

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 842

31 MAY 2019

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS
OF THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

- [] Expressions in bold type in square brackets indicate omissions from existing rules.
- _____ Expressions underlined with a solid line indicate insertions into existing rules.

Definition

1. In this Schedule the "Rules" means the Rules of the Supreme Court of Appeal published under Government Notice No. R. 1523 of 27 November 1998, as amended by Government Notice Nos. R. 979 of 19 November 2010, R. 191 of 11 March 2011, R. 113 of 15 February 2013, R. 1055 of 29 September 2017 and R. 1318 of 30 November 2018.

Amendment of rule 1 of the Rules

2. Rule 1 of the Rules is hereby amended—
- (a) by the insertion in subrule (1) before the definition of **"apply"** of the following definition:
 "'Act' means the Superior Courts Act, 2013 (Act No. 10 of 2013).";
- (b) by the substitution in subrule (1) for the definition of **"Court"** of the following definition:
 "'Court' means the Supreme Court of Appeal [of South Africa] as referred to in section 5 of the Act);";
- (c) by the substitution in subrule (1) for the definition of **"court day"** of the following definition:
 "'court day' means [any day other than a Saturday, Sunday or public holiday] a business day as defined in the Act"; and
- (d) by the substitution in subrule (1) for the definition of **"President"** of the following definition:

"President" means the President of the Court and, in **[his or her]** the absence of the President, includes the Deputy President of the Court;"

Amendment of rule 6 of the Rules

3. Rule 6 of the Rules is hereby amended by the addition of the following subrule:

"Application and referral for reconsideration

(9) Notwithstanding the provisions of this rule, an application to the President and a referral by the President, for reconsideration of a decision in terms of section 17(2)(f) of the Act, shall be conducted in accordance with directives issued by the President."

Amendment of rule 7 of the Rules

4. Rule 7 of the Rules is hereby amended—
- (a) by the substitution in subrule (1) for paragraph (c) of the following paragraph:
- "(c) the setting aside of a direction of a **[high] court of a Division** in terms of section **[20(2)(b) of the Supreme Court Act, 1959 (Act No 59 of 1959)] 17(6) of the Act** or section 315(2)(b) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)."; and
- (b) by the addition of the following subrule:
- "(5) Notwithstanding the provisions of this rule, an appeal in terms of section 18(4)(ii) of the Act shall be conducted in accordance with directives issued by the President."

Commencement

5. These Rules shall come into operation on **1 JULY 2019**.

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)
AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS
OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE HIGH COURT OF
SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Expressions in bold type in square brackets indicate omissions from existing rules.

 Expressions underlined with a solid line indicate insertions into existing rules.

Definition

1. In this Schedule the "Rules" means the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa published under Government Notice No. R. 48 of 12 January 1965, as amended by Government Notice Nos. R. 235 of 18 February 1966, R. 2004 of 15 December 1967, R. 3553 of 17 October 1969, R. 2021 of 5 November 1971, R. 1985 of 3 November 1972, R. 480 of 30 March 1973, R. 639 of 4 April 1975, R. 1816 of 8 October 1976, R. 1975 of 29 October 1976, R. 2477 of 17 December 1976, R. 2365 of 18 November 1977, R. 1546 of 28 July 1978, R. 1577 of 20 July 1979, R. 1535 of 25 July 1980, R. 2527 of 5 December 1980, R. 500 of 12 March 1982, R. 773 of 23 April 1982, R. 775 of 23 April 1982, R. 1873 of 3 September 1982, R. 2171 of 6 October 1982, R. 645 of 25 March 1983, R. 841 of 22 April 1983, R. 1077 of 20 May 1983, R. 1996 of 7 September 1984, R. 2094 of 13 September 1985, R. 810 of 2 May 1986, R. 2164 of 2 October 1987, R. 2642 of 27 November 1987, R. 1421 of 15 July 1988, R. 210 of 10 February 1989, R. 608 of 31 March 1989, R. 2628 of 1 December 1989, R. 185 of 2 February 1990, R. 1929 of 10 August 1990, R. 1262 of 30 May 1991, R. 2410 of 30 September 1991, R. 2845 of 29 November 1991, R. 406 of 7 February 1992, R. 1883 of 3 July 1992, R. 109 of 22 January 1993, R. 960 of 28 May 1993, R. 974 of 1 June 1993, R. 1356 of 30 July 1993, R. 1843 of 1 October 1993, R. 2365 of 10 December 1993, R. 2529 of 31 December 1993, R. 181 of 28 January 1994, R. 411 of 11 March 1994, R. 873 of 31 May 1996, R. 1063 of 28 June 1996, R. 1557 of 20 September 1996, R. 1746 of 25 October 1996, R. 2047 of 13 December 1996, R. 417 of 14 March 1997, R. 491 of 27 March 1997, R. 700 of 16 May 1997, R. 798 of 13 June 1997, R. 1352 of 10 October 1997, R. 785 of 5 June 1998, R. 881 of 26 June 1998, R. 1024 of 7 August 1998, R. 1723 of 30 December 1998, R. 315 of 12 March 1999, R. 568 of 30 April 1999, R. 1084 of 10 September 1999, R. 1299 of 29 October 1999, R. 502 of 19 May 2000, R. 849 of 25 August 2000, R. 373 of 30 April 2001, R. 1088 of 26 October 2001, R. 1755 of 5 December 2003, R. 229 of 20 February 2004, R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R.

516 of 8 May 2009, R. 518 of 8 May 2009, R. 86 of 12 February 2010, R. 87 of 12 February 2010, R. 88 of 12 February 2010, R. 89 of 12 February 2010, R. 90 of 12 February 2010, R. 500 of 11 June 2010, R. 591 of 09 July 2010, R. 980 of 19 November 2010, R. 981 of 19 November 2010, R. 464 of 22 June 2012, R. 992 of 7 December 2012, R. 114 of 15 February 2013, R. 262 of 12 April 2013, R. 471 of 12 July 2013, R. 472 of 12 July 2013, R. 759 of 11 October 2013, R. 212 of 28 March 2014, R. 213 of 28 March 2014, R. 214 of 28 March 2014, R. 30 of 23 January 2015, R. 31 of 23 January 2015, R. 317 of 17 April 2015, R. 781 of 31 August 2015, R. 3 of 19 February 2016, R. 678 of 3 June 2016, R. 1055 of 29 September 2017, R. 1272 of 17 November 2017, R. 1318 of 30 November 2018 and R. 61 of 25 January 2019.

Substitution of rule 30A of the Rules

2. The following rule is hereby substituted for rule 30A of the Rules:

"30A Non-compliance with Rules

(1) Where a party fails to comply with these rules or with a request made or notice given pursuant thereto, or with an order or direction made in a judicial case management process referred to in rule 37A, any other party may notify the defaulting party that he or she intends, after the lapse of 10 days from the date of delivery of such notification, to apply for an order—

(a) that such rule, notice, **[or]** request, order or direction be complied with; or

(b) that the claim or defence be struck out.

(2) Where a party fails to comply **[Failing compliance]** within the period of 10 days contemplated in subrule (1), application may on notice be made to the court and the court may make such order thereon as **[to it seems meet]** it deems fit."

Substitution of rule 32 of the Rules

3. Rule 32 of the Rules, is hereby amended—

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

"(1) **[Where]** The plaintiff may, after the defendant has delivered **[notice of intention to defend]** a plea, [the plaintiff may] apply to court for summary judgment on each of such claims in the summons as is only—

(a) on a liquid document;

(b) for a liquidated amount in money;

(c) for delivery of specified movable property; or

(d) for ejectment;

together with any claim for interest and costs.";

(b) by the substitution for subrule (2) of the following subrule:

"(2)(a) **[The plaintiff shall within]** Within 15 days after the date of delivery of **[notice of intention to defend]** the plea, the plaintiff shall deliver a notice of application for summary judgment, together with an affidavit made by **[himself]** the plaintiff or by any other person

who can swear positively to the facts.

(b) [verifying] The plaintiff shall, in the affidavit referred to in subrule (2)(a), verify the cause of action and the amount, if any, claimed, and identify any point of law relied upon and the facts upon which the plaintiff's claim is based, and explain briefly why the defence as pleaded does not raise any issue for trial [stating that in his opinion there is no *bona fide* defence to the action and that notice of intention to defend has been delivered solely for the purpose of delay].

(c) If the claim is founded on a liquid document a copy of the document shall be annexed to such affidavit and the notice of application for summary judgment shall state that the application will be set down for hearing on a stated day not being less than **[10] 15** days from the date of the delivery thereof.”;

(c) by the substitution for subrule (3) of the following subrule:

“(3) [Upon the hearing of an application for summary judgment the] The defendant may—

(a) give security to the plaintiff to the satisfaction of the **[registrar] court** for any judgment including costs which may be given **[,];** or

(b) satisfy the court by affidavit (which shall be delivered **five days** before **[noon on the court day but one preceding]** the day on which the application is to be heard), or with the leave of the court by oral evidence of **[himself] such defendant** or of any other person who can swear positively to the fact that **[he] the defendant** has a *bona fide* defence to the action; such affidavit or evidence shall disclose fully the nature and grounds of the defence and the material facts relied upon therefor.”;

(d) by the substitution for subrule (4) of the following subrule:

“(4) No evidence may be adduced by the plaintiff otherwise than by the affidavit referred to in subrule (2), nor may either party cross-examine any person who gives evidence **[viva voce]** orally or on affidavit: Provided that the court may put to any person who gives oral evidence such questions as it considers may elucidate the matter.”;

(e) by the substitution in subrule (6) for subparagraph **(b)(ii)** of the following subparagraph:

“(ii) give leave to defend to the defendant as to part of the claim and enter judgment against **[him] such defendant** as to the balance of the claim, unless such balance has been paid to the plaintiff; or”;

(f) by the deletion of subrule (8A); and

(g) by the substitution in subrule (9) for paragraph **(a)** of the following paragraph:

“(a) the plaintiff makes an application under this rule, where the case is not within the terms of subrule (1) or where the plaintiff, in the opinion of the court, knew that the defendant relied on a contention which would entitle **[him] such defendant** to leave to defend, the court may order that the action be stayed until the plaintiff has paid the defendant's costs; and may further order that such costs be taxed as between attorney and client; and”

Substitution of rule 36 of the Rules

4. The following rule is hereby substituted for rule 36 of the Rules:

“36 Inspections, Examinations and Expert Testimony

(1) **[Subject to the provisions of this rule any]** A party to proceedings, in which damages or compensation in respect of alleged bodily injury is claimed, shall have the right to require any party claiming such damage or compensation, whose state of health is relevant for the determination thereof, to submit to a medical examination.

(2)(a) A **[Any]** party requiring another party to submit to a medical [such] examination shall deliver a notice to such other party that—

- (i) specifies [specifying] the nature of the examination required[.];
- (ii) specifies the person or persons [by whom,] who shall conduct the examination;
- (iii) specifies the place where and the date (being not less than [fifteen] 15 days from the date of such notice) and time when it is desired that [such] the examination shall take place[.]; and
- (iv) requires [requiring such] the other party to submit himself or herself for the medical examination [then and there]at the specified place, date and time. [Such]

(b) The notice contemplated in paragraph (a) shall—

- (i) state that **[such other] the party being examined may have his or her own** medical adviser present at **[such] the examination; [.] and[shall]**
- (ii) be accompanied by a remittance in respect of the reasonable expenses to be incurred by **[such] the other party in attending [such] the examination.**

(c) The[Such] expenses referred to in paragraph (b)(ii) shall be tendered on the scale as if such person were a witness in a civil suit before the court: Provided[, however,] that—

[(a)](i) if **[such other] the party being examined** is immobile, the amount to be paid **[to him]** shall include the cost of **[his] such person's** travelling by motor vehicle and, where required, the reasonable cost of a person attending upon **[him] the person to be examined;**

[(b)](ii) where **[such other] the party being examined** will actually lose **[his]** salary, wage or other remuneration during the period of **[his]** absence from work, **[he] such party shall,** in addition to the aforementioned expenses, be entitled to receive an amount not exceeding **[R75,00] the amount determined by the Minister, in terms of the relevant legislation, for witnesses in civil proceedings,** per day in respect of the salary, wage or other remuneration which **[he] such person** will actually lose;

[(c)](iii) any amounts paid by a party as aforesaid shall be costs in the cause unless the court otherwise directs.

(3) The person receiving **[such] the notice referred to in subrule (2)** shall, within five days after the service **[thereof] of the notice,** notify the person delivering it, in writing, of the nature and grounds of any objection which **[he] such person** may have in relation to—

- (a) the nature of the proposed examination;
- (b) the person or persons who shall conduct [by whom] the examination [is to be conducted];
- (c) the place, date or time of the examination;
- (d) the amount of the expenses tendered **[to him];**

and shall further—

- (i) in the case of **[his] the objection being to the place, date or time of the examination,** furnish an alternative date, time or place, as the case may be; and

- (ii) in the case of the objection being to the amount of the expenses tendered, furnish particulars of such increased amount as may be required.

Should the person receiving the notice not deliver **[such]** an objection within the said period of five days, **[he]** such person shall be deemed to have agreed to the examination upon the terms set forth by the person giving the notice. Should the person giving the notice regard the objection raised by the person receiving it as unfounded in whole or in part **[he]** the person giving the notice may on notice make application to a judge to determine the conditions upon which the examination, if any, is to be conducted.

(4) Any party to such an action may at any time by notice in writing require any person claiming such damages to make available in so far as **[he]** such person is able to do so to **[such]** the other party within **[ten]** 10 days, any medical reports, hospital records, X-ray photographs, or other documentary information of a like nature relevant to the assessment of such damages, and to provide copies thereof upon request.

(5) If it appears from any medical examination carried out either by agreement between the parties or pursuant to any notice given in terms of this rule, or by order of a judge, that any further medical examination by any other person is necessary or desirable for the purpose of giving full information on matters relevant to the assessment of such damages, any party may require a second and final medical examination in accordance with the provisions of this rule.

(5A) If any party claims damages resulting from the death of another person, **[he]** such party shall undergo a medical examination as prescribed in this rule if this is requested and it is alleged that **[his]** such party's own state of health is relevant in determining the damages.

(6) If it appears that the state or condition of any property of any nature whatsoever whether movable or immovable, may be relevant with regard to the decision of any matter at issue in any action, any party may at any stage give notice requiring the party relying upon the existence of such state or condition of such property or having such property in **[his]** that party's possession or under **[his]** that party's control to make it available for inspection or examination in terms of this subrule, and may in such notice require that such property or a fair sample thereof remain available for inspection or examination for a period of not more than **[ten]** 10 days from the date of receipt of the notice.

(7) The party called upon to submit such property for examination may require the party requesting it to specify the nature of the examination to which it is to be submitted, and shall not be bound to submit such property thereto if this will materially prejudice such party by reason of the effect thereof upon such property. In the event of any dispute whether the property should be submitted for examination, such dispute shall be referred to a judge on notice delivered by either party stating that the examination is required and that objection is taken in terms of this subrule. In considering any such dispute the judge may make such order as **[to him seems meet]** deemed fit.

(8) Any party causing an examination to be made in terms of subrules (1) and (6) shall—

- (a) cause the person making the examination to give a full report in writing, within two months of the date of the examination or within such other period as may be directed by a judge in terms of rule 37(8) or in terms of rule 37A, of the results of **[his]** the examination and the opinions that **[he]** such person formed as a result thereof on any relevant matter;
- (b) within five days after receipt of such report, inform all other parties in writing of the existence of the report, and upon request immediately furnish any other party with a complete copy thereof; and

- (c) bear the expense of the carrying out of any such examination: Provided that such expense shall form part of such party's costs.
- (9) No person shall, save with the leave of the court or the consent of all parties to the suit, be entitled to call as a witness any person to give evidence as an expert upon any matter upon which the evidence of expert witnesses may be received unless **[he shall]** —
- (a) where the plaintiff intends to call an expert, the plaintiff shall not **[less than fifteen days before the hearing,]** more than 30 days after the close of pleadings, or where the defendant intends to call the expert, the defendant shall not more than 60 days after the close of pleadings, have delivered notice of intention to call such expert **[have delivered notice of his intention so to do]**; and
- (b) in the case of the plaintiff not **[less]** more than **[ten]** 90 days **[before the trial,]** after the close of pleadings and in the case of the defendant not more than 120 days after the close of pleadings, such plaintiff or defendant shall have delivered a summary of **[such]** the expert's opinion and **[his]** the reasons therefor~~[.]~~ :

Provided that the notice and summary shall in any event be delivered before a first case management conference held in terms of rules 37A(6) and (7) or as directed by a case management judge.

