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OF
SOUTH AFRICA



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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE DEPARTMENT VAN JUSTISIE

No. R. 961

11 July 1997

AMENDMENT OF THE RULES FOR THE CONDUCT OF PROCEEDINGS IN THE LABOUR COURT

The Rules Board for Labour Courts has, in terms of section 159 (3) of the Labour Relations Act, 1995 (Act No. 66 of 1995), made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules published under Government Notice No. 1665 of 14 October 1996.

Amendment of rule 4 of the Rules

2. Rule 4 of the Rules is hereby amended—

(a) by the addition to subrule (1) (a) of the following subparagraph:

"(vii) by sending a copy of the document by registered post to the last-known address of the party concerned, and, unless the contrary is proved, it will be presumed that service was effected on the seventh day following the day on which the document was posted."; and

(b) by the addition to subrule (2) of the following paragraph:

"(e) by producing the certificate issued by the post office for the posting of the registered letter and an affidavit that the letter posted contained the document concerned."

Amendment of rule 6 of the Rules

3. Rule 6 of the Rules is hereby amended—

(a) by the substitution for subparagraph (iv) of subrule (1) (a) of the following subparagraph:

“(iv) a notice advising the other party that if that party intends opposing the matter, a response must be delivered in terms of subrule (3) within 14 days of service of the statement of claim, failing which the matter may be set down for default judgment and an order for costs may be granted against that party;” and

(b) by the substitution for paragraph (a) of subrule (4) of the following paragraph:

“(a) When a response is delivered, the parties to the proceedings must hold a pre-trial conference in terms of paragraph (b) within 14 days of the date of delivery of the response.”.

Amendment of rule 7 of the Rules

4. Rule 7 of the Rules is hereby amended—

(a) by the addition to the footnote to the rule of the following item:

“16. referral of a contempt of the Commission in terms of section 142 (9).”; and

(b) by the substitution in subrule (2) for the words preceding paragraph (a) of the following words:

“(2) The notice of application must substantially comply with Form 4 and must be signed by the party bringing the application. The application must be delivered and must contain the following information—”.

Amendment of rule 8 of the Rules

5. Rule 8 of the Rules is hereby amended by the addition of the following subrule:

“(1 O) Unless otherwise ordered a respondent may anticipate the return date of an interim interdict on not less than 48 hours’ notice to the applicant and the registrar.”.

Amendment of rule 76 of the Rules

6. Rule 16 of the Rules is hereby amended by the substitution for subrule (1) of the following subrule:

“(1) If no response has been delivered within the prescribed time period or any extended period granted by the court within which to deliver a response, the registrar must, on notice to the parties, enrol a matter for judgment by default—

(a) if requested to do so by any party that has initiated the proceedings; or

(b) if directed to do so by a judge in terms of rule 6 (5) (a).”.

Insertion of rule 22A

7. The following rule is hereby inserted as rule 22A:

“Offer of settlement

22A. (1) If a sum of money or the performance of some act is claimed in any proceedings, any party against whom the **claim** is made may at any time make an offer, in writing, to settle the claim or to perform the act.

(2) Notice of any offer in terms of this rule must be signed by the party who makes it and delivered to all other parties to the proceedings. The notice must state-

(a) whether it is unconditional or without prejudice as an offer of settlement;

(b) whether it is accompanied by an offer to pay all or only part of the costs of the party to whom the offer is made;

- (c) whether the offer is made by way of settlement of both claim and costs or of the claim only; or
- (d) whether the other party disclaims liability for the payment of costs or part of the costs, in which case the reasons must be given.

(3) An applicant may accept any offer made in terms of subrule (2) by delivering a notice of acceptance., of the offer. The notice must be delivered within 14 days after the receipt of the offer, or thereafter with the written consent of the other party or in terms of an order of court.

