

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Reportable

Case no: 268/2025 and 1182/2024

In the matter between:

ROAD ACCIDENT FUND	**APPELLANT**
and	
SHERIFF OF THE HIGH COURT, PRETORIA	**FIRST RESPONDENT**
MS MOLOTO ATTORNEYS	**SECOND RESPONDENT**
H.W. THERON ATTORNEYS	**THIRD RESPONDENT**
RAPHAEL & DAVID SMITH	**FOURTH RESPONDENT**
SMIT & MAREE INC	**FIFTH RESPONDENT**
LESIBA MAILULA ATTORNEYS	**SIXTH RESPONDENT**
M.G. MABUNDA ATTORNEYS	**SEVENTH RESPONDENT**
THE PLAINTIFFS LISTED IN ANNEXURE C3	**EIGHTH RESPONDENT**
THE LEGAL PRACTICE COUNCIL	**NINTH RESPONDENT**
THE BOARD OF SHERIFFS	**TENTH RESPONDENT**
THE MINISTER OF JUSTICE AND	

CONSTITUTIONAL DEVELOPMENT **ELEVENTH RESPONDENT**

VAN DYK STEENKAMP **TWELFTH INTERVENING RESPONDENT**

B SHIELLS **THIRTEENTH INTERVENING RESPONDENT**

JL SWART **FOURTEENTH INTERVENING RESPONDENT**

R MEINTJIES **FIFTEENTH INTERVENING RESPONDENT**

OA DU PLOOY **SIXTEENTH INTERVENING RESPONDENT**

DT MILANZI **SEVENTEENTH INTERVENING RESPONDENT**

MJ POPE **EIGHTEENTH INTERVENING RESPONDENT**

CONSTANT WILSNACH

N O OBO JF WILSON **NINETEENTH INTERVENING RESPONDENT**

H SANDERBERG OBO BC

THAKADU **TWENTIETH INTERVENING RESPONDENT**

CONSTANT WILSNACH

N O OBO PP MOFITLE **TWENTY-FIRST INTERVENING RESPONDENT**

WA MALAKAJE N O **TWENTY-SECOND INTERVENING RESPONDENT**

CONSTANT WILSNACH N O

OBO MD MAKGONZANE **TWENTY-THIRD INTERVENING RESPONDENT**

MELUSI MAFANA MATHULE **TWENTY-FOURTH INTERVENING RESPONDENT**

JEANETH NADINE NGOBENI **TWENTY-FIFTH INTERVENING RESPONDENT**

MPUMELELO LANGALEBALELE

OBO KEITUMETSI MPUMELELO

LANGALEBALELE **TWENTY-SIXTH INTERVENING RESPONDENT**

SIFISO STEVEN THOBELA **TWENTY-SEVENTH INTERVENING RESPONDENT**

and

ROAD ACCIDENT FUND **APPELLANT**

and

SHIREEN LYNN STOFFELS **FIRST RESPONDENT**

LIZELLE HEROLD OBO LEEAM SPALDING **SECOND RESPONDENT**

Neutral citation: *Road Accident Fund v Sheriff of the High Court, Pretoria East and Others and Road Accident Fund v Stoffels and Another* (268/2025 and 1182/2024) [2026] ZASCA 37 (24 March 2026)

Coram: MATOJANE and KEIGHTLEY JJA and MABESELE AJA

Heard: 24 February 2026

Delivered: 24 March 2026

Summary: Road Accident Fund — post-judgment interest — whether interest on judgment debt arises *ex lege* in terms of s 2(1) of the Prescribed Rate of Interest Act 55 of 1975 (the PRIA) without express provision in court order — whether s 2A(5) of the PRIA applies to Road Accident Fund claims or is excluded by s 17(3)(*a*) of the Road Accident Fund Act 56 of 1996 — whether claims for interest foreclosed by *res judicata* where interest was claimed in summons but not embodied in court order — whether interest accrues *ex lege* on costs orders — whether writs of execution require a supporting affidavit quantifying interest — whether uncertainty surrounding ministerial publication of prescribed rate justifies declaratory relief — appeals dismissed with costs.

ORDER

On appeal from: Gauteng Division of the High Court, Pretoria (Van der Westhuizen J) and on appeal from the Western Cape Division of the High Court, Cape Town (Gassner AJ sitting as court of first instance), also sitting as a court of first instance:

The appeal in case number 268/2025 (the Sheriff matter):

1 The appeal is dismissed.

2 The appellant is ordered to pay the costs of the respondents who filed heads of argument in opposition to the appeal, on a party and party scale, such costs to include the costs of two counsel where so employed.

The appeal in case number 1182/2024 (the Stoffels matter):

1 The appeal is dismissed.

2 The appellant is ordered to pay the respondents' costs of the appeal, including the costs of two counsel where so employed, on Scale C.