(9A) The parties shall—

- (a) endeavour, as far as possible, to appoint a single joint expert on any one or more or all issues in the case; and
- (b) file a joint minute of experts relating to the same area of expertise within 20 days of the date of the last filing of such expert reports.
- (10) (a) No person shall, save with the leave of the court or the consent of all the parties, be entitled to tender in evidence any plan, diagram, model or photograph unless **[he]** such person shall not **[less]** more than **[fifteen days before the hearing]** 60 days after the close of pleadings have delivered a notice stating **[his]** an intention to do so, offering inspection **[thereof]** of such plan, diagram, model or photograph and requiring the party receiving notice to admit the same within **[ten]** 10 days after receipt of the notice.
- (b) If the party receiving the notice fails within the said period so to admit, the said plan, diagram, model or photograph shall be received in evidence upon its mere production and without further proof thereof. If such party **[states that he]** does not admit them, the said plan, diagram, model or photograph may be proved at the hearing and the party receiving the notice may be ordered to pay the cost of their proof."

Substitution of rule 37 of the Rules

5. The following rule is hereby substituted for rule 37 of the Rules:

"37 Pre-trial Conference

- (1) A party who receives notice of the trial date of an action shall, if **[he]** such party has not yet made discovery in terms of rule 35, within 15 days deliver a sworn statement which complies with rule 35(2).

(2)(a) In cases not subject to judicial case management as contemplated in rule 37A, a [A] plaintiff who receives the notice contemplated in subrule (1) shall within **[five]** 10 days deliver a notice in which **[he]** such plaintiff appoints a date, time and place for a pre-trial conference.

(b) If the plaintiff has failed to comply with paragraph (a), the defendant may, within 30 days after the expiration of the period mentioned in that paragraph, deliver such notice.

(3)(a) The date, time and place for the pre-trial conference may be amended by agreement: Provided that the conference shall be held not later than **[six weeks]** 30 days prior to the date of hearing.

(b) If the parties do not agree on the date, time or place for the pre-trial conference, the matter shall be submitted to the registrar for **[his]** decision.

(4) Each party shall, not later than 10 days prior to the pre-trial conference, furnish every other party with a list of—

- (a) the admissions which **[he]** such party requires;
- (b) the enquiries which **[he]** such party will direct and which are not included in a request for particulars for trial; and
- (c) other matters regarding preparation for trial which **[he]** such party will raise for discussion.

(5) At the pre-trial conference the matters mentioned in subrules (4) and (6) shall be dealt with.

(6) The minutes of the pre-trial conference shall be prepared and signed by or on behalf of every party and the following shall appear therefrom:

- (a) The **[place,]** date, place and duration of the conference and the names of the persons present;
- (b) if a party feels that **[he]** such party is prejudiced because another party has not complied with the rules of court, the nature of such non-compliance and prejudice;
- (c) that every party claiming relief has requested **[his]** such party's opponent to make a settlement proposal and that such opponent has reacted thereto;
- (d) whether any issue has been referred by the parties for mediation, arbitration or decision by a third party and **[on what]** the basis on which it has been so referred;
- (e) whether the case should be transferred to another court;
- (f) which issues should be decided separately in terms of rule 33(4);
- (g) the admissions made by each party;
- (h) any dispute regarding the duty to begin or the onus of proof;
- (i) any agreement regarding the production of proof by way of an affidavit in terms of rule 38(2);
- (j) which party will be responsible for the copying and other preparation of documents;
- (k) which documents or copies of documents will, without further proof, serve as evidence of what they purport to be, which extracts may be proved without proving the whole document or any other agreement regarding the proof of documents.

(7) The minutes shall be filed with the registrar not later than **[five weeks]** 25 days prior to the trial date.

(8)(a) A judge, who need not be the judge presiding at the trial, may, if **[he]** such judge deems it advisable, at any time at the request of a party or **[meru motu]** of own accord, call

upon the attorneys or advocates for the parties to hold or to continue with a conference before a judge in chambers and may direct a party to be available personally at such conference.

(b) No provision of this rule shall be interpreted as requiring a judge before whom a conference is held to be involved in settlement negotiations, and the contents of a reaction to a request for a settlement proposal shall not be made known to a judge except with the consent of the judge and all parties.

(c) The judge may, with the consent of the parties and without any formal application, at such conference or thereafter give any direction which might promote the effective conclusion of the matter, including the granting of condonation in respect of this or any other rule.

(d) Unless the judge determines otherwise, the plaintiff shall prepare the minutes of the conference held before the judge and file them, duly signed, with the registrar within five days or within such longer period as the judge may determine.

(9)(a) At the hearing of the matter, the court shall consider whether or not it is appropriate to make a special order as to costs against a party or [his] such party's attorney, because [he or his] such party or the party's attorney—

- (i) did not attend a pre-trial conference; or
- (ii) failed to a material degree to promote the effective disposal of the litigation.

(b) Except in respect of an attendance in terms of subrule (8)(a) no advocate's fees shall be allowed on a party-and-party basis in respect of a pre-trial conference held more than 10 days prior to the hearing.

(10) A judge in chambers may, without hearing the parties, order deviation from the time limits in this rule.

(11) A direction made in terms of this rule before the commencement of the trial may be amended."

Insertion of rule 37A in the Rules

6. The following rule is hereby inserted in the Rules after rule 37:

"37A Judicial Case Management

(1) A judicial case management system shall apply, at any stage after a notice of intention to defend is filed—

- (a) to such categories of defended actions as the Judge President of any Division may determine in a Practice Note or Directive; and
- (b) to any other proceedings in which judicial case management is determined by the Judge President, of own accord, or upon the request of a party, to be appropriate.

(2) Case management through judicial intervention—

- (a) shall be used in the interests of justice to alleviate congested trial rolls and to address the problems which cause delays in the finalisation of cases;
- (b) the nature and extent of which shall be complemented by the relevant directives or practices of the Division in which the proceedings are pending; and

- (c) shall be construed and applied in accordance with the principle that, notwithstanding the provisions herein providing for judicial case management, the primary responsibility remains with the parties and their legal representatives to prepare properly, comply with all rules of court, and act professionally in expediting the matter towards trial and adjudication.
- (3) The provisions of rule 37 shall not apply, save to the extent expressly provided in this rule, in matters which are referred for judicial case management.
- (4) In all matters designated to be subject to judicial case management in terms of subrule (1)(a) at any stage before the close of pleadings, the registrar may—
- (a) direct compliance letters to any party which fails to comply with the time limits for the filing of pleadings or any other proceeding in terms of the rules; and
 - (b) in the event of non-adherence to the directions stipulated in a letter of compliance, refer a matter to a case management judge designated by the Judge President who shall have the power to deal with the matter in terms of the practice directives of the particular Division concerned.
- (5)(a) Notwithstanding the allocation of a trial date, a case that is subject to judicial case management shall not proceed to trial unless the case has been certified trial-ready by a case management judge after a case management conference has been held, as provided for in subrule (7).
- (b) A case management judge shall not certify a case as trial-ready unless the judge is satisfied—
- (i) that the case is ready for trial, and in particular, that all issues that are amenable to being resolved without a trial have been dealt with;
 - (ii) that the remaining issues that are to go to trial have been adequately defined;
 - (iii) that the requirements of rules 35 and 36(9) have been complied with if they are applicable; and
 - (iv) that any potential causes of delay in the commencement or conduct of the trial have been pre-empted to the extent practically possible.
- (c) A case management judge may order directions on the making of discovery where the judge considers that such directions may expedite the case becoming trial-ready.
- (6) In every defended action in a category of case which has been identified in terms of subrule (1)(a) as being subject to judicial case management in which any party makes application for a trial date following the close of pleadings, the registrar shall issue a notice electronically to the parties, at the addresses furnished in terms of rules 17(3)(b) or 19(3)(a), in respect of the holding of a case management conference.
- (7) The notice by the registrar in terms of subrule (6) shall inform the parties—
- (a) of the date, time and place of a case management conference in the matter to be presided over by a case management judge;
 - (b) of the name of the case management judge, if available;
 - (c) that they are required to have held a pre-trial meeting before the case management conference at which the issues identified in subrule (10) in relation to the conduct and trial of the action must have been considered; and
 - (d) that the plaintiff is required, not less than two days before the time appointed for the case management conference, to—

- (i) ensure that the court file has been suitably ordered, secured, paginated and indexed; and
- (ii) deliver an agreed minute of the proceedings at the meeting held in terms of paragraph (c), alternatively, in the event that the parties have not reached agreement on the content of the minute, a minute signed by the party filing the document together with an explanation why agreement on its content has not been obtained.

(8) The minute referred to in subrule (7)(d)(ii) shall particularise the parties' agreement or respective positions on each of the issues identified in subrule (10) and, to the extent that further steps remain to be taken to render the matter ready for trial, explicitly identify them and set out a timetable according to which the parties propose, upon a mutually binding basis, that such further steps will be taken.

(9)(a) In addition to the minute referred to in subrule (7)(d)(ii), the parties shall deliver a detailed statement of issues, which shall indicate—

- (i) the issues in the case that are not in dispute; and
- (ii) the issues in the case that are in dispute, describing the nature of the dispute and setting forth the parties' respective contentions in respect of each such issue.

(b) A case management judge may, upon considering the statement by the parties referred to in paragraph (a), direct that appearance by one or all of the parties is dispensed with.

(10) The matters that the parties must address at the pre-trial meeting to be held in terms of subrule (7) are as follows:

- (a) The matters set forth in rules 35, 36 and 37(6);
- (b) the soliciting of admissions and the making of enquiries from and by the parties with a view to narrowing the issues or curtailing the need for oral evidence;
- (c) the time periods within which the parties propose that any matters outstanding in order to bring the case to trial readiness will be undertaken;
- (d) subject to rule 36(9), the instruction of witnesses to give expert evidence and the feasibility and reasonableness in the circumstances of the case that a single joint expert be appointed by the parties in respect of any issue;
- (e) the identity of the witnesses they intend to call and, in broad terms, the nature of the evidence to be given by each such witness;
- (f) the possibility of referring the matter to a referee in terms of section 38 of the Act;
- (g) the discovery of electronic documents in the possession of a server or other storage device;
- (h) the taking of evidence by video conference;
- (i) suitable trial dates and the estimated duration of the trial; and
- (j) any other matter germane to expediting the trial-readiness of the case.

(11) Without limiting the scope of judicial engagement at a case management conference, the case management judge shall—

- (a) explore settlement, on all or some of the issues, including, if appropriate, enquiring whether the parties have considered voluntary mediation;

- (b) endeavour to promote agreement on limiting the number of witnesses that will be called at the trial, eliminating pointless repetition or evidence covering facts already admitted; and
 - (c) identify and record the issues to be tried in the action.
- (12) The case management judge may at a case management conference—
 - (a) certify the case as trial-ready;
 - (b) refuse certification;
 - (c) put the parties on such terms as are appropriate to achieve trial-readiness, and direct them to report to the case management judge at a further case management conference on a fixed date;
 - (d) strike the matter from the case management roll and direct that it be re-enrolled only after any non-compliance with the rules or case management directions have been purged;
 - (e) give directions for the hearing of opposed interlocutory applications by a motion court on an expedited basis;
 - (f) order a separation of issues in appropriate cases notwithstanding the absence of agreement by the parties thereto;
 - (g) at the conclusion of a case management conference, record the decisions made and, if deemed convenient, direct the plaintiff to file a minute thereof;
 - (h) make any order as to costs, including an order *de bonis propriis* against the parties' legal representatives or any other person whose conduct has conducted unreasonably to frustrate the objectives of the judicial case management process.
- (13) The record of the case management conference, including the minutes submitted by the parties to the case management judge, any directions issued by the judge and the judge's record of the issues to be tried in the action, but excluding any settlement discussions and offers, shall be included in the court file to be placed before the trial judge.
- (14) The trial judge shall be entitled to have regard to the documents referred to in subrule (13) in regard to the conduct of the trial, including the determination of any applications for postponement and issues of costs.
- (15) Unless the parties agree thereto in writing, the case management judge and the trial judge shall not be the same person.
- (16) Any failure by a party to adhere to the principles and requirements of this rule may be penalised by way of an adverse costs order."

Amendment of rule 68 of the Rules

7. Rule 68 of the Rules is hereby amended by—

- (a) the substitution for item 5(c) of the Tariff of the following item:

"(c) against immovable property—	
(i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other officer charged with the registration of such property, and if the property is in occupation of some person other than the owner, also upon such occupier	186,00
(ii) for notice of attachment to a single lessee or occupier (identical notices where there are several lessees, occupiers or owners, for each after the first)	17,50 5,50
(iii) for making valuation report for purposes of sale, per <u>half</u> hour or part thereof.	[93,50] <u>47,00</u>
(iv) when— (aa) a sheriff has been authorised to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or stayed [irrespective of the amount of the writ], all the necessary notice for the withdrawal <u>or stay</u> of the attachment (bb) <u>upliftment of judicial attachment on immovable property occurs</u>	186,00 <u>186,00</u>
(v) for ascertaining and recording what bonds or other encumbrances are registered against the property, together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered, including any correspondence in connection therewith (in addition to reasonable expenses necessarily incurred)	93,50
(vi) for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered	17,50
(vii) for consideration of proof that a preferent creditor has complied with the requirements of rule 46(5)(a)	10,00
(viii) for the notice referred to in rule 46(6)	17,50
(ix) for consideration of notice of sale prepared by the execution creditor in consultation with the sheriff; and	
(x) for verifying that notice of sale has been published in the newspapers indicated and in the <i>Gazette</i> <u>inclusive fee for (ix) and (x) [; and]</u>	<u>93,50</u>
(xi) for forwarding a copy of the notice of sale to every judgment creditor who had	[93,50]

caused the immovable property to be attached and to every mortgagee thereof whose address is known, for each copy [, inclusive fee for (ix), (x), and (xi)]	<u>17,50</u>
(xii) for affixing a copy of the notice of sale to the notice board of the magistrate's court referred to in rule 46(7)(e) and at or as near as may be to the place where the sale is actually to take place, an inclusive fee of <u>R40,00 and travelling costs referred to in item 3</u>	[33,50]
(xiii) for—	[78,50]
(aa) considering the conditions of sale <u>prepared by the execution creditor</u>	<u>93,50</u>
(bb) considering further or amended conditions of sale submitted by an interested party	<u>93,50</u>
(cc) settling of conditions of sale	<u>93,50</u>
(dd) all necessary attendances prescribed by any law related to auctions, in particular the Consumer Protection Act, 2008 (Act No. 68 of 2008)	<u>280,50</u>
(ee) the conducting of an auction, save that this fee may not be charged if commission is claimed in terms of item (xiv)	<u>186,00</u>
(xiv) On the sale of immovable property by the sheriff as auctioneer, 6 per cent on the first R100 000,00, 3,5 per cent on R100 001,00 to R400 000,00 and 1,5 per cent on the balance of the proceeds of the sale, subject to a maximum commission of R40 000,00 in total and a minimum of R3 000,00 (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;	
(xv) for—	
(aa) written notice to the purchaser who has failed to comply with the conditions of sale	<u>47,00</u>
(bb) any report referred to in rule 46(11)	<u>47,00</u>
(cc) informing judgment debtor of the cancellation referred to in rule 46(11)(a)(iii)	<u>17,50</u>
(dd) giving notice referred to in rule 46(11)(c)	<u>17,50</u>
(xvi) for giving transfer to the purchaser	<u>23,00</u>
(xvii) for—	
(aa) receipt of certificate referred to in rule 46(14)(a)	<u>17,50</u>
(bb) preparing a plan of distribution of the proceeds (including the necessary copies) and for forwarding a copy to the registrar	<u>93,50</u>
(xviii) for giving notice to all parties who have lodged writs and to the execution	

debtor that the plan of distribution will lie for inspection, for every notice	17,50
(xix) [for request to magistrate to pay out in accordance with the plan of distribution.] <u>for the report referred to in rule 46A(9)(d)</u>	[10,00] <u>47,00"</u>

(b) the insertion after item 16 of the Tariff of the following item:

<u>"17 (a) Where the mandator instructs the sheriff, in writing, to serve or execute a document referred to in item 2 or 5 on an urgent basis or after hours, the sheriff shall charge an additional fee, irrespective of whether the service or execution was successful, and such additional fee shall be paid by the mandator, save where the court orders otherwise.</u> <u>(b) For the purpose of paragraph (a)—</u> <u>(i) "urgent" means on the same day or within twenty four hours of the written instruction; and</u> <u>(ii) "after hours" means any time—</u> <u>(aa) before 7h00 or after 19h00 on Mondays to Fridays;</u> <u>or</u> <u>(bb) on a Saturday, Sunday or public holiday."</u>	165,00
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Repeal of Forms 4, 5 and 6 of the First Schedule

8. "Forms 4, 5 and 6 of the First Schedule to the Rules are hereby repealed."