(4) In the event of a failure to pay or to perform within seven days after delivery of the notice of acceptance of the offer, the party entitled to payment or performance may, on seven days' written notice to the party who has failed to pay or perform, apply for judgment in accordance with the offer, and for the costs of the application.

(5) If an offer accepted in terms of this rule is not stated to be in satisfaction of an applicant's claim and costs, the party to whom the offer is made may apply to the court, on seven days' written notice to the other party, for an order for costs.

(6) An offer made in terms of this rule is not a secret offeror tender and may be disclosed to the court at any time.

(7) Any offer may be taken into account by the court in making an order for costs.”.

Insertion of rule 22B

8. The following rule is hereby inserted as rule 22B:

“Pagination

22B. (1) In all opposed proceedings, including applications for urgent relief, the documents that are filed with the registrar must be paginated by the party initiating the proceedings.

(2) The party initiating the proceedings must compile and deliver an index before the matter is heard.

(3) The parties must ensure that their copies of the documents filed with the registrar are paginated in accordance with the index.”.

Amendment of rules 24 (3), 26 and 31 of the Rules

9. Rules 24 (3), 26 and 31 of the Rules are hereby amended by the substitution for the expression “Supreme Court” of the expression “High Court” wherever it occurs.

Amendment of rule 30 of the Rules

10. Rule 30 of the Rules is hereby amended—

- (a) by the substitution in subrule (2) for the expression “14 days” of the expression “21 days”;
- (b) by the deletion of subrules (4), (5), (6) and (7); and
- (c) by the addition to the footnote to the rule of the following words:

“See rule 5 of the Rules of the Labour Appeal Court for the procedure to be followed after leave to appeal has been granted.”.

Addition of Form 4 to the Rules

11. The following form is hereby added as Form 4:

" FORM 4

IN THE LABOUR COURT OF SOUTH AFRICA

(Held at

Case No.

In the matter between—

..... Applicant

and

..... Respondent

NOTICE OF APPLICATION

TAKE NOTE THAT the applicant intends applying to the above Honorable Court at a date and time fixed by the registrar for an order in the following terms:

.....
.....
.....

AND TAKE NOTE THAT the applicant appoints as applicant's representative in this matter.

AND TAKE NOTE THAT the applicant will accept service of all the proceedings in the above matter at the address of the offices of applicant's representative, which is set out below.

AND TAKE NOTE FURTHER THAT the affidavit of will be used in support of the application.

Signed and dated at this day of 19

Applicant's representative

Address

Tel.

Fax

Ref

TO:

THE REGISTRAR OF THE LABOUR COURT

Address

Tel

Fax

Ref

AND TO:

.....
 Respondent's representative
 Addres.....

 Tel.....
 Fax.....
 Ref.,.....

Received copy hereof on this day of9....

.....
 For respondent

Commencement

12. These rules shall come into operation on 11 July 1997.

No. R. 961

11 Julie 1997

WYSIGING VAN DIE REELS WAARBY DIE VOER VAN VERRIGTINGE IN DIE ARBEIDSHOF GEREËL WORD

Die Reëlsraad vir Arbeidshowe het kragtens artikel 159 (3) van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), die reels in die Bylae gemaak.

BYLAE

Woordoms krywing

1. In hierdie reels beteken "die Reels" die reels uitgevaardig by Goewermentskennisgewing No. 1665 van 14 Oktober 1996.

Wysiging van reel 4 van die Reels

2. Reel 4 van die Reels word hierby gewysig—

(a) deur die volgende subparagraaf by subreël (1) (a) te voeg:

"(vii) deur 'n afskrif van die dokument per aangetekende pos aan die laaste bekende adres van die betrokke party te stuur, en, tensy die teendeel bewys word, sal daar aanvaar word dat betekening geskied het op die sewende dag na die dag waarop die dokument gepos is."; en

(b) deur die volgende paragraaf by subreël (2) te voeg:

"(e) deur voorlegging van 'n sertifikaat deur die poskantoor uitgereik vir die pos van die aangetekende brief en 'n beedigde verklaring dat die brief wat gepos is, die betrokke dokument bevat bet.".

