

documents or recordings of the following nature you have presently or had previously in your possession:

- (a) .....
- (b) .....
- (c) .....
- (d) .....

In such statement you must specify in detail which documents or recordings are still in your possession. If you no longer have any such documents or recordings which were previously in your possession you must state in whose possession they now are.

If you fail to deliver the statement within the time aforesaid, application will be made to court for an order compelling you to do so and directing you to pay the costs of such application.

.....

Plaintiff/Defendant/Plaintiff's/Defendant's Attorney

(Address)

#### **No. 15 - Discovery - Notice to Produce**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT/REGION OF

HELD AT

Case No.....

In the matter between:

.....

Plaintiff

.....

Defendant

TAKE NOTICE that the .....(plaintiff or defendant) requires you to produce within five days for his or her inspection the following documents or recordings referred to in your affidavit, dated the ..... day of ..... 20 .....

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(Describe documents or recordings required)

DATED at ..... this ..... day of .....20.....

.....

Attorney for .....

(Address)

To:

.....

Attorney for the .....

(Address)

**No. 15A - Discovery - Notice to Inspect Documents**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT/REGION OF

HELD AT

Case No.....

In the matter between:

.....

Plaintiff

.....

Defendant

TAKE NOTICE that you may inspect the documents or recordings mentioned in your notice of the ..... day of .....20 ....., at my office, or at ..... and between the hours of ..... and on the following days.

(or)

That the (plaintiff or defendant) objects to giving you inspection of the documents or recordings mentioned in your notice of the ..... day of ..... 20....., on the grounds that .....

(State the grounds)

173

DATED at ..... this ..... day of .....20....

.....

Attorney for .....

(Address)

To:

.....

Attorney for the .....

(Address)

**No. 15B - Discovery – Notice to Produce Documents in Pleadings, etc**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT/REGION OF

HELD AT

Case No.....

In the matter between:

.....

Plaintiff

.....

Defendant

TAKE NOTICE that the plaintiff (or defendant) requires you to produce for his or her inspection the following documents or recordings referred to in your .....  
.....(declaration or plea, or affidavit).

(Describe documents or recordings required)

To:

.....

Attorney for the .....

(Address)

.....

Attorney for .....

(Address)

**No. 16 - Order for Interdict Obtained *ex parte***

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Applicant

and

..... Respondent

It is ordered:

(1) That a rule nisi be and is hereby granted calling upon ..... (respondent) of ..... (address) to show cause to this court on the ..... day of ....., 20..... at ..... (time), or so soon thereafter as the matter can be heard, why ..... shall not be interdicted from ..... (set out the acts from which respondent or any other person is restrained) pending the decision of an action to be brought by the applicant against the said ..... (respondent) for ..... (set out the nature of the claim).

(2) That the said action be instituted within ..... days.

(3) That this rule operate as an interim interdict.

By Order of the Court,

.....

Registrar/Clerk of the Court

.....  
 Applicant/Applicant's Attorney

Address:  
 .....

**No.17 – Order for Arrest of Person *suspectus de fuga***

In the Magistrate's Court for the District/Region of  
 .....

held at ..... Case No. .... of 20.....

In the matter between

..... Applicant

and

..... Respondent

It is ordered:

(1) That the sheriff of the court take  
 .....

..... (respondent) in custody and have him or her before this court on the first court day after service of this order at ..... (time), to show cause why he/she should not be detained to abide the judgment of this court in an action for a sum of R..... to be instituted against him/her by the applicant.

(2) Upon security being given to the satisfaction of the sheriff of the aforesaid court for the amount of the applicant's claim and the costs of the application for attachment, the aforesaid respondent shall be released from attachment and upon such security being given the order for attachment shall *ipso facto* be discharged.

(3) That the said action be instituted within 48 hours from the date of this order.

By Order of the Court,

.....

Registrar/Clerk of the Court

.....

Applicant/Applicant's Attorney

Address: .....

.....

TO BE COMPLETED BY THE SHERIFF:

To the Officer-in-Charge of the ..... Prison.

In terms of section 16 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), you are hereby commanded to take into your custody the body of ..... and keep him/her there safely until the ..... day of ..... 20..... or until he/she shall be otherwise legally liberated.

Dated at ..... this ..... day of ..... 20.....,

.....

Sheriff of the Court.

#### **No. 18 - Order for Attachment of Property to Found or Confirm**

##### **Jurisdiction**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Applicant

and

..... Respondent

To: The Sheriff,

You are hereby directed pursuant to an order of the above-mentioned court made on the ..... day of ....., 20....., forthwith to attach .....

.....  
(state full particulars of property and where situate) to found or confirm jurisdiction of the said court

in ..... an ..... action ..... by ..... against

..... of .....

..... (address of respondent) for

..... (set out particulars of claim);

And for so doing this shall be your warrant.

Further, should the respondent wish to show cause why the order of attachment should not be confirmed, respondent shall appear before this court on the ..... day of ....., 20....., at ..... (time), for that purpose.

The aforesaid date may be anticipated by the respondent upon 12 hours' notice to the applicant.

Upon security being given to the satisfaction of the sheriff of the aforesaid court for the amount of the applicant's claim and the costs of the application for attachment, the aforesaid property shall be released from attachment and upon such security being given the order for attachment shall *ipso facto* be discharged.

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Dated at ..... this ..... day of .....,  
20.....,

.....  
Registrar/Clerk of the Court

.....  
Applicant/Applicant's Attorney

Address: .....  
.....

Dated at ..... this ..... day of  
....., 20.....,

.....  
Sheriff

#### **No. 19 – Direction to Attend Pre-Trial Conference**

In the Magistrate's Court for the District/Region of  
.....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

[Direction in terms of section 54(1) of the Magistrates' Courts Act, 1944 (Act 32 of 1944.)].

To the Plaintiff's Attorney/the Defendant's Attorney.

You are hereby directed to attend a conference to be held before the magistrate in chambers on the ..... day of ....., **[19] 20....**, at .....  
(time) to consider-



- (a) the simplification of the issues;
- (b) the necessity or desirability of amendments to the pleadings;
- (c) the possibility of obtaining admissions of fact and of documents with a view to avoiding unnecessary proof;
- (d) the limitation of the number of expert witnesses;
- (e)

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

Dated at ..... this ..... day of .....,  
 20.....,

By Order of the Court,

.....

Registrar/Clerk of the Court.

#### **No. 20 Order – Pre-Trial Conference**

In the Magistrate's Court for the District/Region of  
 .....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

[Order in terms of section 54(2) of the Magistrates' Courts Act, 1944 (Act 32 of 1944)].

To the Plaintiff's Attorney/the Defendant's Attorney.

The following is a recital of what took place at a conference held in chambers at.....on the.....day of....., 20.... between the parties and/or their representatives:

(1)

.....

(2)

.....

(3)

.....

(4)

.....

(5)

.....

Dated at ..... this ..... day of .....,  
20.....,

By Order of the Court,

.....

Registrar/Clerk of the Court.

To: Plaintiff's Attorney.

To: Defendant's Attorney.

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**No. 21 - Application for Trial with Assessors**

In the Magistrate's Court for the District/Region of

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

The plaintiff/defendant hereby applies to have the above action tried with assessors.

(1) The defendant/plaintiff consents to such application and to the appointment of the following assessor:

.....

of

.....(address)

.....

Plaintiff/Plaintiff's Attorney

.....

Defendant/Defendant's Attorney

or

(2) The defendant/plaintiff consents to such application, but the parties are unable to agree upon the names of assessors.

Wherefore the parties pray the court to appoint an assessor (or two assessors) excluding the following assessors (set out the names of those assessors whom one or other of the parties objects to):

.....  
Plaintiff/Plaintiff's Attorney

.....  
Defendant/Defendant's Attorney

or

(3) The defendant/plaintiff objects to such application.

Wherefore the plaintiff/defendant has set down this application for hearing on the

..... day of ....., 20..... at ..... (time)

.....  
Plaintiff/Defendant or Plaintiff's/Defendant's Attorney

To: The Registrar/Clerk of the Court.

And: .....

Application granted/refused this ..... day of ....., 20.....

Assessors appointed:

.....  
Registrar/Clerk of the Court

#### **No. 22 – Summons to Assessor**

In the Magistrate's Court for the District/Region of

.....  
held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

183

Sir/Madam,

You are hereby summoned to attend and serve as an assessor in this court on the ..... day of ....., 20..... at ..... (time), to assist the court in the above action in accordance with the provisions of section 34 of the Magistrates' Courts Act, 1944 (Act 32 of 1944).

Yours faithfully

.....  
Registrar/Clerk of the Court

To: .....  
.....  
.....

**No. 23 - Commissions *de bene esse***

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

To: .....  
.....  
.....

Greeting:

Under and by virtue of the authority vested in me by section 53 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), I do hereby commit to you full power and authority as a Commissioner of this court to examine ..... of ..... (and

such other witnesses as either of the parties to this suit may desire to call) and to take the evidence on oath of the said witness(es) in the above suit now pending in this court.

Given under my hand at ..... this ..... day of  
....., 20....

.....  
Magistrate

#### No. 24 - Subpoena

In the Magistrate's Court for the District/Region of  
.....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

To: the Sheriff/Deputy Sheriff:

INFORM:

(1) ..... of

.....

(2) ..... of

.....

(3) ..... of

.....

(4) ..... of

.....

that each of them is hereby required to appear in person before this court at ..... on the ..... day of ....., 20....., at ..... (time) in the above-mentioned action to give evidence or to produce books, papers or documents on behalf of the ..... (Where documents are required to be produced, add: ) and to bring with each one of them and then produce to the court the several books, papers or documents specified in the list hereunder.

Dated at ..... this ..... day of ....., 20.....,

.....

Registrar/Clerk of the Court.

#### LIST OF BOOKS, PAPERS OR DOCUMENTS TO BE PRODUCED

Date Description Original or Copy

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

(See back.)

[Print on back, paragraphs (a) and (b) of section 51(2) of the Act]

**No. 25 – Warrant for Payment of Fine or Arrest of Witness in Default**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

To the sheriff and to the officer in charge of the ..... Prison.

Whereas ..... of ..... has been duly subpoenaed to give evidence (or to produce certain books, papers or documents, as the case may be) in the above matter before this court at ..... (time) on the ..... day of ....., 20.... and has made default;

And whereas this court has imposed upon the said ..... for his\_ or her said default a fine of ..... rand and for non-payment has committed him or her to the above-mentioned prison for a period of .....

This is therefore to authorise and require you, the said sheriff of the court, to arrest the said ..... and, unless he or she shall pay to you the said sum of ..... rand, to deliver him or her to the officer in charge of the ..... Prison together with this warrant to be safely kept there until he or she shall have paid the said sum of ..... rand or until the expiration of the said period of ..... from the day on which the said ..... shall be received into or retained in the said prison by virtue of this warrant whichever of the two shall first happen or until the said ..... shall be otherwise legally discharged;

And this is to command you, the said officer in charge of the ..... Prison, to receive and safely keep the said ..... as aforesaid.

Dated at ..... this ..... day of ....., 20.....,



.....  
 Registrar/Clerk of the Court

**No. 26 – Warrant for the Arrest of a Witness in Default**

In the Magistrate's Court for the District/Region of

.....  
 held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

(1) To the Sheriff:

Whereas ..... of ..... has been duly subpoenaed to give evidence (or to produce certain books, papers or documents, as the case may be) in the above matter before this court on the ..... day of 20..... at ..... (time), and has made default;

This is therefore to authorise and require you to arrest the said ..... and bring him or her before this court on the ..... day of .....20..... at ..... (time), then and there to give evidence and to be otherwise dealt with according to law.

