course.

3. Case Law:

3.1 *Mercantile Bank Limited v Sheriff of Inanda, Area 2 and 3 others Case Number: 9880/2013 KZN division, Pietermaritzburg (unreported) (Annexure B)*

What have we learnt from this case?

The bank's representatives should be treated no differently from the general public for FICA requirements and registration. The mere fact that the bank did not agree to the bid is not grounds enough for the cancellation.

3.2 *EFF v J. Zuma and others Case Number: CCT 143/15 and CCT171/15 (Constitution Court of South Africa) (Annexure C)*

What have we learnt from this case?

No one is above the law. The Public Protector's findings are not merely recommendations but are binding until set aside by a court of law.

3.3 *PE Khoza and 17 Others v The Body Corporate, Ella Court Case Number: 22463/07 (WLC) (Annexure D)*

What have we learnt from this case?

An application for a rescission (in Gauteng at least) will suspend a judgement. We are not too certain whether the Northern Province High Court is bound by this decision or any of the other provincial divisions.

3.4 *The University of Stellenbosch Legal Aid Clinic v Vusumzi George Xekethwana and 18 Others Case Number: 16703/14 (WCD) (Annexure E)*

Many colleagues have queried why our EAO work has reduced. This is as a result of the above mentioned judgement.

4. Feedback on activities:

- We have furnished the Rules Board with our submissions regarding Rule 46 (High Court), Rule 43 (Magistrate Court), Rule 70 (4) (High Court) as well as Rule 68 (3) (a) (High Court). Attached herewith is our joint submission regarding Rule 68 (3) (a) **(Annexure F)**. We have recommended an hourly fee of R600.00
- We have had meetings with the CCMA and members have been kept informed.

- We have had a meeting with City of Joburg Metropol and Schindler's Attorneys regarding Section 181 (3) of the Municipal Act which will have serious ramifications nationally. The Board has instructed an attorney in formulating a guideline and this will be distributed by the Board.
- We have had a meeting with the Consultative Forum and a detailed feedback will be furnished regarding this.
- Many sheriffs in Gauteng and North West have had re- demarcation meetings which, we are given to understand, will be concluded by the 31st March 2016.
- We have had correspondence with the Chief Justice Mogoeng CJ regarding the illegal repossession of vehicles by traces. The Chief Justice awaits the Banking Forum's response to our letter. **(Annexure G)**

5. SASSETA:

Our non- profit company has been formed and the process of registering it as a service provider with SASSETA is well underway.

6. AARTO:

6.1 Mr. Japh Chuwe, Registrar of the Road Traffic Infringement Agency states that the national roll- out of AARTO would commence in April 2016 and this would be followed by the demerit point systems. If that is the case then it is possible that sheriffs will be executing warrants.

6.2 Media reports also indicates that SANRAL has begun issuing summonses for non- payment of e- tolls. The sheriffs are to serve the summonses. No sheriff in Gauteng has as yet received the summonses but we look forward to this work.

6.3 Our Western Cape colleagues have secured lucrative traffic work from the local authorities. Attached herewith **(Annexure H)** is a fee breakdown. Colleagues are encouraged to approach your local authorities on the same successful business model to secure this work and boost their income.

Gauteng will hopefully be dealing with work from AARTO.

7. Tayob v ID Mahomed and SANAPS:

The matter which was set down for 2 – 6 May 2016 has been postponed to the 6 – 17 March 2017. The reason for the postponement is the 4 days allocated in 2016 would not suffice given the number of witnesses. Colleagues will be kept informed of developments.

8. SANAPS Website www.sanaps.org.za:

We have had almost 9 000 hits. Colleagues, particularly those newly appointed are encouraged to make use of the A to Z of Sheriffing manual on this site which will be of great assistance in their day to day operations.

9. Condolences:

9.1 We send our condolences to our colleague Mr. H Nieuwenhuizen (Witbank) who had one of his staff members wounded and another killed by a member of the SAP, who subsequently killed himself and another police officer.

9.2 We bid farewell to Clarence Makwetu PAC stalwart and kin of our former Chair Mr. Anthony Makwetu.

10. July 31 SABFS Legal Requirements:

The Board would require these forms as part of your statutory duty to be completed before the 31 July 2016. Colleagues are advised to start preparing now. We recommend Mr. Dev Sivenath for any sheriff who may require his services. His contact details are as follows: Cell: 082 928 9758, E- mail: sivenathd@telkomsa.net.

There is some confusion as to who would sign the Magistrates Form as Magistrates are no longer authorised to sign these. We will get clarity and will inform members shortly.

11. Abuse of the Eviction Process:

Colleagues are referred to the article in the June 2015 Nose Week headed: “Prince of Pot” as an idea as to how the process has been abused. We are also getting numerous reports of re- invasions after our evictions. These re- invasions are purportedly being encouraged by political parties canvassing for votes. SANAPS will forward to the SA Human Rights Commission and to the Consumer Protector.

12. Participation in SANAPS Newsletter:

Colleagues are invited to furnish us with any matter that may be of general interest to the profession. These will form part of our future newsletters and all contributions will be handled in the most sensitive manner.

Is there anything else we may be of assistance? Please do not hesitate to contact us.

Yours faithfully,

A. Dawood.