JUDGMENT

Matojane JA (Keightley JA and Mabesele AJA concurring):

Introduction

[1] These two appeals concern whether the Road Accident Fund (the RAF) is liable to pay interest on the late payment of damages awarded to the plaintiffs (post-judgment interest), where the underlying court orders are silent on the subject of interest. They raise a common set of legal questions concerning the interaction between the Prescribed Rate of Interest Act 55 of 1975 (the PRIA) and the Road Accident Fund Act 56 of 1996 (the RAF Act), as well as the proper operation of the doctrine of *res judicata* in this context. Although they emanate from different high courts, the matters have been consolidated for hearing together.

[2] In *RAF v Sheriff and Others*, case no. 268/2025 (the Sheriff matter), the RAF sought two declaratory orders in the Gauteng Division of the High Court, Pretoria. The first was that writs of execution levying money against the RAF for interest not provided for in the relevant court order are invalid. The second was that any such writ must be accompanied by a sworn calculation setting out precisely how the interest claimed has been computed. The application was dismissed with costs by Van Der Westhuizen J on 17 September 2024. The court held that a judgment debt bears interest automatically, unless the order provides otherwise. The interest rate and the start date are determined *ex lege*, with interest on RAF debts commencing 14 days from the date of the court order in accordance with the RAF Act. The court held further that writs of execution based on interest so calculated were not unlawful. Leave to appeal was refused by the high court but granted by this Court on 26 February 2025.

[3] In *RAF v Stoffels,* case number 1182/2024 (the Stoffels matter), the respondents, Shireen Lynn Stoffels (Stoffels) and Lizelle Herold obo Leeam Spalding (Herold), claimed post-judgment interest on the awards of damages and costs. The RAF paid the capital amount but refused to pay any interest, contending that the court order was silent on interest. The Western Cape Division of the High Court, per Gassner AJ, found that s 2 of the Prescribed Rate of Interest Act 55 of 1975 (the PRIA) regulates post-judgment interest. A judgment debt automatically bears interest unless the court order states otherwise. The interest rate and start date are determined *ex lege*, and in RAF matters, interest runs from 14 days after the court order in terms of the RAF Act. The court held that writs of execution based on this interest were lawful. It further found that the RAF's budgeting and compliance with the Public Finance Management Act 1 of 1999 (the PFMA) relating to interest payments and procedures did not constitute an existing, future, or contingent right or obligation for purposes of a declaratory order under s 21(1)(*c*) of the Superior Courts Act 10 of 2013. [1] The RAF was granted leave to appeal to this Court on 14 October 2024.

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[1] Section 21(1)*(c)* reads:
'P**ersons over whom and matters in relation to which Divisions have jurisdiction**
(1) A Division has jurisdiction over all persons residing or being in, and in relation to all causes arising and all offences triable within, its area of jurisdiction and all other matters of which it may according to law take cognisance, and has the power-
(a) to hear and determine appeals from all Magistrates' Courts within its area of jurisdiction;
(b) to review the proceedings of all such courts;

[4] The central question common to both appeals is whether post-judgment interest on awards of unliquidated damages against the RAF is governed exclusively by s 2A(5) of the PRIA, such that no interest liability arises unless a trial court makes a specific order to that effect – or whether s 2(1) of the PRIA operates independently to impose an *ex lege* obligation to pay interest on every judgment debt, including those arising from unliquidated claims. For the reasons that follow, both appeals fall to be dismissed.

Background

The Stoffels matter

[5] Stoffels was injured in a motor vehicle accident on 21 October 2011. She successfully prosecuted her claim against the RAF and was awarded judgment on 5 February 2021 in the amount of R3 749 650.59, together with party and party costs. The Stoffels judgment is silent as to post-judgment interest on the damages awarded. The RAF only paid the judgment debt on 17 September 2021, some seven months after judgment.

[6] Herold instituted action in her representative capacity arising from a motor vehicle accident involving her son, Leeam Spalding, on 5 June 2014. Judgment was granted in her favour on 23 February 2021 in the amount of R4 403 735.00, together with costs. The Herold judgment likewise makes no express provision for post-judgment interest on the damages awarded. The RAF paid the capital judgment on 20 August 2021, approximately six months after judgment.

[7] In both the Stoffels and Herold summonses, the respondents claimed interest at the prevailing rate, calculated from the date of demand, alternatively from 14 days after the date of judgment to the date of final payment, together with interest on costs from the taxing master's allocatur to the date of payment. Neither judgment, however, incorporated any order for interest. Following the late payment of their judgment debts, the respondents' attorney demanded payment of interest on the late payment of the

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(c) in its discretion, and at the instance of any interested person, to enquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.'

damages awarded. The RAF declined, relying on what it variously described as a Treasury instruction and an internal directive to the effect that it would not pay interest arising from the late payment of an award of damages where the court order was silent on the subject.

[8] The respondents launched an application in the Western Cape High Court, Cape Town, seeking, first, an order directing the RAF to pay interest on the sum of damages awarded from 14 days after judgment to date of final payment, and second, a declaration that the RAF's internal directive was unlawful. The court a quo granted the first leg of the relief and dismissed the second leg. The RAF appeals against the orders directing payment of interest and costs. The respondents have not cross-appealed the dismissal of the declaratory relief relating to the directive.

