



SANAPS

SOUTH AFRICAN NATIONAL ASSOCIATION OF PROGRESSIVE SHERIFFS

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Date: 13 April 2012

Our Ref: Comments Sheriffs Amendment Bill

Per: E-mail

South Africa Parliamentary Portfolio Committee

PC on Justice and Constitutional Development

Attention: Mr. V. Ramaano

Dear Sir,

Comments on Sheriff Amendment Bill [B2- 2012]

On perusal of the Bill we wish to make the following comments:

1. Clause 2(1):

“fit and proper person”

We submit that the term is quite wide and would require a more narrow definition.

2. Clause 3:

Allowance payable to members of the Advisory Committee

The insertion does not state who will be making the payment and from what funds will the payment be sourced. It is respectfully submitted that as the Minister appoints, the Department of Justice and Constitutional Development should be liable for payment.

3. Clause 4:

Appointment of Acting and Ad hoc Sheriff

We see no problem in the Minister appointing an Acting Sheriff provided the appointment is done within the framework of realistic and financially viable policy and that the Acting Sheriff be given at least 3 months notice to vacate the appointment in order to make way for the new appointee.

4. **Clause 4(1):**

Appointment for a particular suit

We fully support this as the appointment procedure for an Acting Sheriff and an ad hoc Sheriff is now clear.

5. **Clause 6(B)(2):**

Rules Board to make new Rules

We do not see the necessity of the Rules Board making further Rules for any Sheriff appointed under 6(B)(1). The Rules governing Sheriffs should likewise apply.

6. **Clause 7(a) & (b):**

Recomposition of the South African Board for Sheriffs

We strongly object to the reduction of the number of Sheriffs on the Board, in that:

- The reduction of Sheriffs on the Board of the South African Board of Sheriffs would reduce the key stakeholders being properly represented on the Board.
- The principal source of financing the South African Board for Sheriffs is derived from levies charged to Sheriffs by the Board. The old rate was 0.60% of the net income of the Sheriffs. The levy has been amended to 1,5% subject to further restriction that the deduction should not exceed 20% of the Sheriff's gross income. SANAPS submits that it is inherently unjust to diminish the number of Sheriffs on the Board particularly when it is those very Sheriffs who are financing the Board's day-to-day operations.
- There are 9 Provinces why should there be only 5 Sheriffs on the Board, if the Minister wishes to give the profession a broad representation?
- We are concerned that non- sheriffs who do not have the necessary expertise would be dealing with and regulating the profession. This is unacceptable to any profession. The Law Societies have Boards which comprise mainly of Attorneys. The Medical and Dental Council comprises mainly of doctors and dentists. The Auditors Boards comprises primarily of Auditors.
- The new appointments would undermine the independence of the Board.
- The needs of the profession are specific and the requirements for policies relating to Sheriffs are equally specific and accordingly it is necessary that the composition of the Board be constituted in a proper balance so as to allow the proper functioning of Sheriffs nationally.

We therefore respectfully submit that the attempt to reduce the number of Sheriffs on the Board would be a contravention of what is the general best practice in respect of all professions.

We submit that the Minister has the right to constitute the Board in any manner he deems appropriate, such change for the benefit of the public at large and the profession. However, the change need not be done at the expense of Sheriffs. We propose the following:

- 7 Sheriffs.
- 2 Attorney Representatives.
- 1 Representative from the Department of Justice and Constitutional Development.
- 1 Representative from National Credit Regulator (NCR).
- 1 Representative from the field of financing and accounting.

Alternatively, the Minister may appoint the numbers in any configuration as long as Sheriffs remain in the majority on the Board.

The alternate to the Attorney and National Regulator may present some difficulty in that it would give room to some inconsistency.

7. Clause 10:

Allowances to the Board

This allowance should be equal to the allowance paid to other Board members and the amount of such an allowance should be reviewed annually. The Associations should also be consulted.

8. Clause 13:

The maximum amount recoverable

We respectfully submit that the professional Associations should also be consulted as the proceeds of these funds were sourced primarily from the profession.

We kindly request an invitation to the Portfolio Committee to present oral evidence, if this is possible.

We thank you for this opportunity and trust our comments would be of some assistance.

Yours faithfully,

Mr. A. Makwetu.