(2) To the Officer-in-Charge of the ..... Prison:

You are hereby commanded to receive the said ..... and to keep him or her safely until such time as he or she shall be removed to have him or her before the court in accordance with the first part of this warrant or until he or she shall be otherwise lawfully discharged.

Dated at ..... this ..... day of .....,  
 20.....,

.....  
 Registrar/Clerk of the Court

**No. 27 – Security on Arrest, Attachment or Interdict *ex parte***

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Applicant

and

..... Respondent

Whereas ..... of ..... has applied for the issue of a warrant for the arrest of ..... of ..... (or for an order for the attachment of or interdict against the goods of ..... at ..... ) and the court has fixed the security to be given by the said ..... in the sum of R.....;

Now, therefore, the said ..... binds himself or herself to satisfy any lawful claim by the said ..... against the said ..... for damages which the said ..... may suffer by reason of the said arrest/attachment/interdict in case the said arrest/attachment/interdict be hereafter set aside;

And ..... of ..... hereby binds himself or herself as surety for and co-principal debtor with the said ..... in a sum not exceeding the said sum of R.....for the due fulfilment by the said ..... of the obligation hereby undertaken by him or her.

Signed at ..... this ..... day of ....., 20....

.....

Applicant.

Witnesses:

1. ....

Signature and address

.....

.....

Surety and co-principal debtor

2. ....

Signature and address

.....

#### **No. 28 - Security when Execution is Stayed Pending Appeal**

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment

Creditor

and

..... Judgment

Debtor

Whereas the said ..... on the ..... day of  
 ....., 20..... obtained judgment in this court against the said  
 ..... for the sum of R..... together with a sum of R..... for costs;

And whereas the said ..... has applied to the court for a stay of  
 execution pending appeal/review proceedings and the court has directed that execution

be stayed accordingly subject to the said ..... giving security within ..... days;

Now, therefore, the said ..... and ..... of ..... as surety and co-principal debtor for the said ..... hereby bind themselves jointly and severally to satisfy the said judgment and any further liability which may arise by way of damages or otherwise by reason of such suspension, so far as such judgment may not be reversed or varied on appeal/review; and further severally ..... (insert any further terms required).

Signed at ..... this ..... day of .....  
20.....,

.....

Judgment Debtor

Witnesses:

1. ....

Signature and address

.....

.....

Surety and co-principal debtor

2. ....

Signature and address

.....

#### **No. 29 - Security when Execution is Allowed Pending Appeal**

In the Magistrate's Court for the District/Region of  
.....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment

Creditor

and

..... Judgment

Debtor

Whereas the said ..... on the ..... day of  
 ....., 20..... obtained judgment in this court against the said .....  
 for the sum of R..... together with a sum of R..... for costs;

And whereas the said court, notwithstanding that the said .....  
 has noted an appeal against the judgment, has directed the judgment to be carried into  
 execution upon security being given for restitution;

Now, therefore, the said ..... and ..... of  
 ..... as surety and co-principal debtor for the said .....  
 hereby bind themselves jointly and severally to refund the above sums of R..... and  
 R..... should the judgment of the said court be reversed and further severally  
 ..... (insert any further terms required).

Signed at ..... this ..... day of .....,  
 20.....,

.....  
 Judgment Debtor

Witnesses:

1. ....

Signature and address

.....  
 .....

Surety and co-principal debtor

2. ....

Signature and address

.....

**No. 30 – Warrant of Ejectment**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

To the Sheriff.

Whereas in this action the said plaintiff on the ..... day of ....., 20..... obtained judgment for the ejectment of the said defendant from the premises or land known as .....

This is to authorise and require you to put the said plaintiff into possession of the said premises or land by removing therefrom the said defendant for which this shall be your warrant;

And return to this court what you have done by virtue hereof.

Dated this ..... day of ....., 20.....,

By Order of the Court.

.....

Registrar/Clerk of the Court.

.....

Plaintiff/Plaintiff's Attorney.

Address: .....

.....

.....

**No. 31 – Warrant for Delivery of Goods**

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant

To the Sheriff.

Whereas in this action the court ordered that the defendant should deliver to the plaintiff a certain ..... (describe the thing to be delivered);

This is to authorise and require you to take the said ..... (describe the thing) from the defendant and place the plaintiff in possession thereof, for which this shall be your warrant;

And return to this court what you have done by virtue hereof.

Dated this ..... day of ....., 20.....,

By Order of the Court.

.....

Registrar/Clerk of the Court.

.....

Plaintiff/Plaintiff's Attorney.

Address: .....

.....

.....

**No. 32 – Warrant for Execution Against Property**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Execution  
Creditor

and

..... Execution  
Debtor

To the Sheriff.

Amounts to be levied (with costs execution) Whereas in this action the said  
..... of ..... on the ..... day of ....., 20.....  
obtained judgment in the abovementioned court against the said  
..... of ..... for the several sums  
set out in the margin hereof amounting in all to the sum of R....., of which  
R..... has since been paid;

This is therefore to authorize and require you to raise on the property of the said  
.....

the sum of R..... together with your costs of this execution and pay to the said  
.....

the aforesaid sum of R..... and return to this court what you have done by virtue  
hereof.

R c

Judgment debt Costs .....

.....



195

Cost of issuing warrant

Costs of appeal .....

.....

SUBTOTAL

Less amount paid since judgment .....

.....

TOTAL DUE.....

Dated at ....., this ..... day of  
 .....20....

By Order of the Court.

.....

Registrar/Clerk of the Court.

.....

Attorney for Execution Creditor

Address: .....

.....

Note.-(1) If the execution debtor pays the amounts specified in the margin hereof with sheriff's charges of R..... within half an hour of the entry of the sheriff he or she will not be required to pay any further costs of execution. The amount of any payment made by the execution debtor and the date thereof shall be endorsed on the original and copy hereof, which endorsement shall be signed by the sheriff and countersigned by the execution debtor or execution debtor's representative.

(2) This execution may be paid out before sale, subject to the payment of the sheriff's fees and charges of execution, which may be required to be taxed.

(3) The only immovable property upon which this warrant may be executed is .....(set out its situation and nature sufficiently to enable it to be identified).

(4) In case of reissue the fact and date of reissue and any increase or reduction in the amounts to be levied shown on the face hereof shall be set out in a note endorsed hereon and signed by the execution creditor or execution creditor's attorney and by the registrar or clerk of the court.

(5) Any alterations made herein shall be initialled by the registrar or clerk of the court before the warrant is issued or reissued by him or her.

**No. 33 - Notice of Attachment in Execution**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Execution  
Creditor

and

..... Execution  
Debtor

To: .....  
Execution Debtor.

Take notice that I have this day laid under judicial attachment the property comprised in the above inventory in pursuance of a warrant directed to me under the hand of the registrar or clerk of the court for the district or region of ....., whereby I am required to cause to be raised of your property in this district or region the sum of R..... and R..... costs recovered against you by the judgment of the said court in this action and my charges in respect of the said warrant.

Dated at ..... this ..... day of .....,  
20.....

.....

Sheriff.

**No. 34 – Notice to Preferent Creditor**

[Section 66(2)(a) of Act 32 of 1944]

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment

Creditor

and

..... Judgment

Debtor

To: .....

(Preferent Creditor)

Whereas the undermentioned immovable property was laid under judicial attachment by the Sheriff on the ..... day of ....., 20..... you are hereby notified that it will be sold in execution in front of the Court-house at ..... on the ..... day of ....., 20..... at ..... (time)

Short description of property and its situation:

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

Dated at ..... this ..... day of .....,  
 20.....

.....

Judgment creditor/Attorney for judgment

creditor

Address: .....

.....

### **No. 35 - Interpleader Summons**

[Section 69(1) of Act 32 of 1944]

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Execution  
Creditor

and

..... Execution  
Debtor

To: ..... (Execution Creditor.)

.....

.....

and: ..... (Claimant.)

.....

.....

You are hereby summoned to appear before this court on the ..... day  
of ....., 20....., at ..... (time), to have it determined and declared  
whether certain movable property, namely ....., attached on the .....  
day of ....., 20..... by the sheriff by virtue of a warrant of execution issued by this

court on the ..... day of ....., 20...., in the action in which you, the said ....., obtained judgment for the sum of R..... against .....

of ..... (execution debtor) and which said property is claimed by you, the said ....., as being your property, is or is not your property or to appear to have the claim by you, the said ..... (claimant) to the proceeds of property, namely ..... attached on the ..... day of ....., 20..... by the sheriff by virtue of a warrant of execution issued out of this court on the ..... day of ....., 20...., in the action in which the execution creditor obtained judgment for the sum of R..... against .....

of ..... (execution debtor) and which property was sold in execution on the ..... day of ....., 20....., adjudicated upon.

Dated at ..... this ..... day of ....., 20....

.....  
Registrar/Clerk of the Court.

### No. 36 – Interpleader Summons

[Section 69(2) of Act 32 of 1944]

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

To the Sheriff of the Court.

Whereas ..... of ..... has interpleaded in this court as to ..... (state subject matter) which is adversely claimed by ..... of ..... and ..... of ..... hereinafter called the claimants;

Summon the said claimants that they appear before the above-mentioned court on the ..... day of .....20..., at ..... (time), and that they do then severally state the nature and particulars of their several claims and whether they will maintain or relinquish the same.

Dated at ..... this ..... day of ....., 20.....

.....  
Registrar/Clerk of the Court.

#### **No. 37 – Security under Rule 38**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Execution  
Creditor

and

..... Execution  
Debtor

Whereas the said execution creditor obtained judgment in this court against the said execution debtor on the ..... day of ....., 20..... in the sum of R..... together with the sum of R..... for costs;

And whereas under the said judgment execution has been issued and property/a debt/emoluments has/have been attached;

Now therefore the said execution creditor binds himself or herself to the sheriff of the aforesaid court that if the attachment be hereafter set aside, he or she will satisfy any lawful claim against him or her by the said execution debtor for damages suffered by the said execution debtor by reason of the said attachment;

201

And ..... of ..... binds himself or herself as surety and co-principal debtor in a sum not exceeding R.....for the due fulfilment by the said execution creditor of the obligation undertaken by him or her.

Signed and dated at ..... this..... day of ..... , 20.....

.....

Execution Creditor

Witnesses:

1. ....

Signature and address

.....

.....

Surety and co-principal debtor

2. ....

Signature and address

.....

NOTE. Where the security is for the repayment of moneys attached by a garnishee order, a similar form should be used, the words 'refund the gross amount paid by the garnishee' being substituted for the words 'satisfy any lawful claim against him or her by the said execution debtor for damages suffered by the said execution debtor by reason of the said attachment'.

**No. 38 - Emoluments Attachment Order - Section 65J of the Magistrates' Courts Act 1944 (Act 32 of 1944)**

**IMPORTANT NOTICE:**

YOUR ATTENTION IS DIRECTED to section 65J(3) of the Magistrates' Courts Act, 1944 (read with section 3(1) of the Sheriffs Act, 1986), which provides that only a sheriff may serve this order on a garnishee in the manner prescribed by rule 9 of the Magistrates' Courts Rules. Service of this order by a person who is not a sheriff appointed in terms of

section 2 of the Sheriffs Act, 1986, constitutes a criminal offence in terms of section 60(1)(gA) of the Sheriffs Act, 1986, and renders such service invalid and of no effect. A person who is convicted of an offence in terms of section 60(1)(gA) of the Sheriffs Act, 1986, shall be liable to a fine or to imprisonment for a period not exceeding three years or both such fine and such imprisonment.