The Sheriff matter

[9] In each of the matters placed before the high court by the RAF as examples of the alleged mischief it complains of, each matter followed the same pattern: the plaintiff's summons had included a prayer for interest; the action proceeded either by way of trial, default judgment or a settlement made an order of court; the resulting court order was silent on the question of interest; and thereafter the plaintiff's attorneys, relying on the PRIA and s 17(3)(*a*) of the RAF Act, instructed sheriffs to levy execution for an amount incorporating post-judgment interest arising out of the late payment of the amount of damages awarded. On occasion, the attorneys provided the sheriff with an indemnity to proceed with a sale of the RAF's assets.

[10] A further complaint by the RAF is that the prescribed rate of interest under the PRIA has fluctuated since the legislative amendments effected by the Judicial Matters Amendment Act 24 of 2015 (the 2015 Amendment), which took effect on 8 January 2016. Under the amended s 1 of the PRIA, the prescribed rate is linked to the repurchase rate as determined by the South African Reserve Bank (SARB), plus 3.5 per cent per annum. Section 1(2)(*b*) requires the Cabinet member responsible for the administration of justice to publish the amended rate in the Government Gazette whenever the repurchase rate is adjusted. Section 1(2)(*c*) provides that the amended rate takes effect from the first day of the second month following the month in which the SARB determines the repurchase rate. This was common cause between the

parties. It was further common cause that the Minister of Justice had, in practice, been dilatory in publishing these amendments, had in some instances published rates retroactively, had published incorrect rates, and had in certain cases withdrawn previous publications. For this reason, the RAF sought the second declaratory order described above. It contended that because it was difficult to determine the applicable prescribed rate of interest, the plaintiff should be required to depose to an affidavit clarifying the matter in each case in which it applies for a writ.

The Legislative Framework

[11] The RAF is a statutory body established under the RAF Act. It administers a fund derived from a fuel levy and compensates third parties who suffer losses resulting from the negligent operation of motor vehicles. It operates as a public entity and is subject to the PFMA.

[12] The following provisions of the PRIA are central to the determination of these appeals. Section 2(1) provides:

'Every judgment debt which, but for the provisions of this subsection, would not bear any interest after the date of the judgment or order by virtue of which it is due, shall bear interest from the day on which such judgment debt is payable, unless that judgment or order provides otherwise.'

[13] Section 2(3) defines judgment debt as:

'[A] sum of money due in terms of a judgment or an order, including an order as to costs, of a court of law, and includes any part of such a sum of money, but does not include any interest not forming part of the principal sum of a judgment debt.'

[14] Section 2A(1) of the PRIA, introduced by the Prescribed Rate of Interest Amendment Act 7 of 1997 with effect from 11 April 1997, deals with interest on unliquidated debts. Section 2A (1) provides that the amount of every unliquidated debt, as determined by a court, arbitrator, or agreement, shall bear interest as contemplated in s 1. Section 2A(5) further provides:

'Notwithstanding the provisions of this Act but subject to any other law or an agreement between the parties, a court of law, or an arbitrator or an arbitration tribunal may make such order as appears just in respect of the payment of interest on an unliquidated debt, the rate at which interest shall accrue and the date from which interest shall run.'

[15] Section 17(3)(*a*) of the RAF Act provides:

'No interest calculated on the amount of any compensation which a court awards to any third party by virtue of the provisions of subsection (1) shall be payable unless 14 days have elapsed from the date of the court's relevant order.'

The Issues

[16] As they emerged before this Court, the following issues require determination in the two matters:

(a) Whether judgment debts arising from court orders in RAF matters bear interest *ex lege* under s 2(1) of the PRIA in the absence of an express order for interest, or whether such interest can only arise pursuant to a specific court order under s 2A(5) of the PRIA.
(b) Whether s 17(3)(*a*) of the RAF Act modifies the position, and whether s 2A(5) of the PRIA applies to claims against the RAF.
(c) Whether the doctrine of *res judicata* precludes judgment creditors who prayed for interest in their summonses from subsequently claiming interest where the court order is silent on the subject.
(d) Whether post-judgment interest accrues *ex lege* on costs orders.
(e) Whether writs of execution for post-judgment interest are procedurally irregular absent an accompanying affidavit quantifying the interest.
(f) Whether the uncertainty surrounding the publication of the prescribed interest rate provides a basis for the declaratory relief sought.
(g) Whether the RAF's application for declaratory relief in the Sheriff matter was, in any event, competent.

I deal with each issue in turn.

Issue (a): Does post-judgment interest arise ex lege?

[17] This question is well settled. In *General Accident Versekeringsmaatskappy Suid-Afrika Beperk v Bailey N O* (*Bailey*)[2], the Appellate Division held that every judgment debt bears interest in terms of s 2(1) of the PRIA from the day on which such

[2] *General Accident Versekeringsmaatskappy Suid-Afrika Beperk v Bailey N O* 1988 (4) SA 353 (A) at 359C-E.

judgment debt is payable, irrespective of whether the judgment expressly provides for it, and that the section has done away with the common law requirement that a judgment creditor must include a specific claim for post-judgment interest in the summons. This was authoritatively confirmed in *Administrateur, Transvaal v JD van Niekerk en Genote BK*[3], where it was stated that interest on a judgment debt follows *ex lege* automatically unless expressly excluded. More recently, in *Steyn N O v Ronald Bobroff and Partners*,[4] this Court reiterated the same principle in unequivocal terms. I reaffirm that position.

