



**Ministry Justice and Correctional Services
Republic of South Africa**

**Keeping the wheels of Justice during COVID-19 – Virtual Imbizo
Address by Minister of Justice and Correctional Services Ronald Lamola (MP)
3 September 2020**

**Deputy Minister for Justice and Constitutional Development: John Jeffery;
The Chairperson of Sheriffs Board : Mrs. Charmaine Mabuza;
The Executive Manager: Ms Jody Van Wyk;
Sheriffs and Deputy Sheriffs
Distinguished Guests**

If we were to give an analogy of the justice system as a car, there is no doubt the sheriff's profession would be the wheels of the car. Or, if one wanted to use another analogy, one could even say that sheriffs are the midwives of justice.

But whichever analogy one chooses to use, there is no doubt that sheriffs form an integral of the justice system and that the justice system would be unable to operate if it were not for the sheriffs.

Ladies and Gentlemen; may I take this moment to also pay a special tribute to the late Advocate Hishaam Mohamed.

As you know, Advocate Mohamed, before he accepted his election to the National Assembly as a Member of Parliament in May 2019, was the Western Cape Regional

Head of the Department of Justice and as such served on the Board for 7 years, from 2012, first as Deputy Chair of the Board and later as Chair of the HR Committee. We are indebted to him for his service and guidance and are saddened to lose someone of his caliber within the justice family.

Programme Director;

On many occasions we have narrated to South Africans how disruptive the COVID-19 pandemic has been in our communities.

And, of course, our justice system has not been spared an inch. One of the first things that came into sharp focus when we announced the National State of Disaster was how this will affect the constitutional rights of South Africans. And the courts were always going to be a critical feature. Although the country was in lockdown, this didn't mean that the justice system could shut down.

At the same time, one had to be mindful that very midwives of justice, could be in danger as they move from door to door, having to serve process, attach goods and so forth – all in the quest of making sure that justice is not only done, but also being seen to be done.

In line with court directions which we published in accordance with the various different levels of the lockdown, we thought that it would be prudent to, in varying degrees, limit what justice role-players and stakeholders – like the sheriffs - could do to urgent and essential matters. As Covid-19 seems to be easing up a little and as we move to lower alert levels in the country, we are a step closer to normality in our courts although it is not yet business as usual.

Ladies and Gentlemen

I am mindful of the fact that we live in a country where less than 40 % of our citizens are satisfied with the courts. This is according to the 2017/18 Victims of Crime Survey.

One can, of course, argue that the components of this dissatisfaction do not fall entirely within the sphere of sheriffs, but if one views the sheriffs, along with other stakeholders, as extensions of the courts and the justice system, it does not negate the fact that all lot of work needs to be done by every court official, by every judicial officer and by every sheriff to help South Africans place their faith in this critical pillar of our Constitutional democracy.

In the context of sheriffs this manifests itself in the form of professionalization. This has been a critical and ongoing journey for this Board in particular.

In recent years with the guidance of the Deputy Minister, the Board has made significant progress in the training and research, assisting and developing staff and deputy sheriffs to their fullest potential, and promoting a society of sheriffs founded on respect, integrity, diversity and gender equality and quality service delivery.

As I said earlier, Covid-19 has revealed one critical thing about our society. Efficiency in the justice system is a non-negotiable. As a result, our systems and our ways of work need to be radically re-defined.

In other words, Chairperson, in addition to the professionalization mission, we need to answer the question, how do we deploy technology to make sheriffs more efficient. Surely the time for a standardized technologically framework has come.

In reality what seen is a tangible evolution of the law of civil procedure. For example, on some of the practice directives developed by Judge Presidents of the High Court of South Africa we see the facilitation of process which allows for court papers to be exchanged wholly via electronic exchange

Another example, in recent years, is the matter of *CMC Woodworking Machinery v Odendaal Kitchens* where the court, for the first time, acknowledged the service of court papers via Facebook. This gives us an indication that the development of e-technology may have a revolutionary impact on the sheriffs' profession in the years to come.

Having recently moved from practice, I can attest the importance of e-technology in legal practice. Unlike the past situation of manual codification, typing, and hard-copy recording, legal practitioners now rely almost exclusively on transmission, receipt, and discovery of documents relating to a civil case electronic platforms. Essentially computers have become the vehicle for storage.

This generally provides the impetus for the transformative thinking we need to own and attend to.

Programme Director,

We also live in society where Gender-Based Violence and Femicide is correctly classified as the second pandemic. Pillar five of our National Strategic Plan on Gender Based Violence and Femicide speaks to Economic Power.

