
GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

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);
 - (jj) 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