YOUR ATTENTION IS FURTHER DIRECTED to section 65J(6) of the Magistrates' Courts Act, 1944, which provides as follows:

"If, after the service of such an emoluments attachment order on the garnishee, it is shown that the judgment debtor, after satisfaction of the emoluments attachment order, will not have sufficient means for his or her own and his or her dependants' maintenance, the court shall rescind the emoluments attachment order or amend it in such a way that it will affect only the balance of the emoluments of the judgment debtor over and above such sufficient means."

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

.....  
Judgment Creditor.

and

.....  
Judgment Debtor.

.....  
.....

..... Particulars for the identification  
of the judgment debtor inclusive of his or her identity or work number or date of birth and  
address.

.....  
Garnishee.



..... Address of  
garnishee. ....

Whereas it has been made to appear to the above-mentioned Court that emoluments are at present or in future owing or accruing to the judgment debtor by or from the garnishee and that after satisfaction of the following order sufficient means will be left to the judgment debtor to maintain himself or herself and those dependent upon him or her;

It is ordered:

(1) That the said emoluments are attached;

(2) That the garnishee pay to the judgment creditor or his or her attorney on the ..... day of each and every month/week after this order has been granted the sum of R..... of the emoluments of the said judgment debtor until a sufficient amount has been paid to satisfy a judgment or order obtained against the judgment debtor by the judgment creditor in the ..... Court at ..... on the ..... day of ..... for the amount of R ..... (on which judgment or order the amount of R ..... remains unpaid) with costs

amounting to R ..... and the costs of attachment amounting to R ..... as well as R ..... sheriff's fees.

Dated at ..... this ..... day of ....., 20.....

By Order of the Court,

.....

Registrar/Clerk of the Court.

.....

Judgment Creditor/Attorney for Judgment Creditor.

Address of Judgment Creditor/Attorney for Judgment Creditor.

.....

.....

.....

Attention is directed to the provisions of section 65J (10) of the Magistrates' Courts Act, 1944, which reads as follows:

"Any garnishee may, in respect of the services rendered by him or her in terms of an emoluments attachment order, recover from the judgment creditor a commission of up to 5 per cent of all amounts deducted by him or her from the judgment debtor's emoluments by deducting such commission from the amount payable to the judgment creditor."

**No. 39 – Garnishee Order – Section 72 of the Magistrates' Courts Act 1944 (Act 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment Creditor

and

..... Judgment Debtor

.....

.....

..... Particulars for the  
identification of the judgment debtor inclusive of his/her identity or work number or date  
of birth and address

..... Garnishee.

.....

..... Address of garnishee.

Whereas it has been made to appear to the above-mentioned Court that a debt is at present or in future owing or accruing to the judgment debtor by or from the garnishee;

It is ordered-

(1) that the said debt be attached;

(2) that the garnishee pay to the judgment creditor or judgment creditor's attorney so much of the debt as may be sufficient to satisfy a judgment or order obtained against the judgment debtor by the judgment creditor in the ..... Court at ..... on the ..... day of .....20..... for the amount of R..... (on which judgment or order the amount of R..... remains due and unpaid) and the costs of the proceedings of attachment amounting to R..... as well as R..... sheriff's fees.

If the garnishee fails to pay the judgment creditor or his or her attorney as aforesaid, he shall appear before this Court on the ..... day of ..... 20.... at ..... (time) ..... to show cause why he or she should not pay the same.

Dated at ..... this ..... day of ....., 20.....

By Order of the Court,

.....

Registrar/Clerk

.....

Judgment Creditor/Attorney for Judgment

Creditor

.....

.....

..... (Address)

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**No. 40 – Notice to Appear in court in terms of section 65A(1) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment Creditor

and

..... Judgment Debtor

To: .....

.....

.....

.....

.....

..... (If the judgment debtor is a juristic person it must be indicated that the responsible person is summoned in his or her personal capacity and in his or her capacity as the representative of the juristic person.)

You are hereby required to appear before abovementioned court on ..... 20 ..... at ..... (time) to enable the court to inquire into your/the juristic person's financial position and to make such order as the court may deem just and equitable, as you/the juristic person failed to satisfy-

(a) the judgment of the said court of ..... given against you/the juristic person on ..... 20 ..... for the payment of the amount of R ..... and R ..... costs; or

(b) the order of the said court of ..... 20 ..... that you/the juristic person shall pay in instalments the amount of R ..... and R .....

costs within 10 days of the date on which the judgment was given or .....

The balance of the debt at present amounts to R ..... and the balance of the costs to R .....

You are further required to submit a full statement to the said court-

- (a) of your/the juristic person's assets and liabilities;
- (b) of your monthly/weekly income and expenditure, supported by documentary proof inclusive of a statement by your employer giving full particulars of your emoluments and, in the case of a juristic person, the latest financial statements;

(c) and the following:

.....

Notice:

(1) If the court is satisfied on the ground of sufficient proof or otherwise-

(a) that you have knowledge of a notice referred to in section 65A (1) of the Act and that you have failed to appear before the court on the date and at the time specified in the notice; or

(b) that you, where the proceedings were postponed in your presence to a date and time determined by the court, have failed to appear before the court on that date and at that time; or

(c) that you have failed to remain in attendance at the proceedings or at the proceedings so postponed,

the court may, at the request of the judgment creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest you and to bring you before a competent court to enable that court to conduct a financial inquiry. [Section 65A (6) of the Act]

(2) Any person who-

(a) is called upon to appear before a court under a notice in terms of section 65A (1) or (8)(b) of the Act (where the sheriff, in lieu of arresting a person, hands to that person a notice in writing to appear before the court) and who wilfully fails to appear before the court on the date and at the time specified in the notice;

(b) where the proceedings were postponed in his or her presence to a date and time determined by a court, wilfully fails to appear before the court on that date and at that time; or

(c) wilfully fails to remain in attendance at the proceedings or at the proceedings so postponed,

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A (9) of the Act]

Dated at ..... this ..... day of ..... 20 .....

.....

Judgment Creditor/Attorney

for Judgment Creditor .....

Registrar/Clerk of the Court

**No. 40A – Warrant of Arrest in terms of section 65A(6) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment Creditor

and

..... Judgment Debtor

Warrant of Arrest

To ..... the ..... Sheriff,

.....

You are hereby commanded to arrest ..... (the above-named judgment debtor/the director or officer of the above-named judgment debtor) who-

(a) failed to appear before the court at ..... (place) on ..... 20 ..... (date) in compliance with a notice in terms of section 65A (1) of the Act \*;

(b) failed to, after proceedings were postponed in his or her presence in the court at ..... on ..... to ..... 20 ..... at ..... (time), appear on the latter date and time\*;

(c) failed to remain present at proceedings in the court at ..... on ..... 20 ..... /postponed proceedings held in the court at ..... on ..... 20 ..... \*;

and to bring him or her as soon as is reasonably possible before the court within the district in which he or she was arrested. If it is not possible to bring him or her before the said court, he or she may be detained at any police station pending his or her appearance before that court. [Section 65A (8)(a) of the Act]

Dated at ..... on this ..... day of ..... 20 .....

Judgment Creditor/Attorney for

Judgment Creditor

Address: .....

.....

.....

Telephone Number: .....

Fax Number: ..... .....

Registrar/Clerk of the Court

Telephone Number: .....

210

Fax Number: .....

\* Delete that which is not applicable.

**No. 40B – Notice to Appear in Court in terms of section 65A(8)(b) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment Creditor

and

..... Judgment Debtor

To: ..... (Name)

.....

.....

..... (Residential address)

.....

..... (Occupation/Status)

You are hereby required to appear before the court at ..... (place) on

..... (date) at ..... (time) to enable the court to inquire into your/the juristic

person's financial position in terms of section 65D of the Act.

Notice:

Should you wilfully fail to appear before the said court on the said date and at the said time, or fail to remain present at the proceedings concerned, you will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act]

Dated at ..... this ..... day of .....  
20 .....



.....  
Sheriff of .....

**CERTIFICATE**

I, ..... Sheriff/Deputy Sheriff of .....  
hereby certify that I have handed the original of this notice to .....  
and that I have explained to him or her the import hereof.

.....  
Sheriff of .....

Duplicate original to the

Registrar/Clerk of the Court .....

**No. 41 – Notice of Set-down of Postponed Proceedings under Section 65E(3) of  
the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of  
.....

held at ..... Case No. .... of 20.....

In the matter between

..... Judgment Creditor

and

..... Judgment Debtor

By hand/By registered post

To: (1) .....

(Judgment Debtor)

.....

..... (2) Registrar/Clerk of the  
Court.....

Take notice that the proceedings against you, the above-mentioned Judgment Debtor, which were postponed on the ..... day of ..... 20....., in terms of section 65E(1) of the Magistrates' Courts Act, 1944, have again been placed on the roll of the above-mentioned Court. You are, therefore, hereby, in terms of section 65E(3) of the said Act, directed to appear before the above-mentioned Court on the ..... day of ..... 20..... at ..... (time).

Dated at ..... this ..... day of .....  
20 .....

.....  
Judgment Creditor/Attorney for Judgment Creditor

Address of Judgment Creditor/Attorney for Judgment Creditor  
.....

**No. 42 – Notice in terms of Rule 58(2)(a)**

IN THE REGIONAL MAGISTRATE'S COURT FOR.....

HELD AT..... CASE NO:.....

In the matter between

.....Applicant

and

.....Respondent

To the above-mentioned respondent:

TAKE NOTICE that if you intend to defend this claim you must within 10 court days file a reply with the registrar of this court, giving an address for service referred to in Rule 55(1)(g)(i) and serve a copy thereof on the applicant or his or her legal practitioner. Should you not comply with the above, you will then be automatically barred from defending and judgment may be given against you as claimed. Your reply must indicate

213

what allegations in the applicant's statement you admit or deny, and must concisely set out your defence.

DATED at .....this.....day of.....20.....

.....

Applicant/Applicant's legal practitioner

Address for service:

.....

.....

.....

**No. 43 - Notice to Third Party**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT/REGION OF

HELD AT

CASE NO:.....

In the matter between:

Plaintiff

and

Defendant

and

.....

Third Party

## TO THE ABOVE-NAMED THIRD PARTY:

TAKE NOTICE that the above-named plaintiff has commenced proceedings against the above-named defendant for the relief set forth in the summons, a copy of which is herewith served upon you.

The above-named defendant claims a contribution or indemnification (or such other grounds as may be sufficient to justify a third-party notice) on the grounds set forth in the annexure hereto.

If you dispute those grounds or if you dispute the claim of the plaintiff against the defendant you must give notice of your intention to defend, within .....days. Such notice must be in writing and filed with the registrar and a copy thereof served on the above-named defendant at the address set out at the foot of this notice. It must give an address referred to in rule 13(3) for the service upon you of notices and documents in the action. Within 20 days of your giving such notice you must file a plea to the plaintiff's claim against the defendant or a plea to the defendant's claim against you, or both such pleas.

DATED at .....this .....day of .....20 .....

.....  
Defendant's Attorney

(Address)

To .....

and to Plaintiff's Attorney,

(Address)

**No. 44 – Application for an Administration Order - Section 74(1) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

**APPLICATION FOR AN ADMINISTRATION ORDER BY**

..... (Full names and surname)

To 1. The Registrar/Clerk of the Court at .....

2. ....

Take notice that I shall apply to the above-mentioned Court on the ..... day of ..... 20....., at ..... (time) ....., to make an order providing for the administration of my estate under the provisions of section 74 of the Magistrates' Courts Act, 1944.

A full statement of my affairs confirmed by an affidavit in support of this application is attached.

Dated at ..... this ..... day of ..... 20 .....

.....  
Applicant.

Full address .....

.....

.....

NOTE.-Section 74A (5) of the Magistrates' Courts Act, 1944, provides that the applicant shall deliver to each of his or her creditors at least 3 days before the date appointed for the hearing, personally or by registered post a copy of this application and statement of affairs (Form 45) on which shall appear the case number under which this application was filed.