This requires us to strengthen the child maintenance and related support systems to address the economic vulnerability of women. I am aware that the profession has been informed that going forward, courts will be using sheriffs to serve maintenance documents. I have also heard that some courts make use of internal maintenance investigators whilst others, without notice or consultation decided to no longer make use of sheriffs. Therefore a policy which considers the role of sheriffs and to provide clarity in this regard is certainly inevitable.

As you are also all aware, in December 2014, the Department of Justice and Constitutional Development commenced with the implementation of rationalisation of courts project. This flagship project was implemented in the Gauteng, North West, Limpopo, Mpumalanga and Northern Cape provinces.

This process is still on-going and I have been advised that the implementation date for KZN, the Western Cape, the Free State and the Eastern Cape is February 2021.

Access to justice has been an overriding principle behind this project. Magisterial districts are to follow the boundaries of the district municipalities as far as possible

except where adherence to the latter boundaries will not advance access to justice. Every municipality has to have a magistrate's court with the seat of the court at the same area as the seat of the municipality. In respect of large municipalities and metros, more than one magisterial district is to be proclaimed.

The consequences of the exercise are that we need to bring full services of the courts closest to the local communities.

It is also in the interest of the justice system to ensure that sheriffs' profession is a transformed and professional one and the Department continues to make significant progress in the transformation of the sheriffs' profession.

In May last year, we appointed 24 new sheriffs to fill vacant offices countrywide, and twenty four persons were appointed. Some of the applicants are appointed to more than one vacant office after considering various aspects such as the economic viability of an office, distance between offices, the rationalisation of magisterial districts and other relevant factors.

For the first time in history more women were appointed than men. Of the 24 sheriffs appointed ten are men and 14 are women. 18 are African, 2 are White, 2 are Coloured and 2 are Indian. Of the 255 permanent sheriffs 67.80% are male and 32.20% are female. 46.67% are African, 35.30% are White, 10.19% are Indian and 7.84% are Coloured. We still have some way to go for the sheriffs profession to reflect broadly the racial and gender composition of South Africa as required by the Constitution

Some communities were being serviced either by acting or ad hoc sheriffs, based in nearby towns, therefore the filling of these vacant offices went a long way in ensuring that court and sheriffs' services are more accessible to the communities which they are to serve.

The rationalization of the magisterial districts impacted directly on the filling of a number of the vacant offices as a sheriff is appointed for a Court in a magisterial district or defined area within the magisterial district. The devastating impact of

Covid-19 has further delayed the process. With Alert level 2 taking effect it is the intention of the Department to advertise a number of vacant offices of sheriff towards the end of September 2020. The Board and the Chairpersons of the Advisory Committees will be informed of the envisaged timeframes for the filling of the vacancies.

Finally, ladies and gentlemen, we know the severe impact the lockdown has had on the finances of sheriffs' profession. Many of our sheriffs have lost all income streams and were without any income as a result of the lockdown.

The Board has reviewed the Sheriffs Act and has noted the long winded process in place to access relief from its Fidelity Fund. These factors have prompted the Board to propose the use of a portion of the Board's reserve funds.

The Sheriffs Act provides that the Board required the approval of the Minister to donate funds and at a meeting held with the Executive Committee of the SABFS in April 2020 it was resolved to develop a COVID-19 Relief Fund initiatives to assist sheriffs.

It was resolved that that all sheriff's offices, where the turnover for the 2018/2019 gross income was less than a one Million Rand, will each be assisted with R10 000.

The R10 000, 00 is a rebate to the levies due by the sheriff and if the levy is less than the rebate then the sheriff will receive the difference in the form of cash and where the levy is more than R10 000 then the sheriff will pay the difference.

I was informed that the total number of sheriffs with gross income of less than One Million Rand is 102. Secondly, it was resolved by the Board that all 740 deputies would receive a once of amount of R2 000 each.

After the initial request for assistance, a further request was made to me by the Board, predominantly because the lockdown period extended beyond three months.

The Executive Committee of the SABFS met on 29 July 2020 and has requested our approval for additional relief funding in the amount of R2,117,106. This additional relief funding is to enable the Board to extend assistance to sheriffs who were not catered for in the previous relief initiative. This request is under consideration.

Our sincere appreciation to the Board under the leadership of Ms Charmaine Mabuza as well as the sheriffs and deputy sheriffs operating at the coalface and who performs their functions with diligence in the interest of the maintenance of an effective and reliable service to the courts and the public.

To conclude, I want to assure you that we, in the Department of Justice and Constitutional Development, share the Board vision of assisting in developing sheriffs and deputy sheriffs; promoting a society of sheriffs founded on integrity, openness, diversity and gender equality, and promoting quality service from the profession to the justice system.

I thank you.