[18] The RAF's central submission is that the introduction of s 2A in 1997 fundamentally altered this position in relation to unliquidated claims, it argued that a claim for compensation under the RAF Act is a claim for unliquidated damages, that the PRIA, as amended, now distinguishes between liquidated debts under s 2 and unliquidated debts under s 2A; and relying on *Davehill (Pty) Ltd and Others v Community Development Board (Davehill)*[5] that mora interest on an unliquidated debt is a species of damages. Accordingly, the RAF contends s 2A(5) now serves as the exclusive gateway for post-judgment interest on all such claims, with the effect that no liability arises unless a court makes a specific order directing the payment of interest at the applicable rate and the date from which interest runs.

[19] The submission conflates two fundamentally distinct categories of interest. Section 2A of the PRIA deals with pre-judgment interest on unliquidated claims, that is, interest that accrues from the date of demand or service of summons through to the date of judgment. Once the court has quantified the unliquidated claim and given judgment, the debt ceases to be unliquidated and becomes a judgment debt within the meaning of s 2(3) of the PRIA. Thereafter, it is s 2 not s 2A that governs the running of interest. As Gassner AJ observed, s 2A deals with interest in respect of unliquidated claims and must be read in the broader context of the Act as a whole, which regulates pre-judgment interest. It is not the appropriate mechanism for governing interest on a judgment debt that has already been granted.

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[3] *Administrateur, Transvaal v JD van Niekerk en Genote BK* 1995 (2) SA 241 (A) at 249G-H.
[4] *Steyn N O v Ronald Bobroff & Partners* [2012] ZASCA 184; [2013] 1 All SA 471 (SCA); 2013 (2) SA 311 (SCA) paras 32-38.
[5] *Davehill (Pty) Ltd and Others v Community Development Board* 1988 (1) SA 290 (A) at 300J-301E.

[20] The RAF's argument founders on the history and purpose of s 2A. As this Court noted in *Adel Builders (Pty) Ltd v Thompson*[6], before s 2A was introduced, there was no common law principle or statutory enactment that provided for pre-judgment interest on unliquidated damages. The law was regarded as unsatisfactory because plaintiffs received damages in depreciated currency and were unable to recover the loss occasioned by the passage of time between the accident and judgment.[7] The section was accordingly designed to address the position of plaintiffs awaiting judgments, and it created a new statutory entitlement to pre-judgment interest. There is no indication in the text, the legislative history, or in any case decided under s 2A, that Parliament intended simultaneously to restrict or displace the well-established *ex lege* entitlement to post-judgment interest under s 2.[8]

[21] Furthermore, s 2A(5) is a permissive, not a mandatory, provision. It empowers a court to make such an order as appears just in relation to interest on an unliquidated debt. The sub-section does not compel a court to make any such order, nor does it provide that interest only arises where such an order is made. To read s 2A(5) as imposing a mandatory precondition to post-judgment interest liability would be to contradict both the plain language of s 2(1), which imposes interest *ex lege* absent an order to the contrary, and the liberal construction mandated by the purposive approach to statutory interpretation affirmed in *Natal Joint Municipal Pension Fund v Endumeni Municipality*.[9] The discretion in s 2A(5) exists to enable courts to craft fact-specific pre-judgment interest awards that depart from the default in s 2A(2)(*a*). It has never been understood in reported case law as a provision requiring courts to enter a positive order before post-judgment interest becomes payable.

[22] The RAF's reliance on *Davehill* to show that mora interest is a species of damages and therefore an unliquidated claim does not advance its case. The court in *Davehill* was dealing with interest on unpaid statutory interest. The question was

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[6] *Adel Builders (Pty) Ltd v Thompson* [2000] ZASCA 167; [2000] 4 All SA 341 (A); 2000 (4) SA 1027 (SCA) para 11.
[7] *SA Eagle Insurance Co Ltd v Hartley* [1990] ZASCA 106; 1990 (4) SA 833 (AD); [1990] 2 All SA 616 (A) at 841G-842B.
[8] *Drake Flemmer and Orsmond Inc and Another v Gajjar N O* [2017] ZASCA 169; [2018] 1 All SA 344 (SCA); 2018 (3) SA 353 (SCA) paras 62 - 63.
[9] *Natal Joint Municipal Pension Fund v Endumeni Municipality* [2012] ZASCA 13; [2012] 2 All SA 262 (SCA); 2012 (4) SA 593 (SCA) para 18.

whether compound interest was permissible, and the characterisation of mora interest as a species of damages in that context goes to its substantive nature, not to whether s 2A(5) applies to post-judgment interest on RAF compensation awards. The passage in *Davehill*[10] relied upon by the RAF, in which Smalberger JA discussed s 1(1) of the PRIA, addressed the fixing of the interest rate at the time interest begins to run, a matter that does not bear upon the question now before this Court.