**No. 45 – Statement of Affairs of Debtor in an Application for an Administration Order - Section 65I(2) or 74A of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

Case No. .... of 20.....

In the application for an Administration Order of

.....

(hereinafter referred to as the Applicant)

1. Surname ..... of ..... Applicant

.....

First  
names.....

.....

Date of birth ..... Identity number

.....

2. Residential ..... address

.....

3. Marital status ..... If married, state whether in or out of community of property .....

Full ..... names ..... of  
spouse.....

Date of birth ..... Identity number

.....

If Applicant and spouse are living apart, state from what date

.....

4. Dependants:

Full names Age Relationship

.....

...

.....

...

.....

5. Name and business address of employer:

Applicant:

.....

.....

.....

6. If not employed furnish reasons:

Applicant:

.....

.....

Spouse:

.....

.....

.....

7. Occupation:

Applicant:

.....

.....

Spouse:

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

8. Gross income:

Applicant: ..... per week/month

.....  
 .....

Spouse: ..... per week/month

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

9. Full particulars of all deductions from income (by way of stop order or otherwise) supported as far as possible by written statements of employer:

Applicant: Spouse:

Particulars

R Amount Particulars

R Amount

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

Total

Total



219

10. Detailed particulars of essential weekly or monthly expenses, including transport expenses:

Applicant (including his or her dependants): Spouse:

Particulars Amount

R Particulars Amount

R

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

Total Total

11. Full particulars, supported by statements and copies of the agreements, of goods purchased under hire-purchase agreements in terms of the Hire-Purchase Act, 1942 (Act No. 36 of 1942), or credit agreements in terms of the Credit Agreements Act, 1980 (Act No. 75 of 1980) or the National Credit Act, 2005 (Act No. 34 of 2005), and not paid for in full:

Particulars (purchase price must be stated) Balance Instalment Payable  
 weekly/monthly Date when will be paid for in full Reason why provision should be  
 made for remaining instalments

R R

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

12. Full particulars of assets purchased under a written agreement (excluding an agreement referred to in item 11) which are not paid for in full.

Particulars	Balance	Instalment	Payable weekly/monthly	Date when will be paid
for in full	Reason why the	Administration Order	should provide for the	payment
thereof				

R	R
.....	.....
.....	.....
.....	.....

13. Full particulars and estimated value of security which creditors have in respect of debt which the Applicant or applicant's spouse is liable for (the name and address of any other person who, in addition to the debtor, is liable for the debt must also be stated):

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

14. Full particulars of immovable property of the Applicant or spouse which is mortgaged:

Mortgage

Address

221

Description Market Value Balance of the bond(s) thereon Date when will be paid  
for in full Instalments payable Reason why the Administration Order should  
provide for the payment thereof

R R

.....

.....

.....

15. Full particulars of movable property of applicant or spouse:

Description Estimated value

R

.....

.....

.....

.....

.....

.....

16. Full particulars of outstanding claims, bills, investments, bonds or other securities  
in favour of Applicant investing moneys in a savings or other account with a bank or  
elsewhere:

Name and address of debtor or institution Particulars Amount

R

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

17. All movable property not already stated, including goods pawned, mortgaged, subject to retention or attached for the execution of a judgment:

Description	Estimated Value	Nature of encumbrance if any	Amount	of	debt
encumbered for	Name and address of creditor in favour of whom encumbered				
R	R				

.....

.....

.....

.....

.....

.....

.....

.....

18. If an Administration Order was at any time granted in respect of Applicant's estate, state:

Date of expiry ..... Date set aside

.....

Reasons.....

.....

.....

.....

19. If an Administration Order is granted, state the amount of the weekly, monthly or other instalments which the Applicant offers to pay towards settlement of the debts mentioned in the list of creditors in the annexure to this statement:

R..... with effect from ..... and weekly/monthly thereafter, or

.....

from.....,

I .....

from.....,

declare under oath:

(1) I am the applicant.

(2) A judgment/judgments has/have been obtained against me and I am unable forthwith to pay the amount(s), or to meet my financial obligations.

(3) I have no sufficient assets capable of attachment to satisfy such judgment(s) or obligations.

(4) The total amount of all my debts due does not exceed R50 000.

(5) All particulars contained in this statement and in the list of creditors in the Annexure to this statement, as well as the amounts due to them separately, are, to the best of my knowledge, true and correct and that the statement contains all particulars, assets, income and debts of me and my spouse, including my obligations.

Signature

1. I certify that before administering the prescribed oath I asked the Deponent the following questions and wrote down his/her answers in his/her presence:

(a) Do you know and understand the contents of the above declaration?

.....

(b) Do you have any objection to taking the prescribed oath?.....

2. I certify that the Deponent has acknowledged that he/she knows and understands the contents of this declaration which was sworn to before me and the Deponent's signature was placed thereon in my presence.

## Commissioner of Oaths

## Area

Designation if appointment is held ex officio.

Full name and address of creditor payable	Nature of claim and balance due	Date
Amount payable in instalments	Weekly/ monthly	Court Case number
If court order is granted in respect of claim, full particulars about. order, including particulars of emoluments attachment order or garnishee order		
Balance	Date	on which obligations terminate

R

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	32	33	34	35
36	37	38	39	40	41	42
43	44	45	46	47	48	49
50	51	52	53	54	55	56
57	58	59	60	61	62	63
64	65	66	67	68	69	70
71	72	73	74	75	76	77
78	79	80	81	82	83	84
85	86	87	88	89	90	91
92	93	94	95	96	97	98
99	100	101	102	103	104	105
106	107	108	109	110	111	112
113	114	115	116	117	118	119
120	121	122	123	124	125	126
127	128	129	130	131	132	133
134	135	136	137	138	139	140
141	142	143	144	145	146	147
148	149	150	151	152	153	154
155	156	157	158	159	160	161
162	163	164	165	166	167	168
169	170	171	172	173	174	175
176	177	178	179	180	181	182
183	184	185	186	187	188	189
190	191	192	193	194	195	196
197	198	199	200	201	202	203
204	205	206	207	208	209	210
211	212	213	214	215	216	217
218	219	220	221	222	223	224
225	226	227	228	229	230	231
232	233	234	235	236	237	238
239	240	241	242	243	244	245
246	247	248	249	250	251	252
253	254	255	256	257	258	259
260	261	262	263	264	265	266
267	268	269	270	271	272	273
274	275	276	277	278	279	280
281	282	283	284	285	286	287
288	289	290	291	292	293	294
295	296	297	298	299	300	301
302	303	304	305	306	307	308
309	310	311	312	313	314	315
316	317	318	319	320	321	322
323	324	325	326	327	328	329
330	331	332	333	334	335	336
337	338	339	340	341	342	343
344	345	346	347	348	349	350
351	352	353	354	355	356	357
358	359	360	361	362	363	364
365	366	367	368	369	370	371
372	373	374	375	376	377	378
379	380	381	382	383	384	385
386	387	388	389	390	391	392
393	394	395	396	397	398	399
400	401	402	403	404	405	406
407	408	409	410	411	412	413
414	415	416	417	418	419	420

Attention is directed to the provisions of section 74A (2)(e) of the Magistrates' Courts Act, 1944. All the Applicant's creditors and their addresses must be stated in the list in which a clear distinction shall be made between-

(i) debts, the whole amount of which is owing, including judgment debts payable in instalments in terms of a Court Order, an Emoluments Attachment Order or a Garnishee Order; and

(ii) obligations which are payable in future in periodical payments or otherwise or which will become payable under a maintenance order, agreement, stop order or otherwise, and in which the nature of such periodical payments is specified in each case or when the obligations will be payable and how they are then to be paid, the balance owing in each case and when, in each case, the obligation will terminate.

#### **No. 46 – Certificate of Service of Foreign Process**

I, ....., registrar or clerk of the ..... regional or district magistrate's court hereby certify that the following documents are annexed:

- (1) the original request for service of process or citation received from .....(state, territory or court) in the matter between .....and .....
- (2) the process received with such request;
- (3) the proof of service upon ....., the person named in such request for service, together with the certificate of verification of .....

I also certify that the service so proved and the proof thereof are such as are required by the practice and rules of the magistrates' courts.

I further certify that the cost of effecting such service, duly certified by the taxing officer of this court, amounts to the sum of R.....

GIVEN UNDER MY HAND and stamp, at ..... this  
.....day of .....20 .....

.....  
 Registrar/Clerk of the Regional/District Magistrate's Court

Stamp  
 .....

**No. 47 – Notice to Debtor that an Additional Creditor has lodged a claim against him or her for a debt owing before the making of the Administration Order - Section 74G(2) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at .....Case No. .... of 20.....

To: ..... (Debtor)

..... (Address)

.....

.....

Take notice that-

.....  
 .....

(name and address of creditor) lodged a claim in terms of section 74G(2) of the Magistrates' Courts Act, 1944, for the amount of R..... in respect of ..... (particulars of claim) which is not listed in the administration order made against you on the ..... day of ..... 20..... in the Magistrate's Court at .....

Kindly notify me in writing whether you admit or dispute this claim on or before the ..... day of .....20.... Please note that if you admit the claim or no reply is received from you on or before the said date, this claim shall be



deemed to be proved, subject to the right of any other creditor who has not received notice of the claim to object to the debt, and shall be added to the list of names of your creditors who share pro rata in the payments made by you in terms of the Administration Order.

Dated at ..... this ..... day of ....., 20.....

.....

Administrator

**No. 48 – Notice to Debtor that a Creditor has lodged a claim for a debt owing after granting of the Administration Order - Section 74H(1) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of

.....

held at .....Case No. .... of 20.....

To: ..... (Debtor)

..... (Address)

.....

.....

Take notice that-

.....

.....

(name and address of Creditor) lodged a claim for the amount of R..... in respect of ..... (particulars of claim) as a result of which he or she allegedly became your creditor after the Administration Order was issued against you on the day of .....20..... in the Magistrate's Court at .....

Kindly notify me in writing on or before the ..... day of ..... 20..... whether you admit or dispute this claim. Please note that if you

admit the claim or no reply is received from you on or before the said date, this claim shall be deemed to be proved, subject to the right of any other creditor who has not received notice of the claim to object to the debt, and shall be added to the list of names of your creditors who share pro rata in the payments made by you in terms of the Administration Order.

Dated at ..... this ..... day of ....., 20.....

.....

Administrator

**No. 49 – Notice to add an Additional Creditor to the list of Creditors of a Person Under Administration - Section 74G(3) and 74H(2) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

To: The Registrar/Clerk of the Court

.....

Administration Order against

.....

Kindly add the name of ..... from ..... as a creditor to the list of creditors sharing pro rata in the payments in terms of the Administration Order for the amount of R..... in respect of .....

Dated at ..... this ..... day of ....., 20.....

.....

Administrator

**No. 50 – Notice to Creditor that his or her name has been added to the List of Creditors of a Person Under Administration - Section 74G(3) and 74H(2) of the Magistrates' Court Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

To: .....

.....

.....

Administration

Order

against

.....

The above-mentioned Debtor admitted or did not dispute your claim against him/her for the amount of R..... and your name and the amount due to you have been added to the list of creditors sharing pro rata in payments in terms of the Administration Order. Kindly note that other creditors may still object against the debt so listed. In this event, you will be notified.

A copy of the Administration Order issued against the debtor on the ..... day of ..... 20..... in the Magistrate's Court at ..... is attached/has already been received by you.

Dated at ..... this ..... day of ....., 20.....

.....

Administrator

**No. 51 – Administration Order – Section 74(1) of the Magistrates' Courts Act, 1944  
(Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at .....this ..... day of ..... 20....