Commencement

9. These Rules shall come into operation on **1 JULY 2019**.

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)**AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF
THE MAGISTRATES' COURTS OF SOUTH AFRICA**

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE**GENERAL EXPLANATORY NOTE:**

[] Words or expressions in bold type in square brackets indicate omissions from the existing rules.

_____ Words or expressions underlined with a solid line indicate insertions into the existing rules.

Definition

1. In this Schedule "the Rules" means the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa published under Government Notice No. R. 740 of 23 August 2010, as amended by Government Notice Nos. R. 1222 of 24 December 2010, R. 611 of 29 July 2011, R. 1085 of 30 December 2011, R. 685 of 31 August 2012, R. 115 of 15 February 2013, R. 263 of 12 April 2013, R. 760 of 11 October 2013, R. 183 of 18 March 2014, R. 215 of 28 March 2014 and R. 507 of 27 June 2014, R. 5 of 9 January 2015, R. 32 of 23 January 2015, R. 33 of 23 January 2015, R. 318 of 17 April 2015, R. 545 of 30 June 2015, R. 2 of 19 February 2016, R. 1055 of 29 September 2017, R. 1272 of 17 November 2017, R. 632 of 22 June 2018 and R. 1318 of 30 November 2018.

Substitution of rule 9(3) of the Rules

2. The following rule is hereby substituted for rule 9(3) of the Rules:

"(3) All process shall, subject to the provisions of this rule, be served upon the person affected thereby by **[delivery of]** delivering a copy thereof in one or other of the following manners:

- (a) To the said person personally or to **[his or her]** such person's duly authorised agent: Provided that where such person is a minor or a person under legal disability, service shall be effected upon the guardian, tutor, curator or the like of such minor or person under disability;
- (b) at the residence or place of business of the said person, guardian, tutor, curator or the like to some person apparently not less than 16 years of age and apparently residing or employed there: Provided that for the purpose of

this paragraph, when a building, other than an hotel, boarding house, hostel or similar residential building, is occupied by more than one person or family, 'residence' or 'place of business' means that portion of the building occupied by the person upon whom service is to be effected;

- (c) at the place of employment of the said person, guardian, tutor, curator or the like to some person apparently not less than 16 years of age and apparently in authority over [him or her] such person or, in the absence of [such] a person in authority, to a person apparently not less than 16 years of age and apparently in charge at [his or her] such person's place of employment;
- (d) if the person so to be served has chosen a *domicilium citandi*, by delivering [or leaving] a copy thereof at the *domicilium* so chosen: Provided that the sheriff shall set out in the return of service the details of the manner and circumstances under which such service was effected;
- (e) in the case of a corporation or company, by delivering a copy to a responsible employee thereof at its registered office or its principal place of business within the court's jurisdiction, or if there is no such employee willing to accept service, by affixing a copy to the main door of such office or place of business, or in any manner provided by law;
- (f) if the plaintiff or his or her authorised agent has given instructions in writing to the sheriff to serve by registered post, the process shall be so served: Provided that a debt counsellor who makes a referral to court in terms of section 86(7)(c) or 86(8)(b) of the National Credit Act, 2005 may cause the referral to be served by registered post or by hand;
- (g) in proceedings in which the State or an organ of state, a Minister, a Deputy Minister, a Premier or a Member of an Executive Council in such person's official capacity is the defendant or respondent, the summons or notice instituting such proceedings shall be served in accordance with the provisions of any law regulating proceedings against and service of documents upon the State or organ of state, a Minister, a Deputy Minister, a Premier or a Member of an Executive Council;
- (h) to any agent or attorney who is duly authorised in writing to accept service on behalf of the person upon whom service is to be effected in any applicable manner prescribed in this rule;
- (i) where a local authority or statutory body is to be served, on the town clerk or assistant town clerk or mayor of such local authority or the secretary or similar officer or member of the board or committee of such body, or in any manner provided by law; or
- (j) where the person to be served with any document initiating application proceedings is already represented by an attorney of record such document may be served upon such attorney by the party initiating the proceedings:

Provided that where **[such]** service has been effected in the manner prescribed by paragraphs (b),(c),(e) or (g), the sheriff shall **[Indicate]** set out in the return of service of the process the name of the person to whom it has been delivered and the capacity in which such person stands in relation to the person, corporation, company, body corporate or institution affected by the process: **[and where such service has been effected in the manner prescribed by paragraphs (b),(c),(d) or (f), the court may, if there is reason to doubt whether the process served has come to the actual knowledge of the person to be served, and in the absence of satisfactory evidence, treat such service as invalid]** Provided further that whenever the court is not satisfied as to the effectiveness of the service, it may order such further steps to be taken as it deems fit: Provided **[further]** furthermore that service of any process through which a divorce action or action for nullity of marriage is instituted shall only be effected by the sheriff on the defendant personally.”

Amendment of rule 19 of Rules

3. The following rule is hereby substituted for rule 19 of the Rules:

“19. Exceptions and applications to strike out

(1)(a) Where any pleading is vague and embarrassing or lacks averments which are necessary to sustain an action or defence, **[as the case may be,]** the opposing party **[may]** who intends to take an exception shall, within the period allowed for filing any subsequent pleading, deliver an exception thereto [and may set it down for hearing in terms of rule 55(1)(j): **Provided that where a party intends to take an exception that a pleading is vague and embarrassing such party shall within the period allowed as aforesaid by notice afford such party's opponent an opportunity of removing the cause of complaint within 15 days: Provided further that the party excepting shall within 10 days from the date on which a reply to such notice is received or from the date on which such reply is due, deliver the exception]**, as provided in paragraphs (b) and (c).

(b) A party who intends to take an exception shall, by notice, within 10 days of receipt of the pleading, afford the party delivering the pleading an opportunity of removing the cause of complaint within 15 days of such notice.

(c) A party who intends to take an exception shall, within 10 days from the date on which a reply to such notice is received or from the date on which such reply is due, deliver the exception.

(d) The exception may be set down for hearing in terms of rule 55 within 10 days after delivery thereof, failing which the exception shall lapse.

(2) Where any pleading contains averments which are scandalous, vexatious, or irrelevant, the opposite party may, within the period allowed for filing any subsequent pleading, apply for the striking out of the matter aforesaid, and may set such application down for hearing in terms of rule 55 **[(1)(j), but]** within 10 days of expiry of the time limit for the delivery of an answering affidavit or, if an answering affidavit is delivered, within five days after the delivery of a replying affidavit or expiry of the time limit for delivery of a replying affidavit: Provided that—

(a) the party intending to make an application to strike out shall, by notice, delivered within 10 days of receipt of the pleading, afford the party delivering the pleading an opportunity to remove the cause of complaint within 15 days of delivery of the notice of intention to strike out; and

(b) the court shall not grant the [same] application, unless it is satisfied that the applicant will be prejudiced in the conduct of [his or her] any claim or defence if [it be] the application is not granted.

(3) Wherever an exception is taken to any pleading, the grounds upon which the exception is founded shall be clearly and concisely stated.

(4) Wherever any exception is taken to any pleading or an application to strike out is made, no plea, replication or other pleading over shall be necessary."

Amendment of rule 55 of the Rules

4. Rule 55 of the Rules is hereby amended:

(a) by the substitution for paragraph (e) of subrule (1) of the following paragraph:

"(e) In a notice of motion the applicant **[shall] must**—

(i) appoint a physical address, which address **[shall] must**, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the office of the registrar or clerk of court, at which notice and service of all documents in such proceedings will be accepted;

(ii) state the applicant's postal, facsimile or electronic mail addresses where available; and

(iii) set forth a day, not less than **[5] five** days after service thereof on the respondent, on or before which such respondent is required to notify the applicant, in writing, whether he or she intends to oppose such application, and state that if no such notification is given the application will be set down for hearing on a stated day, not being less than 10 days after service on the respondent of the notice."

(b) by the substitution for paragraph (f) of subrule (1) of the following paragraph:

"(f) If the respondent does not, on or before the day mentioned for that purpose in a notice of motion, notify the applicant of his or her intention to oppose, the applicant may place the matter on the roll for hearing by giving the registrar or clerk of the court notice of set down **[5] five** days before the day upon which the application is to be heard."

(c) by the substitution for the words preceding subparagraph (i) of paragraph (g)

of subrule (1) of the following words:

“(g) Any party opposing the grant of an order sought in a notice of motion **[shall] must**”

(d) by the substitution for subparagraph (i) of paragraph (g) of subrule (1) of the following subparagraph:

“(i) within the time stated in the notice, give applicant notice, in writing, that he or she intends to oppose the application, and in such notice appoint an address, which address **[shall] must**, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the office of the registrar or clerk of the court, at which he or she will accept notice and service of all documents, as well as such party’s postal, facsimile or electronic mail addresses where available;”

(e) by the substitution for subparagraph (i) of paragraph (h) of subrule (1) of the following subparagraph:

“(h)(i) After receipt of a notice of intention to oppose, the applicant **[shall] must** lodge forthwith with the registrar or clerk of the court the original notice of motion plus annexures thereto and, where applicable, the return of service.”

(f) by the substitution for subparagraphs (i) and (ii) of paragraph (j) of subrule (1) of the following subparagraphs:

“(j)(i) Where no answering affidavit, or notice in terms of paragraph (g)(iii), is delivered within the period referred to in paragraph (g)(ii) the applicant may within **[5] five** days of the expiry thereof apply to the registrar or clerk of the court to allocate a date for the hearing of the application.” and

“(ii) Where an answering affidavit is delivered the applicant may apply for an allocation of the date for the hearing of the application within **[5] five** days of the delivery of his or her replying affidavit or, if no replying affidavit is delivered, within **[5] five** days of the expiry of the period referred to in paragraph (h) and where such notice is delivered the applicant may apply for such allocation within **[5] five** days after delivery of such notice.”

(g) by the substitution for subparagraph (iv) of paragraph (j) of subrule (1) of the following subparagraph:

“(iv) Notice in writing of the date allocated by the registrar or clerk of the court **[shall] must** be delivered by applicant or respondent, as the case may be, to the opposite party not less than 10 days before the date allocated for the hearing.”

(h) by the substitution for paragraph (b) of subrule (2) of the following paragraph:

“(b) The periods prescribed with regard to applications **[shall] apply [mutatis mutandis] with appropriate changes** to counter-applications: Provided that the court may on good cause shown postpone the hearing of the application.”

(i) by the substitution for the words preceding subparagraph (i) of paragraph (a)

of subrule (3) of the following words:

“(3)(a) No application in which relief is claimed against another party **[shall] must** be considered *ex parte* unless the court is satisfied that—”

(j) by the substitution for paragraphs (b); (c); (e); and (f) of subrule (3) of the

following paragraphs:

“(b) The notice of motion in every application brought *ex parte* **[shall be similar to]** must correspond substantially with Form 1 of Annexure 1.

(c) Any order made against a party on an *ex parte* basis **[shall] must** be of an interim nature and **[shall] must** call upon the party against whom it is made to appear before the court on a specified return date to show cause why the order should not be confirmed.

(e) A copy of any order made *ex parte* and of the affidavit, if any, on which it was made **[shall] must** be served on the respondent thereto.

(f) Where cause is shown against any order made *ex parte* against a party the court may order the applicant or respondent or the deponent to any affidavit on which it was made to attend court for examination or cross-examination.”

(k) by the substitution for paragraph (a) of subrule (5) of the following paragraph:

“(5)(a) A court, if satisfied that a matter is urgent, may make an order dispensing with the forms and service provided for in these **[Rules] rules** and may dispose of the matter at such time and place and in accordance with such procedure (which **[shall] must** as far as practicable be in terms of these **[Rules] rules**) as the court deems appropriate.”

(l) by the substitution for subrule (6) of the following subrule:

“(6) In any application against **[any Minister, Deputy Minister, Provincial Premier, officer or servant of the State, in his or her capacity as such, the State or the administration of any province]** the State or an organ of State, a Minister, Deputy Minister, Premier, Member of the Executive Council, or official appointed in the public service, in such person’s official capacity, the respective periods referred to in subrule (1)(e), or for the return of a *rule nisi*, **[shall] must** not be less than 15 days after the service of the notice of motion, or the *rule nisi*, as the case may be, unless the court has specially authorised a shorter period.”

(m) by the substitution for subrule (8) of the following subrule:

“(8)(a) The minutes of any order required for service or execution **[shall] must** be drawn up by the party entitled thereto and **[shall]** be approved and signed by the registrar or clerk of the court.

(b) The copies of the minutes referred to in paragraph (a) for record and service **[shall]** must be made by the party indicated in that paragraph and the copy for record **[shall]** must be signed by the registrar or clerk of the court.

(c) Rules 41 and 42 **[shall]**, in so far as it may be necessary in the execution of an order under this rule, **[mutatis mutandis]** apply with appropriate changes to such execution."

(n) by the substitution for paragraph (b) of subrule (9) of the following paragraph:

"(b) The court **[shall]** may not grant an application referred to in paragraph (a) unless it is satisfied that the applicant will be prejudiced **[in his or her case if it be]** if the application is not granted."

(o) by the substitution for subrule (10) of the following subrule:

"(10) The provisions of rules **[Rules]** 28 and 28A **[shall]** apply equally to all applications."

(p) by the insertion of the following sub-rule (11):

"(11) The days from 21 December to 7 January, both inclusive, must not be counted in the time allowed for delivery of any notice or affidavit contemplated in this rule: Provided that the provisions of this subrule do not apply to applications brought under subrule (5) or rule 58."

Amendment of Part I of Table A of Annexure 2 to the Rules

5. Part I of Table A of Annexure 2 to the Rules is hereby amended by –

(a) the substitution for subparagraph (b) of paragraph 2 of Part I of the following subparagraph:

(b) Where the amount in dispute is not apparent on the face of the proceedings and –

- (i) the matter is instituted in the Magistrates' Court for a District, costs shall be computed on Scale C; or
- (ii) the matter is instituted in the Regional Court for a Regional Division, costs shall be computed on Scale D,

unless the court orders otherwise.

(b) the substitution for paragraph 6 of the following paragraph:

"6. Fees to counsel shall be allowed on taxation only in cases falling within scale B, C or D 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]"..

(c) the substitution for paragraph 7 of the following paragraph:

" 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 [.] save that for the necessary filing of documents at court a charge shall be allowed at R27,00 per document."