[23] There is no principled reason to differentiate between creditors whose judgment debts arose from liquidated claims and those whose debts arose from unliquidated ones. Once judgment has been given, the creditor's position is equally certain regardless of the nature of the pre-judgment claim, and a fixed sum is due and payable. The identity of the pre-judgment claim from which the judgment debt derives is irrelevant to the analysis from that point forward. The RAF's construction would create an arbitrary two-tier system of post-judgment interest, conferring the protection of s 2(1) upon holders of judgments for liquidated debts while denying it to holders of judgments for unliquidated debts, a distinction that Parliament did not make and that this Court should not import.

[24] Once a court has quantified and awarded compensation to a road accident claimant, the award constitutes a judgment debt. Post-judgment interest on that debt runs *ex lege* by virtue of s 2(1) of the PRIA. The court need not, and typically does not, make an express order for such interest. This has been the consistent position in our law, and I see no basis to depart from it.

Issue (b): Section 17(3)(a) of the RAF Act and the applicability of s 2A(5)

[25] Section 17(3)(*a*) of the RAF Act modifies the general position by imposing a grace period: no interest on compensation awarded by a court is payable until 14 days have elapsed from the date of the court order. This provision has been construed, consistently and correctly, as meaning that the mora date in RAF matters is deferred to the day on which 14 days have elapsed from the date of judgment. In *Vermaak v Road Accident Fund*,[11] it was held that interest does not accrue during the 14 days

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[10] *Davehill* at 300J-301E.
[11] *Vermaak v Road Accident Fund* 2008 JDR 0249 (C*);* [2008] ZAWCHC 12 para 24.

and only commences thereafter. That interpretation was endorsed in *Kwezi obo Kwezi v RAF*.[12]

[26] The two provisions are consistent: s 17(3)(*a*) of the RAF Act fixes the mora date. Section 2(1) of the PRIA imposes an obligation to pay interest and specifies the rate. Section 2A has no role to play in this matrix. It does not apply to post-judgment interest on RAF compensation awards. Specifically in the context of RAF litigation, s 17(3)(*a*) provides its own tailored departure from the general default by deferring the commencement of interest. This provision functions as a specific modification of the *ex lege* position under s 2(1) of the PRIA; it defers, rather than extinguishes, the interest liability and accordingly contemplates, and is consistent with, the continued operation of s 2 of the PRIA in RAF matters.

[27] This Court in *Drake Flemmer and Orsmond Inc and Another v Gajjar N O*[13] noted, albeit obiter, that s 17(3)(*a*) of the RAF Act may have precluded the recovery of pre-judgment interest, which would necessarily exclude the operation of s 2A of the PRIA in RAF matters. I find it unnecessary to go further than this in the present matters, since we are concerned only with post-judgment interest.

[28] It follows that the applicable legal position in RAF matters is clear: post-judgment interest runs *ex lege* under s 2(1) of the PRIA, read with s 17(3)(*a*) of the RAF Act, from 14 days after the date of the court order, at the prescribed rate in force at the time interest begins to run. The RAF's primary ground of appeal in both matters is that s 2A(5) exclusively governs post-judgment interest on unliquidated RAF awards and that no liability arises absent a specific court order; that ground must accordingly fail.

Issue (c): Res judicata

[29] The RAF's alternative argument is that the respondents' claims for post-judgment interest are precluded by *res judicata*. It submits that interest was a pleaded issue in the respective summonses, that the respondents obtained their trial court

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[12] *Kwezi obo Kwezi v Road Accident Fund* (6767/2008) [2011] ZAWCHC 455 paras 17 and 21.
[13] *Drake Flemmer and Orsmond Inc and Another v Gajjar N O* para 66.

orders without interest being awarded, and that they cannot now relitigate that issue in separate proceedings. The RAF rely on *Custom Credit Corporation (Pty) Ltd v Shembe* (*Custom Credit Corporation*)[14] for the core principle of *res judicata*, that the law requires a party to claim all remedies from a single cause of action in 'one and the same action' to prevent discordant decisions from multiple suits on the same matter. A similar argument was advanced in respect of the underlying claimants in the Sheriff matter.

[30] This argument, too, must fail. As I have held above, post-judgment interest under s 2(1) of the PRIA arises *ex lege*. It is not the product of a specific adjudication; it is a legal consequence that flows automatically from the grant of judgment. The fact that the trial court was silent on interest is entirely consistent with the *ex lege* position; silence neither constitutes an adjudication of the interest claim nor implies that the court determined that no interest would accrue. An order varying the *ex lege* position would be required before one could conclude that the trial court had adjudicated the matter adversely to the judgment creditor. No such order was made in either the Stoffels or Herold judgments, nor in any of the underlying matters in the Sheriff appeal.