Wysiging van reel 6 van die Reels

3. Reel 6 van die Reels word hierby gewysig—

(a) deur subparagraaf (iv) van subreël (1) (a) deur die volgende subparagraaf te vervang:

"(iv) 'n kennisgewing wat die ander party in kennis stel dat indien daardie party van voornemens is om die aangeleentheid te bestry, 'n antwoord ingevolge subreël (3) binne 14 dae na betekening van die uiteensetting van eis afgelewer moet word, by gebreke waarvan die aangeleentheid ter rolle geplaas kan word vir vonnis by verstek en 'n kostebevel teen daardie party toegestaan kan word;"; en

(b) deur paragraaf (a) van subreël (4) deur die volgende paragraaf te vervang:

“(a) As ‘n antwoord **afgelewer** word, meet die partye by die verrigtinge ‘n voorverhoorkonferensie **ingevolge** subparagraaf (b) hou binne 14 dae na die datum waarop die antwoord **afgelewer** is.”.

Wysiging van reel 7 van die Reels

4. Reel 7 van die Reels word hierby gewysig—

(a) deur die volgende item by die voetnoot tot die reel te voeg:

“16. **verwysing** van ‘n **minagting** van die Kommissie **ingevolge** artikel 142 (9).”; en

(b) deur in subreël (2) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

“(2) Die kennisgewing van aansoek meet wesenlik aan Vorm 4 voldoen en meet deur die party wat die aansoek bring, onderteken word. Die aansoek meet **afgelewer** word en meet die volgende inligting bevat”.

Wysiging van reel 8 van die Reels

5. Reel 8 van die Reels word hierby gewysig deur die volgende subreël by te voeg:

“(I O) Tensy anders gelas, kan ‘n respondent die keerdatum van ‘n tussentydse interdik vervoeg by kennisgewing van nie minder nie as 48 uur aan die applikant en die registrateur.”.

Wysiging van reel 16 van die Reëls

6. Reel 16 van die Reels word hierby gewysig deur subreël (1) deur die volgende subreël te vervang:

“(1) Indien geen antwoord binne die voorgeskrewe tydperk, of enige verlenging daarvan toegestaan deur die hof waarbinne ‘n antwoord **afgelewer** meet word, **afgelewer** word nie, meet die griffier, by kennisgewing aan die partye, ‘n aangeleentheid ter rolle plaas vir vonnis by verstek—

(a) indien deur enige party wat met die verrigtinge begin bet, daartoe versoek; of

(b) indien deur ‘n regter daartoe gelas **ingevolge** reel 6 (5) (a).”.

Invoeging van reel 22A

7. Die volgende reel word hierby as reel 22A ingevoeg:

“Skikkingsaanbod

22A. (1) Indien daar by enige verrigtinge ‘n bedrag geld of die uitvoer van ‘n handeling geëis word, kan enige party teen wie die eis gemaak word, te eniger tyd ‘n skriftelike aanbod maak om die eis te skik of die handeling uit te veer.

(2) Kennisgewing van enige aanbod **ingevolge** hierdie reel meet deur die party wat dit maak, onderteken word en aan al die ander partye by die verrigtinge **afgelewer** word. Die kennisgewing meet **vermeld**—

(a) of dit onvoorwaardelik of met voorbehoud van regte as ‘n skikkingsaanbod is;

(b) of dit gepaard gaan met ‘n aanbod om alle of slegs ‘n gedeelte van die koste te betaal van die party aan wie die aanbod gemaak word;

(c) of die aanbod gemaak word ter **skikking** van die eis sowel as die koste, of van slegs die eis;

(d) of die ander party aanspreeklikheid vir betaling van die koste of ‘n gedeelte van die koste ontken, in welke geval redes aangevoer meet word.