(d) the substitution for paragraph 8 of the following paragraph:

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

(a) the drawing of documents (not pleadings) shall be allowed at R27,00 for each folio;

(b) copies for filing, service and an attorney's copy to retain shall also be allowed;

(c) R27,00 [17,00] shall be allowed for each necessary service;

(d) R27,00 shall be allowed per document for the necessary filing of documents at court."

(e) the substitution for paragraph 16 of the following paragraph:

"16. Any amount necessarily and actually disbursed in tracing the debtor [.] shall be allowed in addition to the fees laid down in this tariff." and

(f) the insertion after paragraph 16 of the following paragraph:

"17. Item 10A and 14A of Part III in the tariff to Table A are also applicable to Part IV of the tariff to Table A."

Amendment of Part III of Table A of Annexure 2 to the Rules

6. Part III of Table A of Annexure 2 to the Rules is hereby amended by –

(a) the insertion after item 10 of the appended tariff, of the following item:

<u>"10A Pagination and indexing of pleadings per quarter of an hour or part thereof :</u>	<u>R108,00</u>	<u>R108,00</u>	<u>R131,50</u>	<u>R171,00"</u>
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(b) the insertion after item 14 of the appended tariff, of the following item:

<u>"14A Drawing up heads of argument per quarter of an hour or part thereof:</u>	<u>R160,50</u>	<u>R160,50</u>	<u>R202,50</u>	<u>R261,00"</u>
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Amendment of Part IV of Table A of Annexure 2 to the Rules

7. Item 21 of Part IV of Table A of Annexure 2 to the Rules is hereby amended by the deletion of the words "Note: A fee to counsel on application shall be allowed only where the court certifies that the briefing of counsel was warranted".

Amendment of Part III of Table B of Annexure 2 to the Rules

8. Part III of Table B of Annexure 2 to the Rules is amended by the substitution in paragraph 1 for subparagraph (b) of the following subparagraph:

“(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[.], which amount is included in the 12,5% in terms of section 74L(2) of the Act.”

Amendment of Part II of Table C of Annexure 2 to the Rules

9. Part II of Table C of Annexure 2 to the Rules is hereby amended by the substitution for Part II of the following Part:

“PART II

SHERIFFS WHO ARE NOT OFFICERS OF THE PUBLIC SERVICE

1A. For registration of any document for service or execution upon receipt thereof: R10,00.

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: R40,00;

(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: R47,00;

(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: R63,00;

[(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: R33,50;

(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: R40,00;

(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: R56,00;

[(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 R10,00 may be charged for every separate document served.

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

(iv) Where a mandator instructs the sheriff, in writing, to serve or execute a document referred to in item 1B(a) or (2)(a) on an urgent basis or after hours, the sheriff shall charge an additional fee of R165,00 for such service irrespective of whether the service or execution was successful, which additional fee shall be paid by the mandator, save where the court orders otherwise.

(v) For the purpose of sub-paragraph (iv)—

(aa) “urgent” means on the same day or within twenty four hours of the written instruction; and

(bb) “after hours” means any time –

(aaa) before 7h00 or after 19h00 on Mondays to Fridays; or

(bbb) on a Saturday, Sunday or public holiday.

2. (a) For the execution of a warrant (other than against immovable property), interdict, garnishee order or emoluments attachment 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: R56,00;

(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: R63,00;

(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: R78,50;

[(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: R47,00;

(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: R56,00;

(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: R70,50;

[(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: R33,50 per half hour or part thereof (except extraordinary expenses necessarily incurred).

(ii) A further fee of R22,50 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 execution of any writ against immovable property—

(i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other office charged with the registration of such property, and if the property is in occupation of some other person other than the owner, also upon such occupier: R186,00;

(ii) for notice of attachment to a single lessee or occupier: R17,50;

(iii) identical notices where there are several lessees, occupiers or owners, for each after the first: R5,50;

(iv) for making valuation report for purposes of sale, per half hour or part thereof: R47,00;

(v) when a sheriff has been authorised to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or stayed, all the necessary notice for the withdrawal or stay of the attachment: R186,00; Upliftment of judicial attachment on immovable property: R186,00;

(vi) for ascertaining and recording what bonds or other encumbrances are registered against the property, together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered including any correspondence in connection therewith (in addition to reasonable expenses necessarily incurred): R93,50;

(vii) for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered: R17,50;

(viii) for consideration of proof that a preferent creditor has complied with the requirements of rule 43(5)(a): R10,00;

(ix) for notice referred to in rule 43(6): R17,50;

(x) for considering of notice of sale prepared by the execution creditor in consultation with the sheriff; and

for verifying that notice of sale has been published in the newspapers indicated and in the Gazette, inclusive fee for such consideration and verification: R93,50;

(xi) for forwarding a copy of the notice of sale to every judgment creditor who had caused the immovable property to be attached

and to every mortgagee thereof whose address is known, for each copy: R17,50;

(xii) for affixing a copy of the notice of sale to the notice board of the magistrates' court referred to in rule 43(7)(e) and at or as near as may be to the place where the sale is actually to take place, an inclusive fee of R40,00 and travelling costs referred to in item 4(a);

(xiii) for considering the conditions of sale prepared by execution creditor; for considering further or amended conditions of sale submitted by interested party; settling of conditions of sale: R93,50 for each attendance;

(xiv) for all necessary attendances prescribed by any law related to auctions, in particular the Consumer Protection Act, 2008 (Act No. 68 of 2008): R280,50;

(xv) for the conducting of an auction, save that this fee may not be charged if commission is claimed in terms of items 2(d)(xvi) and (xvii): R186,00;

(xvi) On the sale of immovable property by the sheriff as auctioneer, 6 per cent on the first R100 000,00, 3.5 per cent on R100 001,00 to R400 000,00 and 1.5 per cent on the balance of the proceeds of the sale, subject to a maximum commission of R40 000,00, in total, and a minimum of R3 000,00 (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;

(xvii) If an auctioneer is employed as provided in rule 43(10), 3 per cent on the first R100 000,00, 2 per cent on R100 001,00 to R400 000,00 and 1 per cent on the balance thereof, subject to a maximum commission of R22 850,00, in total, and a minimum of R3 000,00 (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;

(xviii) for written notice to the purchaser who has failed to comply with the conditions of sale: R47,00;

(xix) for any report referred to in rule 43(11): R47,00;

(xx) for informing judgment debtor of the cancellation referred to in rule 43(11)(a)(iii): R17,50;

(xxi) for giving notice referred to in rule 43(11)(c): R17,50;

(xxii) for giving transfer to the purchaser: R23,00;

(xxiii) for receipt of certificate referred to in rule 43(14)(a): R17,50;

(xxiv) for preparing a plan of distribution of the proceeds (including necessary copies) and for forwarding a copy to the registrar: R93,50;

(xxv) for giving notice to all parties who have lodged writs and to the execution debtor that the plan of distribution will lie for inspection, for every notice: R17,50;

(xxvi) for the report referred to in rule 43A(9)(d): R47,00.

3. Compilation of any return in terms of rule 8, in duplicate: R16,00.
4. (a) The Sheriff shall, in addition to the fees mentioned in items 1B(a), 1B(b), 2(a) and 2(b), but subject to item 4(b) and (c), be allowed a travelling allowance of R5,00 per kilometre, or part thereof, for the shortest possible forward and return journey from the office of the Sheriff to the place of service or execution and back.

(b) The travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the office of the sheriff if—
 - (i) the sheriff's office is situated within the area of jurisdiction allocated to the sheriff by the Minister; and
 - (ii) the distance from the sheriff's office is less than the distance reckoned from the court-house closest to the address for service.
(c) If the requirement in item 4(b) is not met, then the travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the court-house closest to the address for service.
5. (a) In respect of the discharge of any official duty other than those mentioned in items 1 and 2, but subject to item 4(b) and (c), a travelling allowance of R5,00 per kilometre for every kilometre, or part thereof, shall be payable to the sheriff for going and returning.

(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, the distance from the sheriff's office 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 by a sheriff on more than one person at the same service address, only one charge for travelling shall be allowed.

- (d) When it is necessary for the sheriff to convey any person under arrest, an allowance of R5,00 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: R33,50 per half hour or part thereof.
- (b) For assistance, if necessary, with the making of an inventory, R33,50 per half hour or part thereof.
7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: R10,00.
8. Charge or custody of property (money excluded):
- (a) (i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding R117,00 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 R63,00 and a maximum of R614,00.
- (b) Notice of attachment to defendant and to each person to be notified: R10,00.

11. Where property is released from attachment in terms of rule 41(7)(f)(i), 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 R186,00: 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 R8 178,50.
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 R33,50.
- [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 R186,00 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: R33,50 per half hour or part thereof.**
- (c) Written notice to the purchaser who has failed to comply with the conditions of sale: R47,00.**
- (d) Consideration of conditions of sale: R93,50.]**
15. When immovable property has been attached in execution and the attachment lapses, as referred to in section 66(4) of the Act: R56,00.
- [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 R100 000,00, 3.5 per cent on R100 001,00 to R400 000,00 and 1.5 per cent on the balance of the proceeds of the sale, subject to a maximum commission of R40 000,00, in total, and a minimum of R3 000,00 (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 R100 000,00, 2 per cent on R100 001,00 to R400 000,00 and 1 per cent on the balance thereof, subject to a maximum commission of R22 850,00, in total, and a minimum of R3 000,00 (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]~~ 13, 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; and
- [(b) the sum of R23,50 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 R10,00 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: R33,50 per journey and R63,00 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)**: R10,00.
- [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: R10,00.]**

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[,] and at or as near as may be to the place where the said sale is actually to take place referred to in rule **[43(6)(e) and rule]** 41(8)(b): R23,50[.]
- [(b)]** For affixing a copy of the notice of sale on the property due to be sold, the amount in paragraph (a)] and travelling costs, referred to in item 5(a).
26. For the drawing up and issuing of an interpleader summons: R93,50.
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, facsimile or electronic mail, excluding formal letters accompanying process or returns: R17,50.
29. Each necessary attendance by telephone: R16,00.
30. Sending and receiving of each necessary facsimile or electronic mail per page (in addition to telephone charges): R5,50.
- [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: R56,00 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: R4,00, 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: R63,00.
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: R17,50.
- (b) Service of the notice referred to in paragraph (a): Tariff as prescribed in item 1B(a).

(c) Attempted service of the 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: R5,00.

(iii) Waiting time in regard to handing over the judgment debtor to the relevant authority, referred to in paragraph (b): R33,50, per half hour or part thereof, with a maximum of R124,00.”.

Commencement

10. These rules come into operation on **1 JULY 2019**.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 842

31 MEI 2019

WET OP DIE REËLSRAAD VIR GEREESHOWE, 1985 (WET NO. 107 VAN 1985)

WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE HOOGSTE HOF
VAN APPÈL VAN SUID-AFRIKA GEREËL WORD

Die Reëlsraad vir Gereeshowe het, kragtens artikel 6 van die Wet op die Reëlsraad vir Gereeshowe, 1985 (Wet No. 107 van 1985), en met die goedkeuring van die Minister van Justisie en Korrektiewe Dienste, die reëls in die Bylae gemaak.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Uitdrukings in vet druk in vierkantige hakies dui weglatings uit bestaande reëls aan.

_____ Uitdrukings met 'n volstreep daaronder dui invoegings in bestaande reëls aan.

Woordomskrywing

1. In hierdie Bylae beteken "Reëls" die Reëls van die Hoogste Hof van Appèl gepubliseer kragtens Goewermenskennisgewing No. R. 1523 van 27 November 1998, soos gewysig deur Goewermenskennisgewings No. R. 979 van 19 November 2010, R. 191 van 11 Maart 2011, R. 113 van 15 Februarie 2013, R. 1055 van 29 September 2017 en R. 1318 van 30 November 2018.

Wysiging van reël 1 van die Reëls

2. Reël 1 van die Reëls word hierby gewysig—
- (a) deur in subreël (1) die omskrywing van "Hof" deur die volgende omskrywing te vervang:
 "**Hof** die Hoogste Hof van Appèl van [Suid-Afrika] soos in artikel 5 van die Wet bedoel";
- (b) deur in subreël (1) die omskrywing van "hofdag" deur die volgende omskrywing te vervang:
 "**hofdag** [enige dag wat nie 'n Saterdag, Sondag of openbare vakansiedag is nie] 'n sakedag soos in die Wet omskryf";
- (c) bdeur in subreël (1) die omskrywing van "President" deur die volgende omskrywing te vervang:

"**'president' [beteken] die President van die Hof en, in [sy of haar] die afwesigheid van die president, sluit in die [Adjunk-President] adjunkpresident van die Hof;**"; en

- (d) deur in subreël (1) ná die omskrywing van "**regter**" die volgende omskrywing in te voeg:

"**'Wet' die Wet op Hoër Howe, 2013 (Wet No. 10 van 2013).**";

Wysiging van reël 6 van die Reëls

3. Reël 6 van die Reëls word hierby gewysig deur die volgende subreël by te voeg:

"Aansoek en verwysing vir heroorweging

(9) Ondanks die bepalings van hierdie reël, word 'n aansoek by die president en 'n verwysing deur die president, vir heroorweging van 'n besluit ingevolge artikel 17(2)(f) van die Wet, ooreenkomstig voorskrifte deur die president uitgereik, gedoen."

Wysiging van reël 7 van die Reëls

4. Reël 7 van die Reëls word hierby gewysig—

- (a) deur in subreël (1) paragraaf (c) deur die volgende paragraaf te vervang:

"(c) die tersydestelling van 'n voorskrif van 'n **[hoë]** hof van 'n afdeling ingevolge artikel [20(2)(b) van die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959)] 17(6) van die Wet of artikel 315(2)(b) van die Strafproseswet, 1977 (Wet No. 51 van 1977)."; en

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

"(5) Ondanks die bepalings van hierdie reël, word 'n appèl ingevolge artikel 18(4)(ii) van die Wet gedoen ooreenkomstig voorskrifte deur die president uitgereik."

Inwerkingtreding

5. Hierdie Reëls tree in werking op **1 JULIE 2019**.

WET OP DIE REËLSRAAD VIR GEREESHOWE, 1985 (WET NO. 107 VAN 1985)**WYSIGING VAN DIE REËLS WAARVOLGENS DIE VOER VAN DIE VERRIGTINGE VAN
DIE VERSKEIE PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOË HOF VAN
SUID-AFRIKA GEREËL WORD**

Die Reëlsraad vir Gereeshowe het, kragtens artikel 6 van die Wet op die Reëlsraad vir Gereeshowe, 1985 (Wet No. 107 van 1985), en met die goedkeuring van die Minsiter van Justisie en Korrektiewe Dienste, die reëls in die Bylae gemaak.

BYLAE**ALGEMENE VERDUIDELIKENDE NOTA:**

[] Uitdrukings in vet druk in vierkantige hakies dui uitlatings uit bestaande reëls aan.