[31] As Gassner AJ stated in the court below in the Stoffels matter:

'The *res judicata* defence, in my view, is misconceived. Based on *Bailey,* the applicants, under s 2 of the PRIA, were entitled to post-judgment interest as a matter of law and did not need to include a claim for such interest in their summons. No adjudication was required to found their entitlement to interest on the judgment debt, which, in terms of the definition in s 2(3), also includes an order as to costs. The Stoffels and the Herold judgments are silent as to interest either on the judgment debt or in respect of costs and did not include an order varying the *ex lege* position provided for in s 2 of the PRIA. Given that s 2 of the PRIA provides that post-judgment interest runs, *ex lege*, unless the court orders otherwise, it cannot be inferred that the court adjudicated on post-judgment interest.'

I agree with that reasoning.

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[14] *Custom Credit Corporation (Pty) Ltd v Shembe* 1972 (3) SA 462 (AD) at 472A-B. This position was confirmed by the Constitutional Court in *MV Wisdom C: United Enterprises Corporation v STX Pan Ocean CO Ltd* 2008 (1) SA665 (C) para 11 and reaffirmed by this Court in *Premier, Western Cape NO v Kiwietz* [2017] ZASCA 41; 2017 (4) SA
202 (SCA) para 8.

[32] The RAF relies on the circumstance that the respondents had included interest prayers in their summonses and did not obtain judgment thereon. But, as this Court confirmed in *Bailey*, a judgment creditor need not claim post-judgment interest in the summons at all; it arises *ex lege* by virtue of s 2(1). The inclusion of such a prayer in the summons does not transform the interest entitlement into a cause of action requiring adjudication in the action, and the absence of a positive interest order does not amount to an adverse determination. Courts routinely grant damages orders without expressly addressing interest, not because they have found interest to be impermissible, but because the law already provides for it.

[33] For the RAF's argument to succeed, it would need to be shown that the court was asked to determine whether post-judgment interest should be excluded and declined to do so. None of the relevant orders contains a provision excluding interest. An order that is simply silent on interest is not a determination that no interest is payable. The conclusion reached by the full court in *Saunders N O v MEC of the Department of Health: Limpopo Province*,[15] on materially similar facts, is correct, and I endorse it.

Issue (d): Interest on costs orders

[34] The definition of judgment debt in s 2(3) of the PRIA expressly includes an order as to costs. Post-judgment interest on costs orders therefore follows the same *ex lege* regime as interest on the capital award. The court a quo in the Stoffels matter correctly held that interest on the taxed costs in the Stoffels action runs from 14 days after the date of the taxing master's allocatur, and that interest on the settled costs in the Herold action runs from 14 days after the date on which the costs were settled by agreement, namely 24 March 2022, as recorded in the letter signed by the parties' representatives.

[35] The RAF raised a technical argument that the court a quo incorrectly ordered interest from 14 days after the relevant orders, rather than from the fifteenth day after those orders, contending that liability can only arise once 14 days have elapsed. This distinction is without practical significance. Section 17(3)(*a*) provides that no interest shall be payable unless 14 days have elapsed. The court a quo's formulation, from

[15] *Saunders N O v MEC of the Department of Health: Limpopo Province* 2015 JDR 1020 (GP) para 28.

14 days after the date of the court order, achieves a materially identical result. I do not regard this as a ground for interfering with the orders made.

Issue (e): The requirement for a supporting affidavit

[36] In the Sheriff matter, the RAF's second declaratory sought an order that all writs of execution for post-judgment interest be accompanied by a sworn calculation setting out how the interest has been computed. The RAF relied on *Butchart v Butchart (Butchart I)*[16] and Butchart v Butchart (Butchart II)[17],[18] in support of the proposition that the registrar may require an affidavit from a judgment creditor before issuing a writ where the amount is not immediately discernible from the order itself.

[37] The cases relied upon are readily distinguishable. Both *Butchart* decisions dealt with court orders that imposed obligations expressed in terms that required factual inquiry before quantification, reasonable medical expenses in one instance, periodic rentals in another. In that context, requiring an affidavit served as a means of ascertaining the money sum for which a writ may validly be issued. Post-judgment interest at the prescribed rate on a known capital sum, calculated from a date fixed by statute, is not in the same category. The interest calculation follows from the face of the order (the capital and costs awarded), from the statute (the 14-day mora date

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[16] *Butchart v Butchart* 1996 (2) SA 581 (W) (*Butchart I)* at 585D-E.

[17] *Butchart v Butchart* 1997 (4) SA 108 (W) (*Butchart II)* at 112 B-G, 'where, on appeal, the full court reaffirmed this position and held that '[a] writ of execution cannot validly be issued for an arbitrary sum. Some proper means must be established for determining the money sum for which a writ may validly be issued for the judgment creditor's reasonable medical expenses . . . The judgment creditor must file with the Registrar an affidavit proving the medical expenses reasonably incurred; the writ may then validly include the amount so proved by the judgment creditor, and the affidavit of the judgment creditor must be served on the judgment debtor together with the writ. This procedure will ensure (a) the required certainty of the amount due under the judgment for purposes of the writ; and (b) that the judgment debtor has a fair opportunity to consider whether the amount included in the writ in respect of medical expenses was indeed within the terms of the judgment, and, if he considers that it was not, to approach the Court for appropriate relief.'