(3) ‘n Applikant kan enige aanbod **ingevolge** subreël (2) gemaak, **aanvaar** deur ‘n kennisgewing van **aanvaarding** van die aanbod af te **lewer**. Die kennisgewing meet binne 14 dae na **aanvaarding** van die aanbod **afgelewer** word, of daarna met die **skriftelike** toestemming van die ander party of **ingevolge** ‘n hofbevel.

(4) In die geval van **wanbetaling** of wanprestasie binne sewe dae nadat die kennisgewing van **aanvaarding** van die aanbod **afgelewer** is, kan die party wat op **betaling** of prestasie **geregtig** is, by **skriftelike** kennisgewing van sewe dae aan die party wat **wanbetaal** of wanpresteer bet, aansoek doen om vonnis in ooreenstemming met die aanbod, en om die koste van die aansoek.

(5) Indien daar nie aangedui word dat 'n aanbod aanvaar ingevolge hierdie reel aan 'n applikant se eis en koste voldoen nie, kan die party aan wie die aanbod gemaak word, by kennisgewing van sewe dae aan die ander party, by die hof aansoek doen om 'n kostebevel.

(6) 'n Aanbod gemaak ingevolge hierdie reel, is nie 'n geheime aanbod of tender nie en kan te eniger tyd aan die hof bekend gemaak word.

(7) Enige aanbod kan deur die hof in aanmerking geneem word by die gee van 'n kostebevel."

Invoeging van reel 22B

8. Die volgende reel word hierby as reel 22B ingevoeg:

"Paginering

22B. (1) In alle bestrede verrigtinge, insluitend aansoeke om dringende regshulp, meet die dokumente wat by die griffier geliasseer word, deur die party wat met die verrigtinge begin bet, gepagineer word.

(2) Die party wat met die verrigtinge begin, meet 'n indeks opstel en aflewer voor die aangeleentheid aangehoor word.

(3) Die partye meet verseker dat hulle afskrifte van die dokumente wat by die griffier geliasseer is, in ooreenstemming met die indeks gepagineer word."

Wysiging van reels 24 (3), 26 en 31 van die Reels

9. Reels 24 (3), 26 en 31 van die Reels word hierby gewysig deur die uitdrukking "Supreme Court" deur die uitdrukking "High Court" te vervang waar dit voorkom.

Wysiging van reel 30 van die Reels

10. Reel 30 van die Reels word hierby gewysig—

(a) deur in subreël (2) die uitdrukking "14 dae" deur die uitdrukking "21 dae" te vervang;

(b) deur subreels (4), (5), (6) en (7) te skrap; en

(c) deur in die voetnoot tot die reel die volgende woorde by te voeg:

"Sien reel 5 van die Reels van die Arbeidsappelhof vir die prosedure wat gevolg moet word nadat verlof tot appèl toegestaan is."

Byvoeging van Vorm 4 tot die Reëls

11. Die volgende vorm word hierby as Vorm 4 bygevoeg:

" V O R M 4

IN DIE ARBEIDSHOF VAN SUID-AFRIKA

(Gehou te

Saak No.

In die aangeleentheid tussen—

..... **Applikant**

en

..... **Respondent**

KENNISGEWING VAN AANSOEK

NEEM KENNIS DAT die applikant voornemens is om op 'n datum en tyd deur die griffier bepaal, by bogenoemde Agbare Hof aansoek te doen om 'n bevel met die volgende strekking:

.....
.....
.....

EN NEEM KENNIS DAT die applicant aanstel as sy of haar verteenwoordiger in die aangeleentheid.

EN NEEM KENNIS DAT die applikant betekening van alle prosesstukke in bogenoemde aangeleentheid by die kantore van sy of haar verteenwoordiger sal aanvaar by die adreshieronder uiteengesit.

EN NEEM VERDER KENNIS DAT die beëdigde verklaring deur gebruik sal word ter ondersteuning van die aansoek.