_____ Uitdrukings met 'n volstreep daaronder dui invoegings in bestaande reëls aan.

Woordomskrywing

1. In hierdie Bylae beteken die "Reëls" die Reëls waarvolgens die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hoë Hof van Suid-Afrika gereël word, gepubliseer kragtens Goewermentskennisgewing No. R. 48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings No. R. 235 van 18 Februarie 1966, R. 2004 van 15 Desember 1967, R. 3553 van 17 Oktober 1969, R. 2021 van 5 November 1971, R. 1985 van 3 November 1972, R. 480 van 30 Maart 1973, R. 639 van 4 April 1975, R. 1816 of 8 Oktober 1976, R. 1975 van 29 Oktober 1976, R. 2477 van 17 Desember 1976, R. 2365 van 18 November 1977, R. 1546 van 28 Julie 1978, R. 1577 van 20 Julie 1979, R. 1535 van 25 Julie 1980, R. 2527 van 5 Desember 1980, R. 500 van 12 Maart 1982, R. 773 van 23 April 1982, R. 775 van 23 April 1982, R. 1873 van 3 September 1982, R. 2171 van 6 Oktober 1982, R. 645 van 25 Maart 1983, R. 841 van 22 April 1983, R. 1077 van 20 Mei 1983, R. 1996 van 7 September 1984, R. 2094 van 13 September 1985, R. 810 van 2 Mei 1986, R. 2164 van 2 Oktober 1987, R. 2642 van 27 November 1987, R. 1421 van 15 Julie 1988, R. 210 van 10 Februarie 1989, R. 608 van 31 Maart 1989, R. 2628 van 1 Desember 1989, R. 185 van 2 Februarie 1990, R. 1929 van 10 Augustus 1990, R. 1262 van 30 Mei 1991, R. 2410 van 30 September 1991, R. 2845 van 29 November 1991, R. 406 van 7 Februarie 1992, R. 1883 van 3 Julie 1992, R. 109 van 22 Januarie 1993, R. 960 van 28 Mei 1993, R. 974 van 1 Junie 1993, R. 1356 van 30 Julie 1993, R. 1843 van 1 Oktober 1993, R. 2365 van 10 Desember 1993, R. 2529 van 31 Desember 1993, R. 181 van 28 Januarie 1994, R. 411 van 11 Maart 1994, R. 873 van 31 Mei 1996, R. 1063 van 28 Junie 1996, R. 1557 van 20 September 1996, R. 1746 van 25 Oktober 1996, R. 2047 van 13 Desember 1996, R. 417 van 14 Maart 1997, R. 491 van 27 Maart 1997, R. 700 van 16 Mei 1997, R. 798 van 13 Junie 1997, R. 1352 van 10 Oktober 1997, R. 785 van 5 Junie 1998, R. 881 van 26 Junie 1998, R. 1024 van 7 Augustus 1998, R. 1723 van 30 Desember 1998, R. 315 van 12 Maart 1999, R. 568 van 30 April 1999, R. 1084 van 10 September 1999, R. 1299 van 29 Oktober

1999, R. 502 van 19 Mei 2000, R. 849 van 25 Augustus 2000, R. 373 van 30 April 2001, R. 1088 van 26 Oktober 2001, R. 1755 van 5 Desember 2003, R. 229 van 20 Februarie 2004, R. 1343 van 12 Desember 2008, R. 1345 van 12 Desember 2008, R. 516 van 8 Mei 2009, R. 518 van 8 Mei 2009, R. 86 van 12 Februarie 2010, R. 87 van 12 Februarie 2010, R. 88 van 12 Februarie 2010, R. 89 van 12 Februarie 2010, R. 90 van 12 Februarie 2010, R. 500 van 11 Junie 2010, R. 591 van 09 Julie 2010, R. 980 van 19 November 2010, R. 981 van 19 November 2010, R. 464 van 22 Junie 2012 en R. 992 van 7 Desember 2012, R. 114 van 15 Februarie 2013, R. 262 van 12 April 2013, R. 471 van 12 Julie 2013, R. 472 van 12 Julie 2013, R. 759 van 11 Oktober 2013, R. 212 van 28 Maart 2014, R. 213 van 28 Maart 2014, R. 214 van 28 Maart 2014, R. 30 van 23 Januarie 2015, R. 31 van 23 Januarie 2015, R. 317 van 17 April 2015, R. 781 van 31 Augustus 2015, R. 3 van 19 Februarie 2016, R. 678 van 3 Junie 2016, R. 1055 van 29 September 2017, R. 1272 van 17 November 2017, R. 1318 van 30 November 2018 en R. 61 van 25 Januarie 2019.

Vervanging van reël 30A van die Reëls

2. Reël 30A van die Reëls word hierby deur die volgende reël vervang:

"30A Nie-nakoming van Reëls

(1) As 'n party versuim om aan hierdie reëls te voldoen of aan 'n versoek of kennisgewing ingevolge daarvan gerig of gegee, of aan 'n bevel of lasgewing in 'n geregtelike saakbestuurproses bedoel in reël 37A gegee, kan enige ander party die party wat in verstek is, kennis gee dat hy of sy van voorneme is om, na afloop van 10 dae vanaf die datum van lewering van sodanige kennisgewing, aansoek om 'n bevel te doen—

(a) dat aan so 'n reël, kennisgewing, [of] versoek, bevel of lasgewing voldoen word, of

(b) dat die eis of verweer geskrap word.

(2) **[By versuim van nakoming]** Waar 'n party versuim om binne die tydperk van 10 dae in subreël (1) beoog steeds in versuim is, kan aansoek by wyse van kennisgewing by die hof gedoen word en die hof kan daarop na goeddunke 'n bevel gee."

Vervanging van reël 32 van die Reëls

3. Reël 32 van die Reëls word hierby gewysig—

(a) deur subreël (1) deur die volgende subreël te vervang:

"(1) **[Waar]** Die eiser kan, nadat die verweerder **[kennisgewing van voorneme om te verdedig]** 'n pleit afgelewer het, **[kan die eiser]** by die hof aansoek doen om summiere vonnis op elk van die eise in die dagvaarding wat net—

(a) op 'n likwiede dokument berus;

(b) om 'n gelikwideerde geldsom is;

(c) vir die lewering van bepaalde roerende goed is; of

(d) vir uitsetting is;

tesame met 'n eis om rente en koste.";

(b) deur subreël (2) deur die volgende subreël te vervang:

"(2)(a) **[Die eiser moet binne]** Binne 15 dae na die datum van aflewering van die

[kennisgewing van voorneme om te verdedig] die pleit, moet die eiser 'n kennisgewing van aansoek om summiere vonnis aflewer tesame met 'n beëdigde verklaring deur [himsel] die eiser of deur iemand anders wat onder eed die feite kan bevestig [waarop].

(b) Die eiser moet, in die verklaring in subreël (2)(a) bedoel, die skuldoorsaak en die geëiste bedrag, as daar is, [berus] bevestig, en enige regspunt waarop gesteun en die feite waarop die eiser se eis gebaseer word, identifiseer, en kortliks verduidelik waarom die verweer soos gepleit nie 'n geskilspunt vir verhoor opper nie [waarin hy verklaar dat daar na sy mening geen bona fide-verweer teen die aksie is nie en dat die kennisgewing van voorneme om te verdedig afgelewer is bloot met die doel om te vertraag].

(c) As die eis op 'n likwiede dokument berus, moet 'n afskrif van die dokument by sodanige beëdigde verklaring aangeheg word, en die kennisgewing van aansoek om summiere vonnis moet vermeld dat die aansoek om summiere vonnis moet vermeld dat die aansoek vir verhoor ter rolle geplaas sal word op 'n bepaalde dag minstens [10] 15 dae na die datum van aflewering daarvan.”;

(c) deur subreël (3) deur die volgende subreël te vervang:

“(3) [By die aanhoor van 'n aansoek om summiere vonnis kan die] Die verweerder kan—

(a) aan die eiser sekerheid stel tot bevrediging van die [griffier] hof vir enige vonnis insluitende koste wat gegee kan word; of

(b) die hof oortuig deur middel van 'n beëdigde verklaring (wat ingelewer moet word vyf dae voor [middag twee dae voor] die hofdag waarop die aansoek aangehoor staan te word) of, met verlof van die hof, deur middel van mondelinge getuienis van [homself] die verweerder of van 'n ander persoon wat dit onder eed kan bevestig, dat [hy] die verweerder 'n bona fide-verweer teen die aksie het[. Die]; die beëdigde verklaring of die getuienis moet die aard en gronde van die verweer en die wesenlike feite waarop dit berus, volledig aangee.”;

(d) deur subreël (4) deur die volgende subreël te vervang:

“(4) Die eiser kan geen ander getuienis aanvoer nie as die beëdigde verklaring in subreël (2) bedoel, en iemand wat mondeling of by wyse van beëdigde verklaring getuienis aflê, kan nie deur enigeen van die partye gekruisvra word nie: Met dien verstande dat die hof aan iemand wat [mondeling] mondelinge getuienis aflê na goeddunke, vrae ter opheldering kan stel.”;

(e) deur in subreël (6) subparagraaf (b)(ii) deur die volgende subparagraaf te vervang:

“(ii) aan die verweerder verlof gee om te verdedig ten opsigte van 'n deel van die eis en vonnis teen [hom] die verweerder gee ten opsigte van die balans van die eis, tensy die balans reeds aan die eiser betaal is; of”;

(f) deur subreël (8A) te skrap; en

(g) deur in subreël (9) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) die eiser aansoek gedoen het hoewel die saak nie deur subreël (1) gedek word nie, of die eiser, na die hof se mening, geweet het dat die verweerder op 'n betoog steun wat [hom] die verweerder tot verlof om te verdedig geregtig maak, die hof kan beveel dat die aksie opgeskort word totdat die eiser die verweerder se koste betaal het, en dat die koste tussen prokureur en kliënt getakseer word; en”.

Vervanging van reël 36 van die Reëls

4. Reël 36 van die Reëls word hierby deur die volgende reël vervang:

“36 Inspeksies, Ondersoeke en Deskundige Getuienis

(1) **[Behoudens die bepalinge van hierdie reël het]** 'n **[party]** Party tot 'n geding, waarin vergoeding of skadeloosstelling ten opsigte van beweerde liggaamlike besering geëis word, die reg om van die eisende party, as sy gesondheidstoestand ter sake is by die vasstelling van die bedrag, te vereis dat hy hom aan 'n mediese ondersoek onderwerp.

(2)(a) **[Die party]** 'n Party wat die mediese ondersoek wil laat doen, moet 'n kennisgewing aflewer aan die ander party wat—

- (i) die aard van die beoogde ondersoek meld[.];
- (ii) **[asook]** die persoon of persone **[deur wie,]** meld wat die ondersoek gaan doen;
- (iii) die plek waar en die datum (wat minstens **[vyftien]** 15 dae na die kennisgewing moet wees) en tyd meld waarop uitvoering **[daarvan]** van die ondersoek verlang word[.];
- (iv) vereis dat die ander party sigself op die vermelde plek, datum en tyd aan die mediese ondersoek onderwerp.

(b) Die kennisgewing in paragraaf (a) beoog moet—

- (i) **[ook]** meld dat die **[ander]** party wat ondersoek word sy of haar eie mediese adviseur by die ondersoek teenwoordig mag hê; en **[moet]**
- (ii) vergesel gaan van 'n remise ter dekking van die redelike uitgawes wat die ander party vir bywoning van die ondersoek sal hê[.].

(c) Die uitgawes in paragraaf (b)(iii) bedoel word aangebied teen die tarief wat sou geld as die party 'n getuie in 'n siviele saak voor die hof was: Met dien verstande **[egter]** dat—

[(a)] (i) as die [ander] party wat ondersoek word nie kan beweeg nie, die bedrag die koste van motorvervoer moet insluit en waar nodig ook die redelike koste van 'n begeleier vir die persoon wat ondersoek moet word;

[(b)] (ii) as die **[ander]** party **[sy]** wat ondersoek word salaris, loon of ander besoldiging tydens **[sy]** afwesigheid uit **[sy]** werk sal inboet, **[hy]** daardie party, benewens bedoelde uitgawes, ook geregtig is op hoogstens [R75,00] die bedrag deur die Minister vasgestel, ingevolge die tersaaklike wetgewing, vir getuies in siviele verrigtinge, per dag ten opsigte van die inkomste wat [hy] die persoon werklik inboet;

[(c)] (iii) enige bedrag wat aldus deur 'n party betaal word, koste in die geding is tensy die hof anders gelas.

(3) Die persoon wat **[so 'n]** die kennisgewing in subreël (2) beoog, ontvang moet, as hy of sy beswaar het wat betref—

- (a) die aard van die voorgestelde ondersoek;
- (b) die persoon of persone **[deur wie dit waargeneem sal word]** wat die ondersoek sal doen;
- (c) die plek, datum of tyd daarvan; of
- (d) die bedrag vir die uitgawes **[hom]** aangebied,

binne vyf dae na betekening van die kennisgewing die ander party skriftelik op hoogte stel van die aard en gronde van **[sy]** enige beswaar, en **[hy]** moet ook—

- (i) as **[sy]** die beswaar teen die plek, datum of tyd van die ondersoek is, 'n alternatiewe datum, tyd of plek voorstel; en
- (ii) as sy beswaar teen die aangebode bedrag vir die uitgawes is, besonderhede gee van die hoër bedrag wat **[hy]** nodig **[het]** is.

As [hy] die persoon wat die kennisgewing ontvang nie binne die genoemde tyd van vyf dae so 'n beswaar aflower nie, word dit geag dat [hy] die persoon tot die ondersoek toegestem het soos voorgestel deur die persoon wat kennis gegee het. As beswaar gemaak word en die persoon wat kennis gegee het, dit geheel of gedeeltelik ongegrond ag, kan [hy] daardie persoon na kennisgewing by 'n regter aansoek doen om te bepaal of die ondersoek nog moet plaasvind en, indien wel, op watter terme.

(4) 'n Party tot so 'n aksie kan te eniger tyd by skriftelike kennisgewing van die persoon wat skadevergoeding vorder, eis dat [hy] die persoon vir sover [hy] die persoon daartoe in staat is, binne [tien] 10 dae mediese verslae, hospitaaloorkondes, X-straafooto's of ander dergelike dokumentêre inligting wat van belang is by die vasstelling van skadevergoeding, beskikbaar stel en op versoek afskrifte daarvan verskaf.

(5) As dit uit 'n mediese ondersoek wat hetsy ingevolge 'n ooreenkoms tussen die partye of 'n kennisgewing kragtens hierdie reël of 'n regterlike bevel uitgevoer is, blyk dat 'n verdere mediese ondersoek deur 'n ander persoon nodig of wenslik is ten einde volledige inligting te bekom vir die vasstelling van skadevergoeding, kan 'n party 'n tweede en finale mediese ondersoek eis soos in hierdie reël voorgeskryf.

(5A) Indien 'n party skadevergoeding eis weens die dood van 'n ander persoon, moet [hy hom] daardie party sigself soos in hierdie reël voorgeskryf onderwerp aan 'n mediese ondersoek indien daarvoor gevra word en daar beweer word dat [sy] die party se eie gesondheidstoestand ter sake is by die bepaling van die skadevergoeding.

(6) As dit lyk of die toestand van enige goed hoegenaamd, hetsy roerend of onroerend, ter sake kan wees by die beslissing van 'n geskilpunt in 'n aksie, kan enige party in enige stadium kennis gee aan die party wat op die toestand van die goed steun of wat dit in [sy] daardie party se besit of onder [sy] daardie party se beheer het, dat [hy] daardie party dit beskikbaar moet stel vir ondersoek ingevolge hierdie subreël, en [hy] daardie party kan in die kennisgewing verlang dat die goed of 'n billike eksemplaar daarvan vir hoogstens [tien] 10 dae vanaf ontvangs van die kennisgewing vir ondersoek beskikbaar bly.

(7) Die party wat versoek word om goed vir ondersoek beskikbaar te stel, kan eis dat die party wat dit aanvra, die aard van die beoogde ondersoek aangee en [hy] daardie party is nie verplig om die goed daaraan te onderwerp nie as dit hom of haar wesenlik sal benadeel vanweë die uitwerking daarvan op die goed. As daar 'n geskil ontstaan of die goed vir ondersoek beskikbaar gestel moet word, kan enige van die partye dit vir beslissing na 'n regter verwys by kennisgewing waarin vermeld word dat die ondersoek aangevra is en dat daar ingevolge hierdie subreël beswaar aangeteken word. Die regter kan na goeddunke 'n bevel gee.

(8) 'n Party wat 'n ondersoek ingevolge subreëls (1) en (6) bewerkstellig, moet—

- (a) die persoon wat die ondersoek doen, 'n volledige verslag van sy of haar bevindinge en gevolgtrekkinge oor tersaaklike aangeleenthede laat skryf, binne twee maande vanaf die datum van die ondersoek of binne 'n tydperk soos deur 'n regter gelas ingevolge artikel 37(8) of ingevolge reël 37A; en
- (b) binne vyf dae vanaf ontvangs van die verslag, alle ander partye skriftelik verwittig van die bestaan van die verslag en op versoek van 'n ander party onmiddellik 'n volledige afskrif daarvan verskaf; en
- (c) die koste van die ondersoek dra. Met dien verstande dat sodanige uitgawe deel uitmaak van dié party se koste.