Case No. ....of 20....

In the application of

..... (hereinafter referred to as  
the applicant):

1. It is ordered-

(a) that the estate of the applicant be placed under administration in terms of  
section 74 of the Magistrates' Courts Act, 1944;

(b) that ..... from  
..... be appointed Administrator of the Applicant's estate in  
terms of section 74E on condition that he or she gives the following security for the due  
and prompt payment by him or her to all the parties entitled thereto of all the moneys  
which come into his or her possession by virtue of this appointment

(c) that the Applicant pays the amount of R..... weekly/monthly to the  
Administrator for distribution among the creditors. First payment on or before the  
..... day of ..... 20.... and weekly/monthly thereafter  
on or before every ...../the .....of each month;

(d)

(e)

.....

.....

.....

.....

2. Authority is granted-

(a) for the issue of an Emoluments Attachment Order under section 65J of the Magistrates' Courts Act, 1944, against the Applicant's employer for payment to the Administrator of the said amount on or before the said times until the costs of administration and the creditors have been paid in full. This authority is suspended on condition that .....

.....

(b) for the issue of a garnishee order under section 72 of the Magistrates' Courts Act, 1944, against ..... from .....  
This authority is suspended on condition that .....

(c) for the realization and distribution of the proceeds of the following assets among the creditors:

(i)

.....

....

(ii)

.....

...

(iii)

.....

...

(iv) of the following assets that are the subject of an agreement in terms of the Hire-Purchase Act, 1942 (Act 36 of 1942) or the Credit Agreements Act, 1980 (Act

75 of 1980) or the National Credit Act 2005, (Act 34 of 2005), with the written permission of the seller:

(aa)

.....

(bb)

.....;

(d) for the return of the following assets to the seller in terms of the Hire-Purchase Act, 1942 or section 17 of the Credit Agreements Act, 1980 or provisions of the National Credit Act, 2005:

(i) .....

(ii) .....

(e) other (give details)

.....;

.....

...

Dated at ..... this ..... day of  
....., 20.....

.....

Magistrate

NOTE.-In terms of section 74F (1) of the Magistrates' Courts Act, 1944, the Registrar/Clerk of the Court shall hand or send by registered post a copy of this order to the debtor and in terms of section 74F (2) the Administrator shall forward a copy hereof by registered post to each creditor whose name is mentioned in the Debtor's statement of affairs (Form 45) or who has given proof of a debt.

**No. 52 - Distribution Account in terms of Section 74J(5) of the Magistrates' Courts Act, 1944**

Distribution Account No. ....

To: The Registrar/Clerk of the Court

.....

.....

Case No. .... of 20.....

Administration Order against

.....

Distribution account for the period ..... to

.....

A B C

A. (1) Amount payable to creditors in terms of the Administration Order/outstanding amount carried forward from previous statement - -

(2) Total amount due to additional creditors listed after granting of Administration Order/since lodging of previous statement. - -

(3) Interest - -

B. (1) Administration costs paid for the said period in terms of section 74L - -

(2) Claims paid during the said period that enjoy preference in terms of section 74J(3) - -

(3) Urgent or extraordinary medical, dental or hospital expenses paid during the said period - -

(4) Other payments during the said period (supply details) -

-

Total

234

A B C

Totals carried forward from previous page

C. Total amount received by the Administrator during the said period - -

-

Total of C minus total of B - -

Disposal for pro rata distribution

Pro rata distribution:

..... \*

-

..... \*

-

..... \*

Total amount paid during the said period - -

Total of A minus total of B

Outstanding amount carried forward to next statement .....

Dated at ..... this ..... day of .....

....., 20.....

Administrator

\* The names of creditors to whom *pro rata* amounts were paid by the Administrator during the said period to be inserted here. (The relevant amounts to be completed in column B.)



**No. 52A – Rescission of Administration Order - Section 74Q of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)**

In the Magistrate's Court for the District/Region of .....

held at ..... this ..... day of ..... 20.....

Case No. .... of 20.....

Administration Order against ..... (hereinafter referred to as the Debtor).

Whereas, after consideration of an application by the Debtor\*/an interested party, i.e. ....\*, it appears that good cause exists for the rescission of the Administration Order granted on the ..... day of .....

20..... in above-mentioned Court, the said Administration Order is rescinded with effect from the ..... day of ..... 20.....

Dated at ..... this ..... day of ....., 20.....

.....

Magistrate

NOTE.-(1) The Registrar/Clerk of the Court must send a copy of this order by registered post to the Administrator.

(2) The Administrator must deliver personally or send by post a copy of this order to the Debtor and to each creditor and inform the latter of the Debtor's last known address.

\* Delete which is not applicable.

**No. 53 – Notice of Abandonment of Specified Claim, Exception or Defence**

In the Magistrate's Court for the District/Region of .....

held at ..... Case No. .... of 20.....

236

In the matter between .....

..... Plaintiff

and

..... Defendant.

Take notice that the plaintiff/defendant hereby abandons the undermentioned claim/exception/defence (as the case may be) set up by him or her in his or her summons/plea/reply (as the case may be).

Particulars:

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

Dated at ..... this ..... day of .....,  
 20.....

.....  
 Plaintiff/Plaintiff's Attorney or Defendant/Defendant's Attorney.

To: .....

.....  
 .....

**No. 54 – Agreement Not to Appeal**

In the Magistrate's Court for the District/Region of

.....

held at ..... Case No. .... of 20.....

In the matter between

..... Plaintiff

and

..... Defendant.

We, ....., of ....., and  
 ....., of ....., the above named  
 plaintiff and defendant, respectively, do hereby agree, in terms of section 82 of the  
 Magistrates' Courts Act, 1944 (Act 32 of 1944), that the decision of the Court in the  
 abovementioned action shall be final.

Signed and dated at ..... this ..... day of  
 ....., 20....

.....

Plaintiff

Witnesses:

1. ....

Signature and address.

.....

Defendant.

2. ....

Signature and address.

.....

#### No. 55 – Request to Inspect Record

In the Magistrate's Court for the District/Region of

.....

held at .....

I, ....., of ....., hereby apply to  
 inspect the record of Case No. .... of 20.....

(If number of record is not known, then as follows:)

238

I, ....., of ....., hereby apply to inspect the record of the case between ..... (plaintiff) and ..... (defendant).

Search to begin with the month of ..... 20.....

.....

Signature

(If the applicant is a party to the case or the attorney of such party, his or her capacity should be stated after his or her signature.)

#### **No. 56 - Criminal Record Book**

Date of Hearing and Case No. Name and Description of Accused.

Crime or Offence Charged.

Verdict and Sentence.

Remarks.

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

**No. 57 - Notice in terms of Section 309B(2)(d) of the Criminal Procedure Act, 1977  
(Act No. 51 of 1977)**

In the district/regional court..... held at.....

Case No.....

THE STATE

vs.....

TO THE DIRECTOR OF PUBLIC PROSECUTIONS OR PERSON DESIGNATED BY  
HIM OR HER (OR OTHER PROSECUTOR\*).....

AND TO THE APPELLANT, .....

TAKE NOTICE THAT the application by the appellant for leave to appeal in terms of  
section 309B of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), has been set  
down for hearing on ..... (date), at .....(time) or so soon  
thereafter as the matter may be heard, in Court No.

....., Magistrate's Office

REGISTRAR/CLERK OF THE COURT,

TO THE DIRECTOR OF PUBLIC PROSECUTIONS OR PERSON DESIGNATED BY  
HIM OR HER,.....

(Address)

TO THE PROSECUTOR\*, .....

(Address)

TO THE APPELLANT, .....

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.....

.....

(Address)

OR TO, .....

.....

.....

(Address of appellant's legal representative, if any)

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE IN TERMS OF SECTION 309B  
(2)(d) OF THE CRIMINAL PROCEDURE ACT, 1977

Receipt of the above-mentioned notice is hereby acknowledged.

FOR DIRECTOR OF PUBLIC PROSECUTIONS OR PERSON DESIGNATED BY HIM  
OR HER.....(Signature)

.....(Name in print)

FOR OTHER PROSECUTOR ..... (Signature)\*

.....(Name in print)

FOR APPELLANT.....(Signature)

.....(Name in print)

\* Only to be completed in a case in which the prosecution was not at the public instance.

**ANNEXURE 2**  
**SCALE OF COSTS AND FEES**

Table A.	Costs.
Part I.	General provisions.
Part II.	Un defended actions.
Part III.	Defended actions.
Part IV.	Matters other than those provided for in Table B.
Table B	Costs (continued).
Part I.	General provisions (proceedings in terms of section 65 of the Act). Tariff.
Part II.	General provisions (proceedings in terms of section 72 of the Act). Tariff.
Part III.	General provisions (proceedings in terms of section 74 of the Act). Tariff.
Table C	General provisions and tariff of fees (Sheriffs of the Court).

Part I.	Sheriffs who are officers of the Public Service.
Part II.	Sheriffs who are not officers of the Public Service.
Table D.	Fees to assessors.

**TABLE     A**  
**COSTS**

**PART I**

**GENERAL PROVISIONS**

1. When the amount in dispute is less than or equal to the amount of R7 000, costs shall be taxed on Scale A; when the amount in dispute exceeds the amount of R7 000, but is less than or equal to R50 000, costs shall be taxed on Scale B; when the amount in dispute exceeds R50 000 or when the matter is in respect of a divorce or matrimonial dispute, costs shall be taxed on Scale C.

2. (a) For the purpose of computing costs, the expression 'amount in dispute' means, where costs are awarded to the plaintiff, the amount or value of the judgment and 'amount or value of the judgment' means, where more than one claim is involved in the action, the total of the amounts involved in the judgment. Where costs are awarded to the defendant, the expression 'amount in dispute' means, the amount or value of the claim, and 'amount or value of the claim' means, where more than one claim is involved in the action, the total of the amounts of all the claims. The amount or value of the judgment or claim shall be inclusive of interest but exclusive of costs. If a matter is settled at any time the costs shall be taxed on the scale laid down in the agreement of settlement.



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(b) Where the amount in dispute is not apparent on the face of the proceedings, costs shall, unless the court orders otherwise, be computed at the higher rate.

3. Costs taxable in terms of rule 33 (19) shall be deemed to have been awarded under a judgment for the amount offered or a judgment in the terms of the settlement, as the case may be.

4. Claims for ejectment shall be computed at two months' rent of the premises.

5. The rate at which costs are computed shall not be increased by reason of any claim for confirmation of any interdict or interlocutory order.

6. Fees to counsel shall be allowed on taxation only in cases falling within Scale B or Scale C or where the court has made an order in terms of rule 33 (8) and shall not be so allowed unless payment thereof is vouched by the signature of counsel.

7. Where the amount allowed for an item is specified, the amount shall be inclusive of all necessary copies, attendances and services (other than services by the sheriff for the magistrate's court) in connection therewith.

8. Where the amount allowed for an item is left blank-

(a) the drawing of documents (not pleadings) shall be allowed at R19, 00 for each folio;

(b) copies for filing and service shall also be allowed;

(c) R12, 00 shall be allowed for each necessary service;

9. (a) Where any document appears to the court to be unnecessary prolix, the court may disallow the whole or any part of the fee therefor.

(b) Where printed forms of documents to be copied are available, the fees for copying shall be limited to the necessary particulars inserted in such printed forms.

10. (a) A folio shall consist of 100 written or printed words or figures or part thereof.

(b) Four figures shall be reckoned as one word.

11. (a) Unless otherwise provided, a charge for perusal shall be allowed at R7, 00 per folio in respect of any document or pleading necessarily perused.

(b) Where a charge is allowed for copying, it shall be allowed at R3, 00 per page, regardless of the number of words, unless otherwise provided.

