

eSwatini

## Sheriff's Act, 1902

Act 17 of 1902

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1902/17/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 17:55.

*Collection last checked for updates: 1 December 1998.*

[Check for updates](#)



### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

[www.laws.africa](http://www.laws.africa)  
[info@laws.africa](mailto:info@laws.africa)

There is no copyright on the legislative content of this document.  
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Sheriff's Act, 1902  
Contents

1. Short title ..... 1

2. Interpretation ..... 1

3. Appointment of Sheriff ..... 1

4. Duties of sheriff and his deputies ..... 1

5. Names of deputies to be submitted ..... 1

6. Non-liability of sheriff ..... 1

7. When sheriff interested, who to act ..... 1

8. Who to aid sheriff ..... 2

9. What property not to be seized ..... 2

10. Benefit of executions already levied ..... 2

11. Prescription of actions against sheriff ..... 2

12. Sentence of death ..... 2

13. Presence at and admission to execution ..... 2

14. Medical officer to certify death, and declaration to be signed by persons present at execution ..... 2

15. Chief Justice may frame rules of court ..... 3

16. Fees to Government ..... 3

Schedule ..... 3

## eSwatini

# Sheriff's Act, 1902

Act 17 of 1902

Commenced on 15 April 1902

*[This is the version of this document at 1 December 1998.]*

**An Act creating the office of Sheriff and regulating his duty.**

### 1. Short title

This Act may be cited as the Sheriff's Act, 1902.

### 2. Interpretation

"Immovable property" includes all fixed property as defined by the Transfer Duty Act.

### 3. Appointment of Sheriff

The Public Service Commission may appoint some fit and proper person to be Sheriff of Swaziland.

### 4. Duties of sheriff and his deputies

- (1) Where the Public Service Commission appoints a sheriff he shall, by himself, or his deputies, appointed by him and duly authorised under his hand and seal, and for whom he shall be responsible during his continuance in such office, execute all the sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the High Court, and shall make a return of the same, together with the manner of execution thereof, to such court through the registrar thereof; and the plaintiff or defendant, or their respective attorneys, may have an office copy of the process; with the return thereto, at the cost of the party applying for the same.
- (2) The sheriff shall receive and detain in prison all persons arrested by an order, writ or judgment of the High Court, or committed to the custody of the sheriff by such court, or by any judge thereof.

### 5. Names of deputies to be submitted

The sheriff shall, upon the appointment of a deputy, transmit to the registrar of the High Court his name and place of abode, stating the district within which he is to act for him.

### 6. Non-liability of sheriff

The sheriff shall not be answerable or responsible for the rescue or escape of any person out of his custody, or out of the custody of his deputy, on his way to prison, or after being lodged therein, where such rescue or escape shall happen without the fault or connivance of the sheriff or his deputy:

Provided that, in case of any such rescue or escape the sheriff or his deputy shall use all lawful means for the pursuit, apprehension and safe custody of such person without any further warrant or authority.

### 7. When sheriff interested, who to act

Whenever the High Court directs or award any process in a cause, matter or thing wherein the sheriff, on account of his being related to the parties or any of them, or by reason of any good cause or challenge which would be allowed against sheriff in England, cannot or ought not by law to execute the same, the High Court shall name or appoint some other fit person to execute and return the same, and the process

shall be directed to the person so named, and the cause of such special proceedings shall be registered and entered on the records of the said court.

#### **8. Who to aid sheriff**

All officials and inhabitants in Swaziland shall aid the sheriff in the execution of his duty when called upon and shall carry out his directions.

#### **9. What property not to be seized**

The sheriff or his deputy shall not take or seize in execution of any process—

- (a) the necessary bed or beds and bedding or wearing apparel of the person against whom the execution is levied, and of his family;
- (b) the supply of food and drink in the house sufficient for the needs of the family during one month;
- (c) tools and implements of trade and the tools necessarily used in the cultivation of land, in so far as the same do not exceed the value of fifty emalengeni;
- (d) professional books, documents or instruments, in so far as the same do not exceed the value of fifty emalengeni.

#### **10. Benefit of executions already levied**

No creditor lodging a writ of execution with the sheriff or his deputy shall be entitled to share in, or receive any part of, the proceeds levied under any writ previously lodged, unless such creditor has lodged his writ at least ten days prior to the day of sale of the property attached under such previous writ.

#### **11. Prescription of actions against sheriff**

No action shall be brought against the sheriff, or any deputy sheriff, for anything done or omitted to be done in the execution of his office, unless commenced within six calendar months after the said act.

#### **12. Sentence of death**

In every case in which any prisoner is sentenced to death, His Majesty may, if he is satisfied that fitting arrangements for the same can be made within the gaol in which such prisoner is for the time being confined to order by warrant under his hand that the sentence of death shall be carried into effect within the walls of such gaol.

#### **13. Presence at and admission to execution**

The sheriff or deputy sheriff charged with the execution, and the medical officer of the gaol, and such other officers of the gaol as the sheriff or deputy sheriff shall require, shall be present at the execution, and any minister of religion residing in the district in which the gaol is situated, and such relatives of the prisoner, or other persons, as the sheriff or deputy sheriff may deem proper, may be admitted within the gaol for the purpose of being present at such execution.

Medical officer to certify death, and declaration to be signed by persons present at execution.

#### **14. Medical officer to certify death, and declaration to be signed by persons present at execution**

As soon as possible after judgment of death has been executed on the offender, the medical officer of the gaol shall examine the body and shall ascertain the fact of death, and shall sign a certificate thereof and deliver the same to the sheriff or deputy sheriff; and all other officers who are present under the provisions of the preceding section, together with the sheriff or deputy sheriff, shall sign a declaration to the effect that judgment of death has been executed on the offender, and such certificate and declaration shall be

forthwith transmitted to the chairman of the committee on the prerogative of mercy, to be filed of record in his office.

**15. Chief Justice may frame rules of court**

The Chief Justice may frame rules and regulations for the guidance of the sheriff and his deputies and such rules may provide for a tariff of fees to be charged by deputy sheriffs.

**16. Fees to Government**

The sheriff shall receive on behalf of the Government, in stamps to be affixed to the documents named therein, the fees set forth in the Schedule.

**Schedule**

Fees to be paid to the sheriff, on behalf of the Government, by means of stamps—

<b>In proceedings in execution of real property under attachment</b>	
	<b>E. c.</b>
On extract of certificate from debt registry	50
On copy of writ filed	50
On report of sale to the court	100
On plan of distribution of proceeds of sale, E5 per E200 on amount received and distributed when such amount does not exceed E500, and E2 per E200 in addition upon the excess of such amounts beyond E500.	
On report of account to court	100