Geteken en gedateerte op hede die dag van 19

.....
Applikant se verteenwoordiger

Adres

.....
Tel

Faks

Verw

AAN:

DIE GRIFFIER VAN DIE ARBEIDSHOF

Adres

.....

.....

Tel

Faks

Verw

EN AAN:

.....

Respondent se verteenwoordiger

Adres

.....

.....

Tel

Faks

Verw

Afskrif hiervan ontvang op hede diedag van 19

.....

Vir respondent

In werkingtreding

12. Hierdie reëls tree op 11 Julie 1997 in werking.

No. R. 962

11 July 1997

**AMENDMENT OF THE RULES FOR THE CONDUCT OF PROCEEDINGS
IN THE LABOUR APPEAL COURT**

The Rules Boara for Labour Courts has, in terms of section 176 of the Labour Relations Act, 1995 (Act No. 66 of 1995), made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules published under Government Notice No. 1666 of 14 October 1996.

Amendment of rule 1 of the Rules

2. Rule 1 of the Rules is hereby amended—

(a) by the insertion after the definition of "petition" of the following definition:

" 'public holiday' means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994), or a day proclaimed as a public holiday under section 2 of that Act;" ;
and

(b) by the insertion after the definition of "registrar" of the following definition:

" 'serve' means to send by registered post, telegram, telex or fax, or to deliver by hand."

Amendment of rule 5 of the Rules

3. Rule 5 of the Rules is hereby amended by the substitution in subrule (8) for the expression "serve and file" of the expression "deliver".

Insertion of rule 5A

5. The following rule is hereby inserted as rule 5A:

"Appeal from the industrial court

5A. (1) An appeal from the industrial court in terms of section 17 (21A) of the Labour Relations Act, 1956 (Act No. 28 of 1956), read with item 22 (5) of Schedule 7 to the Act must be noted by delivering a notice of appeal within 19 days of the judgment or order, unless the reasons or the full reasons for the court's order are given on a date later than the date of the judgment or order, in which event the appeal must be noted within 14 days after the date on which the reasons are given: Except that the court may, on good cause shown, extend any period.

(2) The notice of appeal must state-

(a) whether the whole or part only of the judgment or order is appealed against; if only part of the judgment or order is appealed against, which part and specify the finding of fact or ruling of law which is appealed against; and

(b) the grounds on which the appeal is founded.

(3) (a) Any notice of cross-appeal must be delivered within 14 days of the delivery of the notice of appeal or within any longer period permitted by the court on good cause shown.

(b) The provisions of this rule with regard to appeals apply, with the changes required by the context, to cross-appeals.

(4) After noting an appeal the provisions of rule 5 (7) to (22) apply."

Substitution of rule 12 of the Rules

5. The following rule is hereby substituted for rule 12 of the Rules:

"12. (1) The Court may, for sufficient cause shown, excuse the parties from compliance with any of these rules.

(2) The Judge President, or any judge authorised by the Judge President, may give any directions that are considered just and expedient in matters of practice and procedure."

Amendment of rule 13 of the Rules

6. Rule 13 of the Rules is hereby amended—

(a) by the substitution in subrule (1) for the expression “Appellate Division” of the expression “Supreme Court of Appeal”; and

(b) by the addition of the following subrule:

“(3) When the Labour Appeal Court sits as a court of first instance, the provisions of rule 24 of the Labour Court Rules apply.”.

Commencement

7. These rules shall come into operation on 11 July 1997.

No. R. 962

11 Julie 1997

**WYSIGING VAN DIE REELS WAARBY DIE VOER VAN VERRIGTINGE
IN DIE ARBEIDSAPPELHOF GEREEL WORD**

Die Reëlsraad vir Arbeidshowe het kragtens artikel 176 van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), die reëls in die Bylae gemaak.