(9) Niemand mag, behalwe met verlof van die hof of die toestemming van alle partye tot die geding, iemand roep om as deskundige te getuig oor aangeleenthede waarvoor deskundige getuienis toelaatbaar is nie, tensy [hy]—

- (a) waar die eiser voornemens is om 'n deskundige te roep, in welke geval die eiser minstens [vyftien dae voor die verhoor] 30 dae na die sluiting van pleitstukke, of waar die verweerder voornemens is om die deskundige te roep, moet die verweerder minstens 60 dae na die sluiting van pleitstukke, 'n kennisgewing dat hy of sy dit wil doen, afgelewer het; en
- (b) [minstens tien] waar in die geval van die eiser hoogstens 90 dae [voor die verhoor] na die sluiting van pleitstukke en in die die geval van die verweerder hoogstens 120 dae na die sluiting van pleitstukke, moet die eiser of verweerder 'n opsomming van [so 'n] die deskundige se menings en [sy] die redes daarvoor, afgelewer het[.];

Met dien verstande dat die kennisgewing en opsomming in elk geval afgelewer word voordat 'n eerste saakbestuurkonferensie gehou ingevole reëls 37A(6) en (7) of soos gelas deur 'n saakbestuurregter.

(9A) Die partye—

- (a) moet, sover moontlik, poog om 'n enkele gesamentlike deskundige aan te stel oor enige een of al die geskilpunte in die saak; en
 - (b) moet 'n gesamentlike notule indien van deskundiges rakende dieselfde gebied van kundigheid binne 20 dae vanaf die datum van die jongste indiening van sodanige deskundige verslae.
- (10) (a) Niemand mag, behalwe met verlof van die hof of die toestemming van al die partye, 'n plan, tekening, model of foto as getuienis aanbied nie tensy **[hy minstens minstens vyftien dae voor die verhoor]** die persoon hoogstens 60 dae voor die sluiting van pleitskukke 'n kennisgewing afgelewer het [dat hy] van voornemens om dit [wil] te doen, dat [hy dit] die plan, diagram, model of foto ter insae [aanbied] beskikbaar is en dat [hy] verlang word dat die party wat die kennisgewing ontvang, die bewysstuk binne [tien] 10 dae erken.
- (b) As die party wat die kennisgewing ontvang, versuim om binne die genoemde tyd so 'n erkenning te doen, word die plan, tekening, model of foto by blote voorlegging en sonder verdere bewys daarvan, in getuienis aanvaar. As so 'n party weier om te erken, kan die plan, tekening, model of foto by die verhoor bewys word en die party wat geweier het, kan beveel word om die koste van die bewys te betaal."

Vervanging van reël 37 van die Reëls

5. Reël 37 van die Reëls word hierby deur die volgende reël vervang:

"37 Voorverhoorkonferensie

(1) 'n Party wat kennis ontvang van die verhoordatum van 'n aksie, moet, indien **[hy]** die party nog nie blootlegging ingevolge reël 35 gedoen het nie, binne 15 dae 'n beëdigde verklaring aflewer wat aan reël 35(2) voldoen.

(2)(a) In sake nie onderworpe aan regterlike saakbestuur soos beoog in reël 37A nie, moet 'n [Eiser] eiser wat die kennis beoog in subreël (1) ontvang, [moet] binne [vyf] 10 dae 'n kennisgewing aflewer waarin [hy] daardie eiser 'n datum, tyd en plek vir die hou van 'n voorverhoorkonferensie aanwys.

(b) Indien die eiser nie **[sy]** die eiser se verpligtinge ingevolge paragraaf (a) nagekom het nie, kan die verweerder sodanige kennisgewing binne 30 dae na die verstryking van die tydperk in daardie paragraaf vermeld, aflewer.

(3)(a) Die datum, tyd en plek van die voorverhoorkonferensie kan by ooreenkoms gewysig word: Met dien verstande dat die konferensie nie later nie as **[ses weke]** 30 dae voor die verhoordatum plaasvind.

(b) Indien die partye verskil oor die datum, tyd of plek van die **[konferensie]** voorverhoorkonferensie, moet dit aan die griffier vir **[sy]** beslissing voorgelê word.

(4) Nie later nie as 10 dae voor die voorverhoorkonferensiedatum moet elke party 'n lys aan elke ander party verskaf van—

(a) die erkennings wat **[hy]** daardie party verlang;

(b) die navrae wat **[hy]** daardie party gaan rig wat nie in 'n versoek om verhoorbesonderhede vervat is nie; en

(c) ander aspekte omtrent voorbereiding vir verhoor wat **[hy]** daardie party vir bespreking gaan opper.

(5) By die voorverhoorkonferensie moet die aangeleenthede in subreëls (4) en (6) genoem, behandel word.

(6) 'n Notule van die voorverhoorkonferensie moet opgestel en deur of namens elke party onderteken word, en daaruit moet die volgende blyk:

(a) Die datum, plek en duur van die konferensie, en die name van die aanwesige persone;

(b) indien enige party meen dat **[hy]** daardie party benadeel word deurdat 'n ander party nog nie aan die hofreëls voldoen het nie, die aard van sodanige nie-nakoming en benadeling;

(c) dat elke party wat regshulp eis, **[sy]** daardie party se teenparty versoek het om 'n skikkingsvoorstel te maak en dat die teenparty daarop gereageer het;

(d) of enige geskilpunt deur die partye verwys is na bemiddeling, arbitrasie of beslissing deur 'n derde party en **[op welke]** die grondslag waarop dit verwys is;

(e) of die saak na 'n ander hof oorgeplaas behoort te word;

(f) die geskilpunte wat ooreenkomstig reël 33(4) afsonderlik bereg behoort te word;

(g) die erkennings wat elke party maak;

(h) enige geskil oor die plig om te begin of oor die bewyslas;

(i) enige ooreenkoms betreffende die voorlegging van getuienis by wyse van beëdigde verklaring ingevolge reël 38(2);

(j) welke party vir die kopiëring en ander voorbereiding van dokumente verantwoordelik sal wees;

(k) welke dokumente of kopieë van dokumente sonder verdere bewys sal dien as bewys van wat dit voorgee om te wees, welke uittreksels bewys kan word sonder om die hele dokument te bewys of enige ander ooreenkoms omtrent bewys van dokumente.

(7) Die notule moet nie later nie as **[vyf weke]** 25 dae voor die verhoordatum by die griffier ingedien word.

(8)(a) 'n Regter wat nie die regter hoef te wees wat by die verhoor voorsit nie, kan, indien **[hy]** daardie regter dit wenslik ag, te enige tyd, op voorstel van 'n party of uit eie beweging, die partye se prokureurs of advokate oproep om 'n konferensie voor 'n regter in kamers te

hou of voort te sit, en kan gelas dat 'n party persoonlik by sodanige konferensie beskikbaar moet wees.

(b) Geen bepaling van hierdie reël word so uitgelê dat dit verg dat 'n regter voor wie 'n konferensie gehou word, by skikkingsbesprekings betrokke raak nie, en die inhoud van 'n reaksie op 'n versoek om 'n skikkingsvoorstel mag nie aan 'n regter bekendgemaak word nie behalwe as die regter en alle partye daartoe instem.

(c) By so 'n konferensie of na afloop daarvan kan 'n regter, met instemming van die partye en sonder 'n formele aansoek, enige aanwysing gee wat die effektiewe verloop van die verhoor kan bevorder, met insluiting van die verleen van kondonاسie ten aansien van hierdie of enige ander reël.

(d) Tensy die regter anders bepaal, moet die eiser 'n notule van die konferensie voor die regter opstel en dit in behoorlik ondertekende vorm binne vyf dae of die langer tydperk wat die regter bepaal, by die griffier indien.

(9)(a) By die verhoor moet die hof oorweeg of dit gepas is om 'n spesiale kostebevel teen 'n party of [sy] daardie party se prokureur te maak omdat [hy of sy] daardie party of die party se prokureur—

- (i) nie 'n voorverhoorkonferensie bygewoon het nie; of
- (ii) in 'n wesenlike mate versuim het om die effektiewe afhandeling van die litigasie te bevorder.

(b) Behalwe met betrekking tot 'n verskyning ingevolge subreël (8)(a) is geen advokaatsgelde op 'n party-en-party-basis verhaalbaar ten aansien van 'n voorverhoorkonferensie wat meer as 10 dae voor die verhoor plaasgevind het nie.

(10) 'n Regter in kamers kan sonder aanhoor van partye afwykings van die tydsbepalings van hierdie reël beveel.

(11) 'n Aanwysing wat kragtens hierdie reël voor die aanvang van die verhoor gemaak is, kan gewysig word."

Invoeging van reël 37A in die Reëls

6. Die volgende reël word hierby na reël 37 in die Reëls ingevoeg:

"37A Regterlike saakbestuur

(1) 'n Regterlike saakbestuurstelsel is van toepassing, op enige stadium nadat 'n kennisgewing van voorneme om te verdedig ingedien is—

- (a) op sodanige kategorieë van verdedigde aksies soos die regter-president van enige afdeling in 'n Praktyknota of Voorskrif kan vasstel; en
- (b) op enige ander verrigtinge waarin regterlike saakbestuur deur die regter-president, uit eie beweging, of op versoek van 'n party, gepas bepaal is.

(2) Saakbestuur deur regterlike ingryping—

- (a) word in die belang van geregtigheid gebruik om opeenhoping op oorvol verhoorrolle te verlig en om die probleme wat vertraging in die afhandeling van sake veroorsaak, op te los;
- (b) se aard en omvang sal aangevul word deur die tersaaklike voorskrifte of praktyke van die afdeling waarin die verrigtinge hangende is; en

- (c) word uitgelê en toegepas ooreenkomstig die beginsal dat, ondanks die bepalings hierin wat vir regterlike saakbestuur voorsiening maak, die hoofverantwoordelikheid om behoorlik voor te berei, aan alle hofreëls te voldoen, en professioneel op te tree om die saak vir verhoor en beregting te bevorder, by die partye en hul regsverteenwoordigers berus.
- (3) Die bepalings van reël 37 is nie van toepassing nie, behalwe tot die mate uitdruklik in hierdie reël voorsien, in aangeleenthede wat vir regterlike saakbestuur verwys word.
- (4) In alle aangeleenthede aangewys om aan regterlike saakbestuur onderworpe te wees ingevolge subreël (1)(a) op enige tydstip voor die sluiting van pleitstukke, kan die griffier—
- (a) nakomingsbriewe rig aan enige party wat versuim om aan die tydsbeperkings vir die indiening van pleitstukke of enige ander verrigtinge ingevolge die reëls te voldoen; en
- (b) in die geval van nie-voldoening aan die voorskrifte in 'n nakomingsbrief bepaal, 'n aangeleentheid na 'n saakbestuurregter deur die regter-president aangewys, verwys wat die bevoegdheid sal hê om die aangeleentheid ingevolge die praktykvoorskrifte van die betrokke afdeling te hanteer.
- (5)(a) Ondanks die toewysing van 'n verhoordatum, gaan 'n saak wat aan regterlike saakbestuur onderworpe is, nie na verhoor oor nie, tensy die saak deur 'n saakbestuurregter as verhoorgereed gesertifiseer is nadat 'n saakbestuurkonferensie gehou is, soos in subreël (7) voor voorsiening gemaak.
- (b) 'n Saakbestuurregter sertifiseer nie 'n saak as verhoorgereed nie tensy die regter oortuig is—
- (i) dat die saak verhoorgereed is, en in die besonder, dat alle geskilpunte wat sonder 'n verhoor opgelos kan word, hanteer is;
- (ii) dat die oorblywende geskilpunte wat verhoor staan te word, voldoende omskryf is;
- (iii) dat die vereistes van reëls 35 en 36(9) aan voldoen is indien dit van toepassing is; en
- (iv) dat enige potensiele oorsake van vertraging in die aanvang of voer van die verhoor sover prakties moontlik vooruitgehoor is.
- (c) 'n Saakbestuurregter kan voorskrifte beveel oor die doen van blootleggings waar die regter van oordeel is dat daardie voorskrifte die verhoorgereedheid van die saak kan bespoedig.
- (6) In elke verdedigde aksie in 'n kategorie saak wat ingevolge subreël (1)(a) as onderworpe aan regterlike saakbestuur geïdentifiseer is waarin enige party aansoek doen om 'n verhoordatum na aanleiding van die sluiting van pleitstukke, reik die griffier 'n kennisgewing elektronies aan die partye uit, by die adresse ingevolge reëls 17(3)(b) of 19(3)(a), verstrek ten opsigte van die hou van 'n saakbestuurkonferensie.
- (7) Die kennisgewing deur die griffier ingevolge subreël (6) verwittig die partye—
- (a) van die datum, tyd en plek van 'n saakbestuurkonferensie in die aangeleentheid waarvoor 'n saakbestuurregter gaan voorsit;
- (b) van die naam van die saakbestuurregter, indien beskikbaar;

- (c) 'n voorverhoorvergadering voor die saakbestuurkonferensie moes hou waar die geskilpunte in subreël (1) geïdentifiseer in verband met die voer en verhoor van die aksie oorweeg moes gewees het; en
- (d) dat van die eiser vereis word om, minstens twee dae voor die tyd vir die saakbestuurkonferensie aangewys—
- (i) te versker dat die hofleër gepas georden, gebind, gepagineer en van 'n indeks voorsien is; en
- (ii) lewer 'n ooreengekome notule van die verrigtinge by die vergadering ingevolge paragraaf (c) gehou, so nie, indien die partye nie oor die inhoud van die notule ooreengekom het nie, 'n notule onderteken deur die party wat die dokument indien, vergesel van 'n verduideliking waarom 'n ooreenkoms oor die inhoud daarvan nie bereik is nie.
- (8) Die notule in subreël (7)(d)(ii) bedoel spesifiseer die partye se ooreenkoms of onderskeie posisies oor elk van die geskilpunte in subreël (10) geïdentifiseer en, vir sover verdere stappe gedoen moet word om die aangeleentheid verhoorgereed te maak, hulle uitdruklik indentifiseer en 'n tydrooster opstel waarvolgens die partye voorstel, op 'n onderling bindende grondslag, dat sodanige verdere stappe gedoen sal word.
- (9)(a) Benewens die notule in subreël (7)(d)(ii) bedoel, moet die partye 'n breedvoerige verklaring aflê oor geskilpunte—
- (i) wat die geskilpunte in die saak moet aandui wat nie betwis word nie; en
- (ii) wat die geskilpunte in die saak moet aandui wat betwis word, wat die aard van die geskil beskryf en die partye se onderskeie argumente ten opsigte van elke geskilpunt uiteensit.
- (b) 'n Saakbestuurregter kan, by die oorweging van die verklaring deur die partye in paragraaf (a) bedoel, beveel dat verskyning deur een of al die party van afgesien word.
- (10) Die aangeleenthede wat die partye moet hanteer by die voorverhoorvergadering wat ingevolge subreël (7) gehou moet word, is soos volg:
- (a) Die aangeleenthede in reëls 35, 36 en 37(6) uiteengesit;
- (b) die versoek van toelatings en die doen van navrae van en by die partye met die oog op die beperking van die geskilpunte of die vermindering van die nodigheid vir mondelinge getuienis;
- (c) tydperke waarbinne die partye voorstel dat enige aangeleenthede wat uitstaande is ten einde die saak tot verhoorgereedheid te bring, onderneem sal word;
- (d) behoudens reël 36(9), opdrag aan getuies om deskundige getuienis te lewer en die haalbaarheid en redelikheid in die omstandighede van die saak dat 'n enkele gesamentlike deskundige ten opsigte van enige geskilpunt deur die partye aangestel word;
- (e) die identiteit van die getuies wat hulle voornemens is om te roep en, in breë trekke, die aard van die getuienis wat deur elke sodanige getuie gegee staan te word;
- (f) die moontlikheid dat die aangeleentheid ingevolge artikel 38 van die Wet na 'n skeidsregter verwys kan word;
- (g) die blootlegging van elektroniese dokumente in die besit van 'n bediener of ander bergingstoestel;
- (h) die afneem van getuienis per videokonferensie;