12. Where there are more defendants than one R12, 00 shall be added in respect of each additional defendant for each of items 2 and 3 of Part II and items 2 and 7 of Part III.

13. Where the judgment debt is payable in instalments in terms of the judgment or an agreement, a fee of 10% on each instalment collected in redemption of the capital, costs and interest shall be allowed, subject to a maximum of R300,00 on each instalment. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment.

14. The clerk or registrar of the court shall on taxation disallow any charge unnecessarily incurred.

15. Where the fee under any item is calculated on a time basis, the total time spent on any one day shall be calculated and the fee for that day calculated on such total.

16. Any amount necessarily and actually disbursed in tracing the debtor.

## PART II

## UNDEFENDED ACTIONS

	R
Item 1 - Registered letter of demand in terms of section 56 of the Act .....	R29,00
Item 2 - Summons, inclusive of a letter of demand other than the letter of demand referred to in item 1:	
(a) Claim or claims where the aggregate amount of the claim or claims does not exceed R7 000 .....	R98,00
(b) Claim or claims where the aggregate amount of the claim or claims exceeds R7 000 but does not exceed R50 000 .....	R327,00
(c) Claim or claims where the aggregate of the claim or claims exceeds R50 000, and in respect of divorces or matrimonial matters .....	R485,00
Item 3 - Judgment:	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the amount in 2(a) .....	R98,00
(b) Claim or claims where the aggregate of the claim or claims exceeds the amount in 2(b) but is not more than R50 000 .....	R250,00
(c) Claim or claims where the aggregate of the claim or claims exceeds R50 000, and in respect of divorces or matrimonial matters .....	R408,00
Item 4 - Notice in terms of rule 12 (2) .....	R47,00
Item 5 - Notice in terms of rule 54 (1) .....	R47,00
Item 6 - Affidavit or certificate .....	—
Item 7 - Attending court at the request of the magistrate when claim is referred to court for judgment or to obtain provisional sentence when claim is undefended .....	as allowed under item 15 on the

	scale for defended actions.
Item 8 - For each registered letter forwarded to the debtor in terms of section 57(1) or (3) or section 58(2), of the Act by the creditor or his attorney, including copies .....	R30,00
Item 9 - Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act) .....	R79,00
Item 10 - Consent to judgment or to judgment and an order for the payment of judgment debt in instalments (section 58 of the Act) .....	R79,00

*Note:* The amount of fees allowable under items 4, 5, 6, 7, 8, 9 and 10 shall be included without taxation in the amount of the costs for which judgment is entered."

## PART III

## DEFENDED ACTIONS (AND INTERPLEADER PROCEEDINGS)

Item	Scale A R	Scale B R	Scale C R
1. Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons .....	R394,00	R525,00	R630,00
2. Summons .....	R198,00	R275,00	R329,00
3. Appearance .....	R33,00	R33,00	R40,00
4. Notice under rule 12 (1) (b) and (2) .....	R33,00	R33,00	R40,00
5. Plea .....	R198,00	R275,00	R329,00
6. Claim in reconvention .....	R198,00	R275,00	R329,00
7. Reply, if necessary .....	R198,00	R275,00	R329,00

8. Drawing up of all documents not specifically mentioned, including request for further particulars, schedule of documents, all affidavits, subpoenas, any notice not otherwise provided for and drawing up of statements by witnesses .....	-	-	-
9. Production of documents for inspection, or inspecting documents, per quarter of an hour or part thereof of the time spent .....	R117,00	R117,00	R140,00
10. Each copy of service, per page .....	R3,00	R3,00	R3,00
11. The recording of statements by witnesses, per quarter of an hour or part thereof .....	R117,00	R117,00	R140,00
12. Notice of trial or reinstatement .....	R33,00	R33,00	R40,00
13. Preparing for trial (if counsel not employed) .....	R656,00	R893,00	R1071,00
14. Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations .....	R117,00	R117,00	R140,00
15. Attending court during trial, or at an on-the-spot inspection, or at postponement or examination on commission, for each quarter of an hour or part thereof spent in court while the case is actually being heard-			
(a) if counsel not employed .....	R117,00	R117,00	R140,00
(b) if counsel employed .....	Nil	R47,00	56,00
16. Attending pre-trial conference, for each quarter of an hour or part thereof actually spent in such conference .....	R117,00	R117,00	R140,00
17. Attending court to hear reserved judgment, per quarter of an hour or part thereof .....	R23,00	R23,00	R28,00
18. Correspondence -			
(a) for each necessary letter or telegram, per folio	R19,00	R19,00	R23,00
(b) for each letter or telegram received, provided	R12,00	R19,00	R23,00

that a fee for perusal shall not be allowed in addition to the fee herein provided for .....			
19. Attendances: For each necessary attendance not otherwise provided for, per attendance .....	R12,00	R19,00	R23,00
20. Necessary formal telephone calls, per call .....	R12,00	R19,00	R23,00
21. Telephone consultations: For every 5 minutes or part thereof, subject to a maximum of R113,00 per consultation .....	R33,00	R33,00	R40,00
22. Each necessary consultation, per quarter of an hour or part thereof .....	R117,00	R117,00	R140,00
23. The court may, on request made at the hearing, allow in addition to the fee prescribed in item 13 above a refresher fee in postponed or partly heard trials .....	R408,00	R578,00	R693,00
24. Time spent waiting at court (owing to no court being available) per quarter of an hour or part thereof .....	R79,00	R79,00	R95,00
25. Travelling time [subject to the provisions of rule 33 (9)] per quarter of an hour or part thereof .....	R79,00	R79,00	R95,00
26. Subsistence and travelling expenses as laid down in rule 33 (9) .....	The actual reasonable subsistence and travelling expenses as laid down in rule 33 (9)		

## PART IV

## OTHER MATTERS

Exceptions, applications to strike out, applications for summary judgment, appearance to obtain provisional sentence when claim is defended, interlocutory applications, arrest, interdict, applications under rule 27(9), applications to review judgment, order or taxation, applications for liquidation of close corporations and applications in terms of section 65J of the Act.

Item	Scale A R	Scale B R	Scale C R
1. (a) Instructions to make application or to oppose or to show cause (the court may on request allow a higher amount) .....	R98,00	R198,00	R236,00
(b) Instructions to make application for liquidation of close corporation, perusal of all documentation and consideration of merits, and all necessary consultations .....	R485,00	R485,00	R581,00
2. Drawing up of all documents, affidavits, applications and notices, orders, etc .....	—	—	—
3. Attending court on hearing:			
(a) If unopposed or opposed (if counsel not employed), for each quarter of an hour or part thereof actually spent in court .....	R117,00	R117,00	R140,00
(b) If opposed (if counsel employed), for each quarter of an hour actually spent in court or part thereof .....	Nil	R47,00	R56,00
4. Fee for preparing for trial, when opposed, if allowed by the court on request .....	R408,00	R485,00	R581,00
5. Consultations and settlement negotiations - when opposed, per quarter of an hour or part thereof .....	R117,00	R117,00	R140,00
<i>Note:</i> The court may on request made at the hearing allow, as an alternative to the fees prescribed in item 4, a fee for preparing argument under items 13 and 23 of the scale for defended actions.			

Item	Scale
<b>TAXATION OF COSTS</b>	<b>R</b>
6. Drawing up bill of costs: .....	5% of the fees allowed.
7. Attending taxation: .....	5% of the total of the bill allowed.
8. Attending on review of taxation, for each quarter of an hour or part thereof in court while review is actually being heard ..	R117,00

9. Notice of application for review of taxation and service .....	—
10. Affidavit, where necessary .....	—

## EXECUTION

11. (a) Issue of warrant of execution, ejectment, and delivery up of possession .....	R79,00
(b) For each reissue thereof .....	R33,00
12. Inclusive fee for work done in connection with releasing of immovable property attached .....	R98,00
13. Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work in respect of which fees are already provided for elsewhere and the drawing up of the conditions of sale) .....	R250,00
14. (a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6), or conditions of sale in terms of rule 43(7) .....	—
(b) For all other work done and papers and documents supplied to the sheriff of the magistrate's court in connection with a sale in execution of movable property, an inclusive fee of .....	R170,00
15. Security for restitution, where necessary .....	R65,00
WHERE COUNSEL IS EMPLOYED	
16. Instructions for exception or application, where allowed	R117,00
17. Instructions on trial .....	R145,00
18. Drawing brief on exception or application, where allowed .....	—
19. Drawing brief on trial .....	—
20. Attending each necessary consultation with counsel, per quarter of an hour or part thereof .....	R47,00



FEES TO COUNSEL	
21. With brief to argue exception or application .....	R578,00
<i>Note:</i> A fee to counsel on application shall be allowed only where the court certifies that the briefing of counsel was warranted.	
22. With trial brief for the first day, not exceeding .....	R1640,00
23. In any court held more than 30 km from the nearest town where a provincial or local division (other than a Circuit Court) of the High Court sits, a travelling allowance (in addition to the fee on brief) may be allowed by special order of the court at .....	R3,00 per km
24. Each necessary consultation, per quarter of an hour .....	R117,00
25. For every day exceeding one on which evidence is taken or arguments heard, a refresher not exceeding .	R985,00
26. Drawing up pleadings .....	R263,00
<i>Notes:</i>	
(a) In regard to items 22 and 25 a fee in lieu of the fee for the first day's hearing shall be allowed as follows when the case is settled or withdrawn or postponed at the instance of any party on or before the date of hearing:	
(i) not more than two days prior to the date of hearing: The fee otherwise allowable on taxation for the first day's hearing:	
(ii) not less than three days and not more than seven days prior to the date of hearing: Two thirds of the fee under (i); and	
(iii) not less than eight days and not more than 21 days prior to the date of hearing: Half of the fee under (i).	
(b) The court may on request allow a a higher fee for counsel in regard to items 22, 24, 25 and 26.	
(c) A fee for travelling time by counsel shall be allowed at the same rate as for attorneys under rule 33(9).	

MISCELLANEOUS	
27. Obtaining certified copy of judgment .....	R60,00
28. Obtaining payment in terms of rule 18(4) .....	R40,00
29. Request for security in terms of rule 62(1) .....	—
30. Furnishing security in terms of rule 62(1) .....	—

**TABLE     B**  
**COSTS**

**PART     I**

**GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 65 AND 65A TO 65M OF THE ACT**

1. Subject to the provisions of paragraph 3, no fees other than those in the Tariff to this Part shall be allowed.

2. Subject to the provisions of section 65K of the Act, the fees laid down in items (a) , (b) or (c) of the Tariff to this Part, as the case may be, shall be payable for the drawing up of the notice referred to in section 65A (1), including appearance at the inquiry into the judgment debtor's financial position referred to in section 65D, or any appearance at subsequent suspension, amendment or rescission proceedings, and shall, with the exception of the fee allowed under item (m) of the tariff, be chargeable only once for the drawing up, issue and all reissues of the notice and all postponements of the inquiry, irrespective of the number of days on which the proceedings are heard in court: Provided that where the debtor leaves the area of jurisdiction of the court after issue of the notice referred to in section 65A (1) and the notice is reissued in any other district, the aforesaid fee may also be charged in such other district if the court so orders.

3. The following shall be allowed in addition to the fees laid down in the Tariff to this Part:

(a) All necessary disbursements incurred in connection with the proceedings.

(b) A fee of 10% on each instalment collected in redemption of the capital and costs of the action, subject to a maximum amount of R300, 00 on every instalment. Where the amount is payable in instalments the collection fees shall be recoverable only on payment of every instalment. Such fees shall be in substitution for and not in addition to the collection fees prescribed in paragraph 13 of Part 1 of Table A.

(c) All necessary disbursements incurred in connection with any prior abortive proceedings under section 72, if the court has so ordered.