[18] *Butchart v Butchart* 1996 (2) SA 581 (W) (Butchart I) at 585D-E. See also *Butchart v Butchart* 1997 (4) SA 108 (W) (Butchart II) at 112 B-G, 'where, on appeal, the full court reaffirmed this position and held that '[a] writ of execution cannot validly be issued for an arbitrary sum. Some proper means must be established for determining the money sum for which a writ may validly be issued for the judgment creditor's reasonable medical expenses . . . The judgment creditor must file with the Registrar an affidavit proving the medical expenses reasonably incurred; the writ may then validly include the amount so proved by the judgment creditor, and the affidavit of the judgment creditor must be served on the judgment debtor together with the writ. This procedure will ensure (a) the required certainty of the amount due under the judgment for purposes of the writ; and (b) that the judgment debtor has a fair opportunity to consider whether the amount included in the writ in respect of medical expenses was indeed within the terms of the judgment, and, if he considers that it was not, to approach the Court for appropriate relief.'

under s 17(3)(*a*) of the RAF Act), and from the prescribed rate in force at the time interest begins to run. It is, as the court a quo correctly found, readily determinable by simple arithmetic. There is no genuine indeterminacy of the kind that required evidential supplementation in *Butchart*.

[38] Moreover, there is a fundamental practical objection to the relief sought. The RAF has consistently been found to be dilatory in paying judgment debts. Interest on a judgment debt runs until the date of payment. At the time a writ is issued, the payment date is unknown. An affidavit calculating interest to the date of issuing the writ will therefore always be stale by the time execution is levied, creating precisely the uncertainty the RAF professes to wish to avoid.

[39] The Uniform Rules of Court do not prescribe this requirement. Uniform rule 45(1) provides for the issue of writs in conformity with Form 18. There is no provision in the Rules requiring an affidavit to accompany a writ for post-judgment interest. Courts should be slow to impose procedural requirements for which there is no legislative basis, particularly where the practical effect would be to place further obstacles in the path of judgment creditors. The second declaratory is accordingly refused.

Issue (f): The prescribed rate and ministerial publication

[40] The RAF advanced, as a separate basis for its application in the Sheriff matter, the confusion arising from the Minister of Justice's erratic publication of the prescribed rate of interest. The schedule placed before the high court reveals the following pattern: publications made late; rates published that differ from those calculable under s 1(2)(*c*); retrospective adjustments; and withdrawals of previous notices.

[41] I acknowledge that the manner in which the Minister has exercised the publication obligation under s 1(2)(*b*) of the PRIA has been far from satisfactory. However, the proper answer to the Minister’s failure to comply with the publication obligation in publishing rate amendments is not to require every court seized with an RAF matter to embark upon an inquiry into which rate is applicable. As was held in *SN*

v Road Accident Fund[19], the rate contemplated in s 1(2)(*a*), the repurchase rate plus 3.5 per cent, is not dependent upon the Minister's publication for its operation. Section 1(2)(*c*) links the effective date of the prescribed rate to the SARB determination, not to the date of ministerial publication. The failure to publish does not have the effect of freezing the rate at its last published value indefinitely.

[42] The reasoning in *SN v Road Accident Fund is* persuasive. The repurchase rate, determined by the SARB, is a public and readily ascertainable fact. The prescribed rate takes effect on the first day of the second month following the SARB's determination, by force of the statute itself. The Minister's publication serves a confirmatory and informational function; the statute requires it, and its neglect is properly the subject of complaint directed at the executive. But the absence of timely publication does not create a lacuna that can only be filled by express judicial direction in each RAF matter. The rate is ascertainable; the calculation is straightforward.

[43] This position is equally applicable in the Stoffels matter. Section 1 of the PRIA, as amended by the 2015 Amendment, ties the prescribed rate to the repurchase rate as determined by the SARB, plus 3.5 per cent per annum. The mechanism for ascertaining the applicable rate is statutory and, in any given case, capable of objective determination with reference to published sources. To require courts to determine and fix the rate in every judgment would be to substitute judicial for statutory administration of a matter that Parliament has deliberately entrusted to a regulatory framework.

[44] An order directing payment of interest at the rate prescribed in s 1 of the PRIA, without specifying a numeric rate, is workable, unambiguous and compliant with the statute. The observations of the court a quo in the Stoffels matter, drawing on the form of the interest order approved by this Court in *Langley Fox Building Partnership (Pty) Ltd v De Valence*[20]*,* are apposite. If a dispute subsequently arises as to the applicable rate for a particular period, that dispute may be resolved, if need be, by way of an affidavit or supplementary inquiry into the relevant Gazette notices. That is not a

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[19] *SN v Road Accident Fund* 2022 JDR 1053 (GP) para 22.
[20] *Langley Fox Building Partnership (Pty) Ltd v De Valence* [1990] ZASCA 128; 1991 (1) SA 1 (A); [1991] 3 All SA 736 (AD)at 16A-C.

reason to encumber every judgment debt with an interest determination of a kind that Parliament has not prescribed. The RAF's complaint on this ground, in both matters, must fail.