BYLAE

Woordomskrywing

1. In hierdie reëls beteken “die Reëls” die reëls uitgevaardig by Goewermentskennisgewing No. 1666 van 14 Oktober 1996.

Wysiging van reel 1 van die Reëls

2. Reel 1 van die Reëls word hierby gewysig—

(a) deur die volgende omskrywing na die omskrywing van “aflewer” in te voeg:

“ ‘beteken’ om per aangetekende pos, telegram, teleks of faks te stuur, of per hand af te lewer;” en

(b) deur die volgende omskrywing na die omskrywing van “hof” in te voeg:

“ ‘openbare vakansiedag’ ‘n openbare vakansiedag bedoel in artikel 1 van die Wet op Openbare Vakansiedae, 1994 (Wet No. 36 van 1994), of ‘n dag tot ‘n vakansiedag verklaar ingevolge artikel 2 van daardie Wet.”.

Wysiging van reel 5 van die Reëls

3. Reel 5 van die Reëls word hierby gewysig deur in subreël (8) die uitdrukking “beteken en geliasseer” deur die uitdrukking “afgelewer” te vervang.

Invoeging van reel 5A

4. Die volgende reel word hierby as reel 5A ingevoeg:

“Appèl van die nywerheidshof

5A. (1) ‘n Appèl van die nywerheidshof ingevolge artikel 17 (21A) van die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), saamgelees met item 22 (5) van Bylae 7 tot die Wet, meet aangeteken word deur binne 14 dae na die vonnis of bevel ‘n kennisgewing van appèl af te lewer, tensy die redes of die voile redes vir die hofbevel op ‘n datum later as die datum van die vonnis of bevel gegee word, in welke geval die appèl binne 14 dae na die datum waarop die redes gegee word, aangeteken moet word: Behalwe dat die hof by aanvoering van gegronde redes enige tydperk kan verleng.

(2) Die kennisgewing van **appèl** meet die volgende vermeld:

(a) Of daar teen die **geheel** of **slegs** 'n gedeelte van die vonnis of bevel **geappelleer** word; indien daar teen **slegs** 'n **gedeelte** van die vonnis of bevel **geappelleer** word, watter deel, en die **feitlike** bevinding of regsbeslissing waarteen **geappelleer** word, spesifiseer; en

(b) die gronde waarop die **appèl** gefundeer word.

(3) (a) Enige kennisgewing van 'n teen **appèl** meet afgelewer word binne 14 dae na die aflewering van die kennisgewing van **appèl** of binne sodanige langer tydperk as wat die hof toelaat by aanvoering van gegronde redes.

(b) Die bepalings van hierdie reel ten opsigte van **appèlle** is, met die aanpassings vereis deur die konteks, van toepassing op **teenappèlle**.

(4) Na aantekening van **appèl** geld die bepalings van reel 5 (7) tot (22).".

Vervanging van reel 12 van die Reels

5. Reel 12 van die Reels word hierby deur die volgende reel vervang:

"12. (1) Die hof kan, by **aanvoering** van gegronde redes, die partye vrystel van nakoming van enige van hierdie reels.

(2) Die Regter-president, of enige regter deur die Regter-president gemagtig, kan die aanwysings Gee wat **billik** en dienstig geag word ten opsigte van praktyks- en prosedurele aangeleenthede."

Wysiging van reel 13 van die Reels

6. Reel 13 van die Reels word hierby **gewysig**—

(a) deur in **subreël** (1) die **uitdrukking** "Appelafdeling van die Hooggeregshof" deur die uitdrukking "Hoogste Hof van **Appèl**" te **vervang**; en

(b) deur die volgende **subreël** by te voeg:

"(3) Wanneer die Arbeidsappelhof as 'n hof van eerste instansie sit, is die bepalings van reel 24 van die **Arbeidshofreëls** van toepassing."

In werkingtreding

7. Hierdie reels tree op 11 Julie 1997 in werking.

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