(d) Any amount necessarily and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was not less than R327, 00. The total amount to be allowed for each tracing shall not exceed R250, 00.

4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3 (d), be the total of the capital amount and costs outstanding at the date of the first institution of proceedings under section 65A (1) of the Act.

5. Items 1 to 5 of Part IV of Table A of Annexure 2 are applicable in terms of section 65J of the Act.

CONTINUES ON PAGE 258—PART 3

## TARIFF

		R
(a)	Where the claim does not exceed the amount of R1 000,00 .....	R165,00
(b)	Where the claim exceeds the amount of R1 000,00 but is not more than R2 000,00 .....	R250,00
(c)	Where the claim exceeds the amount of R2 000,00 .....	R296,00
(d)	Warrant of Arrest (Form 40A) .....	R65,00
(e)	(i) Emoluments Attachment Order (Form 38) .....	R131,00
	(ii) Reissue (Certificates included) .....	R105,00
(f)	Application for costs on notice (including appearance in court) .....	R65,00
(g)	Obtaining a certified copy of a judgment .....	R65,00
(h)	Affidavit or certificate by the judgment creditor or his or her attorney .....	R47,00
(i)	For each registered letter forwarded to the debtor in terms of sections 65A(2), 65E(6) or 65J(2) of the Act by the creditor or his or her attorney ..	R30,00
(j)	Affidavit or affirmation by debtor [Rule 45(7)] .....	R79,00
(k)	Request for an order under section 65 of the Act .....	R47,00
(l)	Attending postponed proceedings in terms of section 65E(3) of the Act or attending proceedings at court pursuant to the arrest of a judgment debtor, director or officer or pursuant to a notice referred to in 65A(8)(b) ..	R65,00
(m)	Subpoena:	

	(i) Drawing up of subpoena, per folio .....	R19,00
	(ii) Every necessary attendance, per attendance .....	R12,00
(n)	(i) Correspondence: For every necessary letter or telegram written or received, including copy to retain, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio .....	R19,00
	(ii) Attendances: For each necessary attendance not otherwise provided for, per attendance .....	R19,00
	(iii) Necessary formal telephone calls, per call .....	R19,00

## PART II

## GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 72 OF THE ACT

1. Subject to the provisions of paragraphs 2 and 3 no fees other than those laid down in the Tariff to this Part shall be allowed.

2. Paragraph 3 (a), (b) and (d) of the general provisions under Part 1 of this Table shall apply mutatis mutandis to this Part.

3. All necessary disbursements incurred in connection with any prior abortive proceedings under section 65 shall be allowed if the court has so ordered.

4. For the purpose of the Tariff to this Part the amount of the claim shall, subject to the provisions of paragraph 3 (d) of the general provisions under Part 1 of this Table, be the total of the capital amount outstanding at the date of the first institution of proceedings in terms of section 72 of the Act.

## TARIFF

	R
(a) Where the claim does not exceed R200,00 .....	R98,00
(b) Where the claim exceeds R200,00 .....	R210,00
(c) Obtaining certified copy of a judgment .....	R60,00
(d) Application for an order of execution against the garnishee .....	R60,00
(e) Garnishee Order (Form 39) .....	R79,00

## PART III

## GENERAL PROVISIONS IN RESPECT OF PROCEEDINGS IN TERMS OF SECTION 74 OF THE ACT

1. The following fees shall be allowed in addition to those laid down in the Tariff to this Part:

- (a) All necessary disbursements incurred in connection with the proceedings.
- (b) In addition to the fees stated below, the administrator shall be entitled to a fee of 10% on each instalment collected for the redemption of capital and costs.

2. For the purposes of items 4 and 5 of the Tariff to this Part, a folio shall consist of 100 written or printed words or figures and four figures shall be reckoned as one word.

## TARIFF

Item	One to ten creditors	Eleven to twenty creditors	Twenty- one or more creditors
	R	R	R
1. Instructions to apply for administration order, including the necessary perusal of summonses, demands, etc, and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection therewith .....	R117,00	R165,00	R263,00
2. Instructions on application under section 74Q (1) or to oppose such application or the granting of administration order .....	R93,00	R93,00	R93,00
3. Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court .....	R165,00	R165,00	R165,00
4. Making copies of application, affidavit and annexures for creditors, per page .....	R3,00	R3,00	R3,00
5. Perusal of application and other documents served, if any, per folio ..... <i>Note: The fees under this item are only claimed by the attorney or an opposing party.</i>	R7,00	R7,00	R7,00
6. Attending court: (a) On postponement or setting aside, if not occasioned by the attorney or his client. ....	R44,00	R44,00	R44,00
(b) On any other hearing .....	R93,00	R177,00	R177,00
7. For furnishing to a creditor by the administrator of the information referred to in section 74M(a)	R12,00	R12,00	R12,00

of the Act, per application .....			
8. For furnishing of a copy of the debtor's statement of affairs referred to in sections 74 and 74A (1) of the Act by the administrator in terms of section 74M (b) or of a list or account referred to in section 74G (1) or 74J of the Act or of the debtor's statement of affairs referred to in section 65I (2) of the Act, per page .....	R2,00	R2,00	R2,00
9. Correspondence and attendances .....	R19,00	R19,00	R19,00

## TABLE C

## GENERAL PROVISIONS AND TARIFF OF FEES (SHERIFFS)

## PART I

## SHERIFFS WHO ARE OFFICERS OF THE PUBLIC SERVICE

1. For each service or execution or attempted service of any process or document: R7.
2. The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.



## PART II

## SHERIFFS WHO ARE NOT OFFICERS OF THE PUBLIC SERVICE

1A. For registration of any document for service or execution upon receipt thereof: R6,00.

1B. (a) For the service of a summons, subpoena, notice, order or other document not being a document mentioned in item 2, the journey to and from the place of service of any of the above-mentioned documents –

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R28,00;
- (ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R33,00;
- (iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R44,00;
- (iv) where a mandator instructs the sheriff in writing to serve a document referred to in item 1B(a) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in item 1B(a)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.

(b) For the attempted service of the documents mentioned in paragraph (a), the journey to and from the place of attempted service of any of the above-mentioned documents –

- (i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R23,00;
- (ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R28,00;
- (iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R39,00;
- (iv) where a mandator instructs the sheriff in writing to serve a document referred to in item 1B(a) urgently on the day of receipt of such document or after normal office hours and the sheriff is unsuccessful in his or her attempt to effect service, the costs shall be calculated at double the tariff in item 1B(b)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.

(c) (i) Where a document must be served together with a process of the court and is mentioned in such process or is an annexure thereto, no additional fees shall be charged for service of the document, otherwise R6,00 may be charged for every separate document served.

(ii) No fees shall be charged for a separate document when process in criminal matters are served.

(iii) The service of a notice referred to in rule 54(1) simultaneously with the summons shall not be regarded as a separate service.

2. (a) For the execution of a warrant, interdict or garnishee order, the journey to and from the place of execution of the above-mentioned documents –

(i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R39,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R44,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R55,00;

(iv) where a mandator instructs the sheriff in writing to execute a document referred to in item 2(a) urgently on the day of receipt of such document or after normal office hours, the costs shall be calculated at double the tariff in item 2(a)(i), (ii) and (iii) respectively, which additional costs shall be paid by the mandator, save where the court orders otherwise.

(b) For the attempted execution of the documents mentioned in paragraph (a), the journey to and from the place of attempted execution of the above-mentioned documents –

(i) within a distance of 6 kilometres from the court-house of the district for which the sheriff is appointed: R33,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the district for which the sheriff is appointed: R39,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the district for which the sheriff is appointed: R50,00;

(iv) where a mandator instructs the sheriff in writing to execute a document referred to in item 2(a) urgently on the day of receipt of such document or after normal

office hours and the sheriff is unsuccessful in his or her attempt to effect execution, the costs shall be calculated at double the tariff in item 2(b)(i), (ii) and (iii) respectively, which costs shall be paid by the mandator, save where the court orders otherwise.

(c) (i) For the ejectment of a defendant from the premises referred to in the warrant of ejectment: R23,00 per half hour or part thereof (except extraordinary expenses necessarily incurred).

(ii) A further fee of R15,00 shall be paid after execution for every person over and above the person named or referred to in the process of ejectment, in fact ejected from separate premises: Provided that where service on any person other than the judgment debtor, respondent or garnishee is necessary in order to complete the execution, the fee laid down in item 1B(a) may be charged in respect of each such service.

(d) For the arrest of a defendant *tanquam suspectus de fuga* to found jurisdiction, shall, in addition to the tariff in item 2(a), an amount of R23,00 per half hour or part thereof be payable for waiting time during negotiations between the several parties.

3. Compilation of any return in terms of rule 8, in duplicate: R11,00.

4. If it is necessary for the sheriff to travel further than 20 kilometres from the court-house of the district for which he or she is appointed, a travelling allowance of R3,00 per kilometre for each kilometre or part thereof travelled further than the aforesaid distance to and from the place of service or execution shall be allowed in addition to the fees mentioned in item 1B(a)(iii), 1B(b)(iii), 2(a)(iii) or 2(b)(iii) as the case may be.

5. (a) In respect of the discharge of any official duty other than those mentioned in items 1 and 2, a travelling allowance of R3,00 per kilometre for every kilometre, or part thereof, shall be payable to the sheriff for going and returning, and it shall be calculated from the court-house of the district for which the sheriff is appointed.

(b) A travelling allowance shall include all the expenses incurred in travelling, including train fares.

(c) A travelling allowance shall be calculated in respect of each separate service, except that –

- (i) where more services than one can be done on the same journey beyond a radius of 20 kilometres from the court-house, the distance from the radius of 20 kilometres to the first place of service may be taken into account only once, and shall be apportioned equally to the respective services, and the distance from the first place of service to the remaining places of service shall similarly be apportioned equally to the remaining services; and
- (ii) where service of the same process has to be effected on more than one person by a sheriff within the area served by him or her, only one charge for travelling shall be allowed.

(d) When it is necessary for the sheriff to convey any person under arrest for any distance of more than 20 kilometres, an allowance of R3,00 per kilometre in respect of that portion of his or her journey on which he or she was necessarily accompanied by such person shall be allowed.

6. (a) Making an inventory, including the making of all necessary copies and time spent on stock-taking: R23,00 per half hour or part thereof.

(b) For assistance, if necessary, with the making of an inventory, R23,00 per half hour or part thereof.

7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: R6,00.

8. Charge or custody of property (money excluded):

(a) (i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding R83,00 per day.

(ii) Travelling allowances, to include board in every case.

(b) If livestock is attached, only the necessary expenses of herding and preserving the stock shall be allowed.

(c) If the goods are removed and stored, only the cost of removal and storage shall be allowed.

9. (a) "Possession" shall mean actual physical possession by a person employed and paid by the sheriff, whose sole work for the time being is to remain on the premises where the goods have been attached, and who, in fact, remains in possession for the period for which possession is charged.

(b) 'Cost of removal' shall mean the amount actually and necessarily disbursed for removal or attempted removal if the goods were removed by a third party or an attempt was made to remove them, if they were removed by the sheriff him- or herself, such amount as would fairly be allowable in the ordinary course of business if the goods were removed by a third party, or an attempt was made to so remove them.

(c) 'Cost of storage' shall mean the amount actually and necessarily paid for storage if the goods were stored with a third person or, if the sheriff provided the storage, such amount as would fairly be allowable in the ordinary course of business if the goods were stored with a third person.

10. (a) Where a warrant of execution or garnishee order is paid in full, or in part, to the sheriff or moneys attached in execution against movables, 9 per cent of the amounts so paid or attached, with a minimum of R44,00 and a maximum of R440,00.