- (i) gepaste verhoordatums en die geraamde duur van die verhoor; en
(i) enige ander aangeleentheid ter sake tot die bespoediging van die verhoorgereedheid van die saak.
- (11) Sonder beperking van die bestek van regterlike betrokkenheid by 'n saakbestuurkonferensie, moet die saakbestuurregter—
- (a) skikking, oor al of sommige van die geskilpunte, ondersoek, met ingebrip van, indien gepas, om navraag te doen of die partye vrywillige bemiddeling oorweeg het;
 - (b) poog om ooreenkoms te bevorder om die getal getuies te beperk wat by die verhoor geroep sal word, ten einde sinnelose herhaling of getuienis wat feite dek wat reeds erken is, uit te skakel; en
 - (c) die geskilpunte wat in die aksie aangehoor staan te word, identifiseer en aanteken.
- (12) Die saakbestuurregter kan by 'n saakbestuurkonferensie—
- (a) sertifiseer dat die saak verhoorgereed is;
 - (b) sertifisering weier;
 - (c) die partye op sodanige terme plaas wat gepas is om verhoorgereedheid te bepaal, en gelas dat hulle by 'n verdere saakbestuurkonferensie op 'n vasgestelde datum by die saakbestuurregter rapporteer;
 - (d) die aangeleentheid van die saakbestuurrol skrap en gelas dat dit slegs op die rol teruggeplaas word nadat enige nie-nakoming aan die reëls of saakbestuurvoorskrifte goedgemaak is;
 - (e) voorskrifte gee vir die verhoor van bestrede tussentydse aansoeke deur kamerhof op 'n bespoedigde grondslag;
 - (f) verdeling van geskilpunte in gepaste sake beveel, ongeag of die partye daartoe toegestem het;
 - (g) by die afhandeling van 'n saakbestuurkonferensie, die besluite aanteken en, indien geskik geag, die eiser gelas om 'n notule daarvan in te dien;
 - (h) enige bevel gee oor koste, met inbegrip van 'n bevel *de bonis propriis* teen die partye se regsverteenwoordigers of enige ander persoon wie se gedrag onredelik bygedra het tot die kortwiek van die oogmerke van die regterlike saakbestuurproses.
- (13) Die oorkonde van die saakbestuurkonferensie, met inbegrip van die notule deur die partye by die saakbestuurregter ingedien, enige voorskrifte deur die regter uitgereik en die regter se rekord van die geskilpunte wat in die aksie aangehoor staan te word, maar met uitsondering van enige skikkingsbesprekings en aanbiedinge, word ingesluit in die hoflêer wat aan die verhoorregter voorgelê gaan word.
- (14) Die verhoorregter is geregtig om die dokumente in subreël 13 bedoel, in ag te neem met betrekking tot die voer van die verhoor, met inbegrip van die bepaling van enige aansoeke om uitstel en kwessies van koste.
- (15) Tensy die partye skriftelik daartoe instem, is die saakbestuurregter en die verhoorregter nie dieselfde persoon nie.
- (16) Enige versuim deur 'n party om te voldoen aan die beginsels en vereistes van hierdie reël, kan gestraf word by wyse van 'n ongunstige kostebevel."

Wysiging van reël 68 van die Reëls**7. Reël 68 van die Reëls word hierby gewysig—**

(a) deur item 5(c) van die Tarief deur die volgende item te vervang:

“(c) teen onroerende goed—	
(i) vir tenuitvoerlegging, insluitende betekening van kennisgewing van beslaglegging aan die eienaar van die onroerende goed en die registrateur van aktes of ander beamppte belas met registrasie van sodanige goed, en as die onroerende goed deur iemand anders as die eienaar geokkupeer word, ook aan die okkupant	186,00
(ii) vir kennisgewing van beslaglegging aan 'n enkele huurder of okkupant (identiese kennisgewings waar daar meer as een huurder, okkupant of eienaar is, vir elkeen na die eerste)	17,50 5,50
(iii) vir waardasie of verslag vir die doel van 'n verkoping, per [uur] <u>halfuur</u> of gedeelte daarvan.	[93,50] 47,00
(iv) waar— (aa) waar 'n balju gemagtig is om eiendom te verkoop en die eiendom nie verkoop nie, omdat die beslaglegging teruggetrek, opgeskort, gestaak of gestuit word[, afgesien van die bedrag van die lasbrief], en al die nodige kennisgewing van terugtrekking <u>of opskorting</u> van die beslaglegging (bb) <u>geregtelike beslaglegging op onroerende goed opgehef word</u>	186,00 <u>186,00</u>
(v) vir die vasstelling en aantekening van watter verband of ander beswarings teen die eiendom geregistreer is, asook die name en adresse van die persone in wie se guns dit geregistreer is, insluitende enige briefwisseling in verband daarmee (benewens redelike uitgawes noodsaaklikerwys aangegaan)	93,50
(vi) om die vonnisskuldeiser in kennis te stel van sodanige verbande of beswarings en van die name en adresse van die persone in wie se guns dit geregistreer is	17,50
(vii) vir oorweging van bewys dat 'n preferente skuldeiser aan die vereistes van reël 46(5)(a) voldoen	10,00
(viii) vir die kennisgewing in reël 46(6) bedoel	17,50
(ix) vir oorweging van kennisgewing van verkoping wat deur die vonnisskuldeiser in oorleg met die balju opgestel word; en	
(x) vir die nagaan van aangeduide koerante en die <i>Staatskoerant</i> om seker te	<u>93,50</u>

maak dat kennisgewing van verkoping geplaas is, <u>insluitende geld van (ix) en (x) [;en]</u>	
(xi) vir die stuur van 'n eksemplaar van die kennisgewing van verkoping aan elke vonnisskuldeiser wat op die onroerende goed beslag laat lê het en aan elke verbandhouer wie se adres bekend is, vir elke eksemplaar <u>[, insluitende geld van (ix), (x), en (xi)]</u>	[93,50] <u>17,50</u>
(xii) vir die aanbring van 'n eksemplaar van die kennisgewing van verkoping op die kennisgewingbord van die landdroshof bedoel in reël 46(7)(e) en op of so na moontlik aan die plek waar die verkoping sal plaasvind, 'n allesinsluitende bedrag van <u>R40,00 en reiskoste in item 3 bedoel</u>	[33,50]
(xiii) vir— (aa) <u>oorweging van die verkoopvoorwaardes deur die uitwinnende skuldeiser voorberei</u>	[78,50] <u>93,50</u>
(bb) <u>oorweging van verdere of gewysigde verkoopvoorwaardes deur 'n belanghebbende party voorberei</u>	<u>93,50</u> <u>93,50</u>
(cc) <u>skikking van verkoopsvoorwaardes</u>	
(dd) <u>alle nodige bywoning by wet voorgeskryf in verband met vendusies, in die besonder die 'Consumer Protection Act', 2008 (Wet No. 68 van 2008)</u>	<u>280,50</u>
(ee) <u>die voer van 'n vendusie, met die uitsondering dat hierdie geld nie gehef mag word nie indien kommissie ingevolge item (xiv) geëis word nie</u>	<u>186,00</u>
(xiv) by die verkoop van onroerende goed deur die balju as afslaer, 6 persent op die eerste R100 000.00, en 3.5 persent op R100 001.00 tot R400 000.00 en 1.5 persent op die balans van die opbrengs van die verkoping, onderhewig aan 'n maksimum kommissie van R40 000.00 in totaal en 'n minimum van R3 000.00 (insluitende in alle gevalle die balju se bankkoste en ander uitgawes aangegaan om die opbrengs in sy of haar trustrekening in te betaal), welke kommissie deur die koper betaalbaar is;	
(xv) vir— (aa) <u>skriftelike kennisgewing aan die koper wat versuim het om aan die verkoopsvoorwaardes te voldoen</u>	<u>47,00</u>
(bb) <u>'n verslag in reël 46(11) bedoel</u>	<u>47,00</u>
(cc) <u>verwittiging van vonnisskuldenaar van die intrekking in reël 46(11)(a)(iii) bedoel</u>	<u>17,50</u>
(dd) <u>kennisgewing in reël 46(11)(c) bedoel</u>	<u>17,50</u>
(xvi) vir die gee van transport aan die koper	<u>23,00</u>

(xvii) vir— (aa) ontvangs van sertifikaat in reël 46(14)(a) bedoeel (bb) vir die opstel van 'n distribusieplan van die opbrengs (insluitende die nodige afskrifte) en afsending van 'n afskrif aan die griffier	17,50 93,50
(xviii) vir kennisgewing aan alle partye wat lasbriewe ingedien het en aan die vonnisskuldenaar dat die distribusieplan ter insae sal lê, vir elke kennisgewing	17,50
(xix) [vir versoek aan 'n landdros om ooreenkomstig die distribusieplan uit te betaal] vir die verslag in reël 46A(9)(d) bedoeel	[10,00] 47,00"

(b) deur die volgende item ná item 16 van die Tarief in te voeg:

<u>"17 (a) Waar die lasgewer die balju skriftelik opdrag gee om 'n dokument in item 2 of 5 bedoeel dringend of na-ure te beteken of ten uitvoer te lê, hef die balju 'n bykomende tarief, ongeag of die betekening of tenuitvoerlegging suksesvol was, en sodanige bykomende gelde word deur die lasgewer betaal, behalwe waar die hof anders gelas.</u> (b) By die toepassing van paragraaf (a) beteken— (i) <u>"dringend" op dieselfde dag of binne vier-en-twingig-uur van die skriftelike opdrag; en</u> (ii) <u>"na-ure" enige tyd—</u> (aa) <u>voor 7h00 of ná 19h00 van Maandae tot Vrydae;</u> <u>of</u> (bb) <u>op 'n Saterdag, Sondag of openbare vakansiedag."</u>	165,00
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Herroeping van Vorms 4, 5 en 6 van die Eerste Bylae

8. "Vorms 4, 5 en 6 van die Eerste Bylae tot die Reëls word hierby herroep."

Inwerkingtreding

9. Hierdie Reëls tree in werking op 1 JULIE 2019.

WET OP REËLSRAAD VIR GEREESHOWE, 1985 (WET NO. 107 VAN 1985)
WYSIGING VAN DIE REËLS WAARBY DIE VOER VAN VERRIGTINGE VAN DIE
LANDDROSHOWE VAN SUID-AFRIKA GEREËL WORD

Die Reëlsraad vir Gereeshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Gereeshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie en Korrektiewe Dienste, die reëls in hierdie Bylae gemaak.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde of uitdrukkings in vet druk in vierkantige hakies dui weglatings uit bestaande reëls aan.

_____ Woorde of uitdrukkings met 'n volstreep daaronder dui invoegings in die bestaande reëls aan.

Woordomskrywing

1. In hierdie Bylae beteken "die Reëls" die Reëls waarby die voer van die verrigtinge van die Landdroshowe van Suid-Afrika gereël word, afgekondig in Goewermentskennisgewing No. R. 740 van 23 Augustus 2010, soos gewysig deur Goewermentskennisgewing No's. R. 1222 van 24 Desember 2010, R. 611 van 29 Julie 2011, R. 1085 van 30 Desember 2011, R. 685 van 31 Augustus 2012, R. 115 van 15 Februarie 2013, R. 263 van 12 April 2013, R. 760 van 11 Oktober 2013, R. 183 van 18 Maart 2014, R. 215 van 28 Maart 2014 en R. 507 van 27 Junie 2014, R. 5 van 9 Januarie 2015, R. 32 van 23 Januarie 2015, R. 33 van 23 Januarie 2015, R. 318 van 17 April 2015, R. 545 van 30 Junie 2015, R. 2 van 19 Februarie 2016, R. 1055 van 29 September 2017, R. 1272 van 17 November 2017, R. 632 van 22 Junie 2018 en R1318 van 30 November 2018.

Vervanging van reël 9(3) van die Reëls

2. Reël 9(3) van die Reëls word hierby deur die volgende Reël vervang:

"(3) Alle prosesstukke word, behoudens die bepalings van hierdie reël, aan die persoon daardeur geraak beteken deur aflewering van 'n kopie daarvan op een of ander van die volgende wyses:

- (a) Aan die genoemde persoon of **[sy of haar]** daardie persoon se behoorlik gemagtigde agent: Met dien verstande dat waar die persoon 'n minderjarige of 'n persoon wat handelingsonbevoegd is, betekening aan die voog, tutor, kurator of dergelike persoon van die minderjarige of handelingsonbevoegde persoon gedoen word;
- (b) by die woning of sakeplek van die genoemde persoon, voog, tutor, kurator of dergelike persoon aan 'n persoon wat skynbaar nie jonger as 16 jaar is nie en skynbaar daar woon of werk: Met dien verstande dat, by die toepassing van hierdie paragraaf, wanneer 'n gebou, behalwe 'n hotel, losieshuis, koshuis of soortgelyke residensiële gebou, deur meer as een persoon of familie

geokkupeer word, beteken 'woning' of 'sakeplek' daardie gedeelte van die gebou geokkupeer deur die persoon aan wie betekening gedoen staan te word;

- (c) by die werksplek van die genoemde persoon, voog, tutor, kurator of 'n dergelike persoon aan 'n persoon wat skynbaar nie jonger as 16 jaar oud is nie en skynbaar gesag oor [hom of haar] daardie persoon het of, by ontstentenis aan 'n gesagsdraer, aan 'n persoon wat skynbaar nie jonger as 16 jaar oud is nie en skynbaar in beheer is by [sy of haar] daardie persoon se werksplek;
- (d) indien die persoon wat aldus beteken staan te word 'n *domicilium citandi* gekies het, deur 'n afskrif daarvan by die aldus gekose *domicilium* af te lewer [of te los]: Met dien verstande dat die balju in die relaas van betekening die besonderhede van die wyse en omstandighede waaronder daardie betekening gedoen is, moet weergee;
- (e) in die geval van 'n korporasie of maatskappy, deur 'n afskrif aan 'n verantwoordelike werknemer daarvan by daardie korporasie of maatskappy se geregistreerde kantoor of hoofsakeplek binne die hof se regsgebied te lewer, of waar geen sodanige werknemer bereid is om betekening te aanvaar nie, deur 'n afskrif aan die voordeur van daardie kantoor of sakeplek aan te bring, of op enige wyse deur die wet bepaal;
- (f) indien die eiser of sy of haar gemagtigde agent skriftelik instruksies aan die balju gegee het om per geregistreerde pos te beteken, word die prosesstuk aldus beteken: Met dien verstande dat 'n skuldberader wat 'n verwysing na die hof doen ingevolge artikel 86(7)(c) of 86(8)(b) van die 'National Credit Act, 2005' die verwysing per geregistreerde pos of per hand mag laat aflewer;
- (g) in verrigtinge waarin die Staat of 'n Staatsorgaan, 'n Minister, adjunkminister, 'n premier of 'n lid van 'n uitvoerende raad, in daardie persoon se amptelike hoedanigheid, die verweerder of respondent is, word die dagvaarding of kennisgewing waarby die verrigtinge ingestel word, beteken ooreenkomstig die bepalinge van enige wet wat verrigtinge teen en betekening van dokumente aan die Staat of staatsorgaan, 'n Minister, 'n adjunkminister, 'n premier of 'n lid van 'n uitvoerende raad reël;
- (h) aan enige agent of prokureur met behoorlike skriftelike magtiging om betekening te aanvaar namens die persoon aan wie betekening gedoen staan te word op enige toepaslike wyse in hierdie reël voorgeskryf;
- (i) waar betekening aan 'n plaaslike owerheid of statutêre liggaam moet geskied, aan die stadsklerk of assistentstadsklerk of burgemeester van daardie plaaslike owerheid of die sekretaresse of soortgelyke beampte of lid van die raad of komitee van die liggaam, of op enige wyse by wet voorgeskryf; of
- (j) waar die persoon wat beteken staan te word met enige dokument wat aansoekprosedures inisieer reeds deur 'n prokureur in die saak

verteenwoordig word mag die dokument aan die prokureur beteken word deur die party wat die prosedures inisieer:

Met dien verstande dat waar [die] betekening gedoen is op die wyse in paragrawe (b), (c), (e) of (g) voorgeskryf, moet die balju in die relaas van die prosesstuk die naam van die persoon aan wie dit afgelewer is en daardie persoon se hoedanigheid teenoor die persoon, korporasie, maatskappy, regspersoon of instelling deur die prosesstuk geraak, aandui: **[en waar die betekening gedoen is op die wyse in paragrawe (b), (c), (d) of (f) voorgeskryf, kan die hof, indien daar rede is om te twyfel of die betekende prosesstuk werklik onder die aandag van die persoon wat beteken moes word, gekom het, daardie betekening as ongeldig beskou]** Met die verstande verder dat wanneer die hof ook al nie tevrede is met die doeltreffendheid van die betekening nie, die hof kan beveel dat sodanige stappe wat die hof gepas ag, gedoen word: Met dien verstande verder dat betekening van enige prosesstuk waardeur 'n egskeidingsaksie of aksie vir nietigverklaring van 'n huwelik ingestel word, slegs persoonlik deur die balju aan die verweerder gedoen moet word."