Issue (g): The competence of declaratory relief in the Sheriff matter

[45] A court may grant a declaratory order under s 21(1)(*c*) of the Superior Courts Act 10 of 2013, if a person has an interest in an existing, future or contingent right or obligation. The RAF clearly has an interest in its financial exposure to post-judgment interest claims. The existence of genuine legal disputes over the validity of levying interest under writs that do not reference a court order for interest is apparent from the volume of litigation on this topic across multiple divisions. The RAF's application in the Sheriff matter was procedurally competent, and the RAF had a sufficient interest to establish standing. Still, the declaratory orders sought were not justified on the merits.

The indemnification of sheriffs

[46] The RAF's contention in the Sheriff matter is that the practice of attorneys furnishing sheriffs with indemnities to proceed with the auction is unlawful and constitutes an independent ground for relief. Uniform rule 45(3) of the Uniform Rules permits an execution creditor to indemnify a sheriff against a claim to seized property by a third party who asserts a competing right. Uniform rule 45(7)(*b*) permits an indemnity in the context of perishable goods. Neither provision sanctions a general indemnity enabling a sheriff to conduct a sale in execution of the RAF's non-perishable assets in the absence of a valid underlying right to levy execution.

[47] I agree that an indemnity given to a sheriff to override the absence of a lawful basis for execution would be irregular. The question of whether a particular indemnity was improperly furnished depends on the facts of each case, not on any general proposition that indemnities in RAF execution proceedings are per se unlawful. As I have found, post-judgment interest arises *ex lege* and writs for such interest are valid. There is thus no legal basis for the RAF's submission that all indemnities in RAF matters are irregular. If the RAF has a complaint that a specific writ or indemnity is irregular, for other reasons, its remedy lies in a rule 30 application directed at it.

The Rule 30 alternative in the Sheriff matter

[48] The RAF sought, as an alternative to the declaratory relief in the Sheriff matter, leave to pursue rule 30 applications in respect of the specific matters identified in case number 026960/2022. rule 30 provides a mechanism to set aside an irregular step in proceedings and prescribes strict time limits. The RAF has not demonstrated compliance with these time limits, has not shown good cause for the relaxation of the time frames under rule 27, and has not made out the primary premise for such applications that the relevant writs are irregular. The alternative relief is accordingly refused.

Costs

[49] The RAF has failed on the merits in both appeals. Several respondents urged this Court to impose a punitive costs order on the basis that the appeals were an abuse of process or were prosecuted without reasonable prospects of success. I am not satisfied that the threshold for a punitive costs order is met in either case. The questions raised by the RAF about the proper interpretation of the PRIA amendments and their interaction with RAF legislation are not devoid of substance, even if the existing authorities strongly disfavoured the RAF's position. The inconsistency in ministerial compliance with the publication obligation has created genuine uncertainty in practice, and there was, I accept, a legitimate systemic interest in obtaining a definitive pronouncement from this Court on questions that have generated extensive and conflicting High Court litigation. For these reasons, I decline to award attorney and own client costs.

Orders

[50] The following orders are made:

The appeal in case number 268/2025 (the Sheriff matter):

1 The appeal is dismissed.

2 The appellant is ordered to pay the costs of the respondents who filed heads of argument in opposition to the appeal, on a party and party scale, such costs to include the costs of two counsel where so employed.

The appeal in case number 1182/2024 (the Stoffels matter):

1 The appeal is dismissed.

2 The appellant is ordered to pay the respondents' costs of the appeal, including the costs of two counsel where so employed, on Scale C.

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JUDGE OF APPEAL

Appearances

In the appeal in case number 268/2025 (the Sheriff matter)

For the appellant:	G Naude SC and M M Moodley
Instructed by:	Malatjie & Co Attorneys, Sandton
	Honey Attorney, Bloemfontein
For the twelfth intervening respondent:	D Keet
Instructed by:	Van Dyk Steenkamp Attorneys, Roodeplaat
	Symington De Kok Inc, Bloemfontein
For the thirteenth to the twenty-third intervening respondents:	F Ferguson
Instructed by:	Adams & Adams, Pretoria
	Spangenberg Zietsman & Bloem Attorneys, Bloemfontein
For the twenty-fourth to twenty-fifth intervening respondents:	B P Geach and P van der Schyf
Instructed by:	Roets & Van Rensburg Inc., Pretoria
	Makubalo Attorneys, Bloemfontein
For the twenty-sixth and twenty-seventh intervening respondents	M Snyman, SC and Kehrhahn
Instructed by:	Roets & Van Rensburg Inc., Pretoria
	Makubalo Attorneys, Bloemfontein

In the appeal in case number 1182/2024 (the Stoffels matter), for the appellant:

	G Naude SC and M Moodley
Instructed by:	Malatjie & Co Attorneys, Sandton
	Honey Attorney, Bloemfontein
For the respondent:	P K EIA

Instructed by:	A Bachelor & Associates, Cape Town
	McIntyre Van Der Post, Bloemfontein.