(b) Notice of attachment to defendant and to each person to be notified: R6,00.

11. Where property is released from attachment in terms of rule 41(7)(e), or the warrant of execution is withdrawn or stayed, or the judgment debtor's estate is sequestrated after the attachment, but before the sale, 2,3 per cent of the value of the goods attached, subject to a maximum of R133,00: Provided that if a sale subsequently takes place in consequence of the said attachment, the amount so paid shall be deducted from the commission payable under item 12.

12. Where the warrant of execution against movables is completed by sale, 9 per cent for the first R15 000, 00 or part thereof and thereafter 6 per cent, with a maximum of R5 875,00.

13. For the insurance of attached property if deemed necessary and on written instructions of the judgment creditor to the sheriff, in addition to the premium to be paid, an all inclusive amount of R23,00.

14. (a) When immovable property has been attached in execution and is not sold, either by reason of the warrant having been withdrawn or stayed or of the sequestration of the estate of the execution debtor, the expenses in connection with the attempted sale and the sum of R133,00 shall be payable to the sheriff or the person in fact authorised to act as auctioneer, as the case may be.

(b) The drawing up of a report of the improvements on the property for the purpose of sale: R23,00 per half hour or part thereof.

(c) Written notice to the purchaser who has failed to comply with the conditions of sale: R33,00.

(d) Consideration of conditions of sale: R66,00.

15. When immovable property has been attached in execution and the attachment lapses as referred to in section 66(4) of the Act: R39,00.

16. When an execution against immovable property is completed by sale, the following fees shall be allowed to the sheriff on the proceeds of the sale:

(a) On the sale of immovable property by the sheriff as auctioneer 6 per cent on the first R30 000, 00 of the proceeds of the sale and 3,5 per cent on the balance thereof, subject to a maximum commission of R8 750,00 in total and a minimum of R440,00 (inclusive in all instances of the sheriff's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser.

(b) If an auctioneer is employed as provided in rule 43(9), 3 per cent on the first R30 000,00 of the proceeds of the sale and 2 per cent on the balance thereof, subject to a maximum commission of R5 000,00 total and a minimum of R440,00 (inclusive in all instances of the sheriff's bank charges and other expenses incurred in paying the

proceeds into his or her trust account), which commission shall be paid by the purchaser.

17. In addition to the fees allowed by items 10 to 15, both inclusive, there shall be allowed –

- (a) the sum actually and reasonably paid by the sheriff or the auctioneer for printing, advertising and giving publicity to any sale or intended sale in execution;
- (b) the sum of R16,00 to the sheriff for giving transfer to the purchaser.

18 Where the sheriff is in possession under more than one warrant of execution, he or she may charge fees for only one possession, and such possession shall, as far as possible, be apportioned equally to the several warrants issued during the same period: Provided that each execution creditor shall be jointly and severally liable for such possession to an amount not exceeding what would have been due under his or her execution if it had stood alone.

19. Fees payable on the value of goods attached or on the proceeds of the sale of goods in execution shall not be chargeable on such value or proceeds so far as they are in excess of the amount of the warrant.

20. The fees and expenses of the sheriff in execution of a garnishee order shall be added to the amount to be recovered under the order, and shall be chargeable against the judgment debtor.

21. If it is necessary for the sheriff to return a document received by him or her for service or execution to the mandator because –

- (a) the address of service which appears on the process does not fall within his or her jurisdiction; or
- (b) the mandator requested, before an attempted service or execution of the process, that it be returned to him or her, an amount of R6,00 shall be payable.

22. For the conveyance of any person arrested by the sheriff or committed to his or her custody from the place of custody to the court on a day subsequent to the day of arrest: R23,00 per journey and R44,00 per hour or part thereof for attending at court.

23. For the examination of indicated newspapers and the *Gazette* in which the notice of sale has been published as referred to in rule 43(6)(c) and Rule 41(8)(c): R6,00.

24. For forwarding a copy of the notice to every execution creditor who has lodged a warrant of execution and to every mortgagee in respect of the immovable property concerned whose address is reasonably ascertainable, for each copy: R6,00.

25. (a) For affixing a copy of the notice of sale on the notice board or door of the court-house or other public building referred to in rule 43(6)(e) and rule 41(8)(b): R16,00.

(b) For affixing a copy of the notice of sale on the property due to be sold, the amount in paragraph (a) above and travelling costs referred to in item 5(a).

26. For the drawing up and issuing of an interpleader summons: R66,00.

27. In addition to the fees prescribed in this Table, the sheriff shall be entitled to the amount actually disbursed for postage and telephone calls.

28. For the writing of each necessary letter, excluding formal letters accompanying process or returns: R6,00.

29. Each necessary attendance by telephone (in addition to prescribed trunk charges and cellular charges): R6,00.

30. Sending and receiving of each necessary facsimile per A4 size page (in addition telephone charges): R3,00.



31. For the perusal of the records of the Registrar of Deeds in terms of rule 43(3) to determine the order of precedence of creditors:

- (a) If investigated by the sheriff him- or herself: R39,00 per case.
- (b) If the sheriff utilises the services of a third party for the investigation, the actual cost as required by the third party, provided that it is reasonable.

32. For the making of all necessary copies of documents: R2,00 per A4 size page.

33. (a) A request to tax an account of a sheriff shall be done within 90 days after the date on which the account of which the fees are disputed, has been rendered.

(b) For the drawing up of the bill for taxation and attendance of the taxation by the sheriff: R44,00.

34. Bank charges: Actual costs incurred relating to bank charges and cheque forms.

35. (a) Drafting of notice to the judgment debtor in terms of section 65A(8)(b) of the Act: R11,00.

(b) Service of notice referred to in paragraph (a): Tariff as prescribed in item 1B(a).

(c) Attempted service of notice referred to in paragraph (a): Tariff as prescribed in item 1B(b).

(d) The tariff as prescribed in item 4 shall apply to paragraphs (b) and (c).

36. (a) For the arrest or attempted arrest of a judgment debtor in terms of section 65A(6) of the Act:

(i) The tariff as prescribed in item 2(a) or item 2(b), as the case may be.

(ii) The tariff as prescribed in item 4 shall apply to this item.

(b) For the handing over of the judgment debtor to the South African Police Service, prisoners' friend or clerk of the court or other lawful place of detention:

(i) The tariff as prescribed in item 2(a).

- (ii) Travelling costs from place of arrest to place of handing over to the relevant authority referred to in paragraph (b), per kilometre or part thereof: R3,00.
- (iii) Waiting time in regard to handing over the judgment debtor to the relevant authority referred to in paragraph (b): R23,00 per half hour or part thereof with a maximum of R88,00.

#### **TABLE D**

##### **FEES PAYABLE TO ASSESSORS**

1. For every attendance when the case is wholly or partly heard: R70 for each hour or part of an hour of such attendance, but not to be less than R140 or more than R350 for every such attendance.
2. For every attendance when the case is not heard but is postponed or settled, at the above rate, but the minimum to be R70.
3. Attendance to be reckoned from the hour for which the assessor is summoned to the hour at which judgment is given or reserved, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
4. When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the assessor is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.
5. An assessor shall be entitled to the following travelling allowance for each journey actually and necessarily taken between the courthouse and his or her residence or place of business:
  - (a) R1, 10 per kilometer in the case of a motorcar with an engine swept volume of

- 2 150 cm<sup>3</sup> or less;
- (b) R1, 14 per kilometer in the case of a motorcar with an engine swept volume of 2 151 cm<sup>3</sup> up to and including 2 500 cm<sup>3</sup>;
- (c) R1, 27 per kilometer in the case of a motorcar with an engine swept volume of 2 501 cm<sup>3</sup> up to and including 3 500 cm<sup>3</sup>;
- (d) R1, 42 in the case of a motorcar with an engine swept volume of more than 3 500 cm<sup>3</sup>.

6. The party who desires an assessor in terms of rule 59 (6) shall pay to the clerk or registrar of the court an amount of R350 for each assessor applied for.

## APPENDIX A

### TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN CIVIL CASES

The Minister for Justice and Constitutional Development has, in consultation with the Minister for Finance, under section 51 bis of the Magistrates' Courts Act, 1944 (Act 32 of 1944), and section 42 of the Supreme Court Act, 1959 (Act 59 of 1959), prescribed the tariff of allowances in the Schedule.

## SCHEDULE

### 1 Definitions

In this Schedule any word or expression to which a meaning has been assigned in the Acts shall bear the meaning so assigned to it and unless the context otherwise indicates-

"court manager" means the person in control of the administration of a magistrate's office;

"registrar" includes assistant registrar;

"the Acts" means the Magistrates' Courts Act, 1944 (Act 32 of 1944), and the Supreme Court Act, 1959 (Act 59 of 1959); and

"witness" means a person who attends a civil case as a witness.

## 2 Subsistence allowance

(1) A witness is entitled to the following allowances for each 24 hours or part thereof for which the witness is, for the purpose of the attendance of a civil case, absent from his or her residence or place of sojourn:

(a) the reasonable actual expenses if it is necessary to hire accommodation for the night; and

(b) (i) R50; or

(ii) the reasonable actual expenses incurred for meals on submission of proof of the expenses to the satisfaction of the court manager or the registrar.

(2) The allowances provided for in subregulation (1) are payable for the full period for which the witness is absent from his or her residence or place of sojourn for purposes of attending the court.

(3) In calculating the period of absence for purposes of subregulations (1) and (2), a witness is allowed 24 hours for each distance of 600 kilometres or part thereof travelled.

(4) The allowance provided for in subregulation (1) is not payable if the fare of a witness includes the cost of meals and accommodation.

### 3 Transport and travelling expenses

(1) A witness may, subject to subregulation (2), make use of public or private transport and is entitled to the following allowances:

(a) In the case of private transport-

(i) 92c per kilometre in the case of a motorcycle; or

(ii) R1.30 per kilometre in the case of a motor vehicle,

calculated along the shortest route; or

(b) in the case of public transport, an amount equal to the fare for the least expensive transport along the shortest route.

(2) A witness may only use air transport if the court manager, registrar, or taxing master of the High Court of South Africa-

(a) is satisfied that the use thereof is warranted; and

(b) has approved that the witness may make use of air transport.

(3) On satisfactory proof having been produced, a witness is entitled to be reimbursed for his or her reasonable actual expenses incurred in respect of parking and toll fees.

### 4 Income forfeited

On satisfactory proof having been produced that a witness has forfeited income as a result of his or her attendance of a civil case, he or she is, in addition to the allowance that may be payable to the witness in terms of regulation 2, entitled to an allowance equal to the actual amount of income so forfeited, subject to a maximum of R1 500.00 per day.

## 5 Supplementary provisions

The court manager, registrar or taxing master of a High Court may approve-

- (a) the payment of-
  - (i) an allowance not provided for in this Schedule; or
  - (ii) an allowance under circumstances not provided for in this Schedule,

to a witness if he or she is of the opinion that fairness so requires but with due regard to the principle that a witness should not be remunerated for the evidence given in a court of law; or

- (b) the deviation from the prescribed tariff in the case of-
  - (i) a witness residing outside the Republic of South Africa; or
  - (ii) in any other case,

if he or she is satisfied that the application of the provisions of this Schedule may cause financial hardship.

## 6

Where the expenses of a witness are provided for from any other source, no allowance in terms of this Schedule shall be paid to him or her.

## 7

The allowances prescribed in this Schedule are also payable to a person who, of necessity, accompanies a witness on account of the youth or infirmity, owing to old age, or any other infirmity of the witness.

## 8

The decision of a court manager, registrar, or taxing master of a High Court in respect of the amounts payable in terms of regulations 3, 4 and 5 shall be final.

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Government Notice R2597 of 1 November 1991 is repealed.