Vervanging van reël 19 van Reëls

3. Reël 19 van die Reëls word hierby deur die volgende reël vervang:

"(1) (a) Waar 'n pleitstuk vaag en verwarrend is of beweringe mis wat nodig is om die aksie of verweer te staaf, moet die teenparty wat voornemens is om eksepsie te neem, in die tyd wat vir die indiening van 'n daaropvolgende pleitstuk toegelaat word, 'n eksepsie daarteen aflewer, soos in paragrawe (b) en (c) bepaal.

(b) 'n Party wat voornemens is om eksepsie te neem moet, by kennisgewing, binne 10 dae vanaf ontvangs van die pleitstuk, die party wat die pleitstuk aflewer 'n geleentheid gun om die klagosaak binne 15 dae sedert die kennisgewing te verwyder.

(c) 'n Party wat voornemens is om eksepsie te neem, moet die eksepsie, binne 10 dae vanaf die datum waarop 'n antwoord op die kennisgewing ontvang is of vanaf die keurdatum vir die antwoord, aflewer.

(d) Die eksepsie kan ingevolge reël 55 vir verhoor ter rolle geplaas word binne 10 dae ná aflewering daarvan, by versuim waarvan die eksepsie sal verstryk.

(2) As 'n pleitstuk aanstootlike, kwelsugtige of irrelevante beweringe bevat, kan die teenparty binne die tyd wat vir die indiening van 'n daaropvolgende pleitstuk toegelaat word, deurhaling aanvra en sy aansoek ingevolge reël 55 vir verhoor ter rolle plaas binne 10 dae vanaf verstryking van die tydsbeperking vir die aflewering van 'n antwoordverklaring of, indien 'n antwoordverklaring afgelewer word, binne vyf dae ná die aflewering van 'n antwoordverklaring of verstryking van die tydsbeperking vir aflewering van 'n antwoordverklaring: Met dien verstande dat—

(a) die party wat voornemens is om aansoek om deurhaling te doen, by kennisgewing afgelewer binne 10 dae vanaf ontvangs van die pleitstuk, die party wat die pleitstuk aflewer 'n geleentheid moet gun om die klagootsaak binne 15 dae ná aflewering van die kennisgewing van voornemens om deur te haal, te verwyder; en

(b) die hof die aansoek alleen mag toestaan as die hof meen dat die applikant in die voer van enige saak of verweer benadeel sal word indien die aansoek nie toegestaan word nie.

(3) Waar teen 'n pleitstuk eksepsie geneem word, moet die gronde vir die eksepsie duidelik en saaklik uiteengesit word.

(4) Waar enige eksepsie teen enige pleitstuk of 'n aansoek om deurhaling geneem word, is geen pleit, herhaling of oorpleit nodig nie."

Wysiging van reël 55 van die Reëls

4. Reël 55 van die Reëls word hierby gewysig:

(a) deur subparagraaf (iii) in paragraaf (e) van subreël (1) deur die volgende paragraaf te vervang:

"(iii) 'n keurdatum, nie minder as vyf dae [na] ná betekening daarvan aan die respondent, [vir skriftelike kennisgewing deur daardie respondent aan die aansoeker] op of voor welke dag die respondent die applikant skriftelik in kennis moet stel hetsy hy of sy voornemens is om daardie aansoek te opponeer, en stel dat indien geen sodanige kennisgewing gegee word nie, die aansoek ter rolle geplaas sal word vir beregting op 'n spesifieke dag, hoogstens 10 dae [na] ná betekening van die kennisgewing aan die respondent.";

(b) deur paragraaf (f) van subreël (1) deur die volgende paragraaf te vervang:

"(f) Indien die respondent, voor of op die dag in die kennisgewing van mosie vir daardie doel vermeld, nie die aansoeker in kennis stel van sy of haar voorneme om [teen te staan] te opponeer nie, kan die aansoeker die aangeleentheid ter rolle plaas om aangehoor te word deur die griffier of klerk van die hof kennis te gee vyf dae voor die dag waarop die aansoek aangehoor staan te word.";

(c) deur die woorde wat subparagraaf (i) van paragraaf (g) voorafgaan deur die volgende woorde te vervang:

"(g) Enige party wat die toestaan van 'n bevel wat in 'n kennisgewing van mosie gevra word, opponeer, [versoek dat 'n bevel toegestaan word] moet—";

(d) deur subparagraaf (i) van paragraaf (g) van subreël (1) deur die volgende subparagraaf te vervang:

"(i) binne die tydperk in die kennisgewing gestel, die aansoeker skriftelik in kennis stel dat hy of sy voornemens is om die aansoek teen te staan, en in daardie kennisgewing 'n adres verstrek wat, in plekke waar daar drie of meer prokureurs of prokureursfirmas is wat onafhanklik van mekaar praktiseer, binne 15 kilometer van die kantoor van die griffier of klerk van die hof moet wees, waar hy of sy kennisgewing en betekening van alle dokumente sal aanvaar, asook daardie party se posadres, faksnommer of e-posadres, waar beskikbaar";

(e) deur subparagraaf (i) van paragraaf (h) van subreël (1) deur die volgende subparagraaf te vervang:

"(h) (i) [Na] Ná ontvangs van 'n kennisgewing van voorneme om te opponeer, moet die aansoeker onverwyld die oorspronklike kennisgewing van mosie plus aanhangsels daarby en, waar van toepassing, die relaas, by die griffier of klerk van die hof indien.";

(f) deur subparagraawe (i) en (ii) van paragraaf (j) van subreël (1) deur die volgende subparagraawe te vervang:

"(j) (i) Waar geen antwoordverklaring, of kennisgewing ingevolge paragraaf (g)(iii), binne die tydperk in paragraaf (g)(ii) bedoel, gelewer word nie, kan die aansoeker binne vyf dae van die verstryking daarvan by die griffier of klerk van die hof aansoek doen om 'n datum vir die beregting van die aansoek toe te [wys] ken.

(ii) Waar 'n antwoordverklaring gelewer word, kan die aansoeker aansoek doen om 'n toewysing van die datum vir die beregting van die aansoek binne vyf dae vanaf die lewering van sy of haar antwoordverklaring of indien geen antwoordverklaring gelewer word nie, binne vyf dae vanaf die verstryking van die tydperk in paragraaf (h) bedoel en waar daardie kennisgewing gelewer word kan die aansoeker binne vyf dae [na] vanaf lewering van daardie kennisgewing om daardie toewysing aansoek doen.";

(g) deur subparagraaf (iv) van paragraaf (j) van subreël (1) deur die volgende paragraaf te vervang:

"(iv) Skriftelike kennisgewing van die datum deur die griffier of klerk van die hof toegewys, moet deur die aansoeker of respondent, na gelang van die geval, aan die teenoorgestelde party gelewer word minstens 10 dae voor die datum vir die beregting toegeken.";

(h) deur paragraaf (b) van subreël (2) deur die volgende paragraaf te vervang:

“(b) Die tydperke voorgeskryf ten opsigte van aansoeke is **[mutatis mutandis]** met gepaste veranderinge van toepassing op teenaansoeke: Met dien verstande dat die hof by die aanvoer van goeie gronde die beregting van die aansoek kan uitstel.”;

- (i) deur die woorde wat subparagraaf (i) van paragraaf (a) van subreël (3) deur die volgende woorde te vervang:

“(3) (a) Geen aansoek waarin regshulp teen ’n ander party geëis word, **[word]** moet ex parte beskou word nie, tensy die hof oortuig is dat—”;

- (j) deur paragrawe (b); (c); (e); en (f) van subreël (3) deur die volgende paragrawe te vervang:

“(b) Die kennisgewing van mosie in elke aansoek wat *ex parte* gedoen word, moet wesenlik **[bewoord wees soos]** ooreenstem met Vorm 1 van aanhangsel 1.

(c) Enige bevel op ’n *ex parte*-grondslag teen ’n party gegee **[is]** moet van ’n tussentydse aard wees en **[doen]** moet ’n beroep doen op die party teen wie dit gemaak word om op ’n vermelde keurdatum voor die hof te verskyn om gronde te gee waarom die bevel nie bevestig moet word nie.

(e) ’n Afskrif van ’n bevel wat *ex parte* gegee is en van die beëdigde verklaring, indien enige, waarop dit gegee is, **[word]** moet aan die respondent daarop beteken word.

(f) Waar goeie gronde aangevoer word teen ’n bevel wat *ex parte* teen ’n party gegee is, kan die hof beveel dat die aansoeker of respondent of die deponent van enige beëdigde verklaring waarop dit gegee is vir ondervraging of kruisondervraging voor die hof verskyn.”;

- (k) deur paragraaf (a) van subreël (5) deur die volgende paragraaf te vervang:

“(5) (a) ’n Hof, indien oortuig dat ’n aangeleentheid dringend is, kan ’n bevel gee wat wegdoen met die vorms en betekening waarvoor hierdie **[Reëls]** reëls voorsiening maak en kan die aangeleentheid afhandel op die tyd en plek en ooreenkomstig die prosedure (wat sover moontlik ingevolge hierdie **[Reëls]** reëls moet wees) wat die hof gepas ag.”;

- (l) deur subreël (6) deur die volgende subreël te vervang:

“(6) In enige aansoek teen **[enige Minister, adjunkminister, provinsiale premier, beampte of amptenaar van die Staat, in sy of haar hoedanigheid as sodanig, die Staat of die administrasie van enige provinsie]** die Staat of ’n staatsorgaan, ’n minister, adjunkminister, premier, lid van die uitvoerende raad, of amptenaar in die staatsdiens aangestel, in daardie persoon se amptelike

hoedanigheid, moet die tersaaklike tydperke in subreël (1)(e) bedoel, of vir die keurdatum van 'n bevel nisi, minstens 15 dae [na] ná die betekening van die kennisgewing van mosie, of die bevel nisi, na gelang van die geval, wees tensy die hof spesiaal 'n korter tydperk gemagtig het.";

- (m) deur subreël (8) deur die volgende subreël te vervang:

"(8) (a) Die notule van enige bevel nodig vir betekening of tenuitvoerlegging **[word]** moet opgestel word deur die party wat daarop geregtig is en **[word]** moet goedgekeur en onderteken word deur die griffier of klerk van die hof.

(b) Die afskrifte van die notule vir rekord en betekening in paragraaf (a) bedoel, **[word]** moet gemaak word deur die party in daardie paragraaf aangedui en die afskrif vir rekord **[word]** moet deur die griffier of klerk van die hof onderteken word.

(c) Reëls 41 en 42, vir sover dit nodig mag wees in die tenuitvoerlegging van 'n bevel kragtens hierdie reël, is **[mutatis mutandis]** met die nodige veranderinge van toepassing op sodanige tenuitvoerlegging."

- (n) deur paragraaf (b) van subreël (9) deur die volgende paragraaf te vervang:

"(b) Die hof **[staan]** mag nie die aansoek bedoel in paragraaf (a) **[toe]** toestaan nie, tensy die hof oortuig is dat die aansoeker **[in sy of haar saak]** benadeel sal word indien die aansoek nie toegestaan word nie."

- (o) deur subreël (10) deur die volgende subreël te vervang:

"(10) **[Reëls]** Die bepalinge van reëls 28 en 28A is ewe veel op alle aansoeke van toepassing."

- (p) deur die volgende subreël in te voeg:

"(11) Die dae van 21 Desember tot 7 Januarie, beide ingesluit, moet nie getel word in die tyd toegelaat vir aflewering van enige kennisgewing of beëdigde verklaring in hierdie reël beoog nie. Met dien verstande dat die bepalinge van hierdie subreël nie op aansoeke kragtens subreël (5) of reël 58 gebring, van toepassing is nie."

Invoeging van Deel I van Tabel A van Bylae 2 tot die Reëls

5. Deel I van Tabel A van Bylae 2 tot die Reëls word hierby, in die Afrikaanse teks ingevoeg:

(1) Wanneer die bedrag in geskil minder as of gelyk aan R7 000 is, word koste getakseer op Skaal A, wanneer die bedrag in geskil meer as R7 000 is, maar minder of gelyk aan R50 000, word koste op Skaal B getakseer; wanneer die bedrag in geskil R50 000

oorskry, maar minder as of gelyk is aan die maksimum jurisdiksionele bedrag van tyd tot tyd deur die Minister vasgestel ten opsigte van landdroshoue vir distrikte, word koste op Skaal C getakseer; wanneer die bedrag in geskil die maksimum jurisdiksionele bedrag aldus deur die Minister bepaal ten opsigte van landdroshoue vir distrikte oorskry en die prosesstuk word uit 'n landdroshof uitgereik vir 'n streekafdeling of wanneer die aangeleentheid handel oor 'n skuldoorsaak ingevolge artikel 29(1B)(a) van die Wet, word die koste op Skaal D getakseer.

(2) (a) Vir die doeleindes van berekening van koste, beteken die uitdrukking 'bedrag in geskil', waar koste aan die eiser toegeken word, die bedrag of waarde van die vonnis en 'bedrag of waarde van die vonnis' beteken, waar meer as een eis in die aksie betrokke is, die totaal van die bedrae in die vonnis betrokke. Waar koste aan die verweerder toegestaan word, beteken die uitdrukking 'bedrag in geskil', waar meer as een eis in die aksie betrokke is, die totaal van die bedrae van al die eise. Die bedrag of waarde van die vonnis of eis sluit rente in maar sluit koste uit. Indien 'n aangeleentheid te eniger tyd geskik word, word koste getakseer op die skaal in die skikking voorgeskryf.

(b) Waar die bedrag in geskil nie uit verrigtinge ooglopend is nie en—

(i) die aangeleentheid word in die Landdroshof vir 'n Distrik ingestel, word die koste op Skaal C bereken; of

(ii) die aangeleentheid word in die Streekhof vir 'n Streekafdeling ingestel, word die koste op Skaal D bereken,

tensy die hof anders gelas.

(3) Koste takseerbaar ingevolge reël 33(19) word geag kragtens 'n vonnis vir die bedrag aangebied of 'n vonnis ingevolge die skikking, na gelang van die geval, toegestaan te wees.

(4) Eise vir uitsetting word bereken teen twee maande huur van die perseel.

(5) Die koers waarteen koste bereken word, word nie verhoog omrede enige eis vir bevestiging van enige interdik of tussentydse bevel nie.

(6) Gelde vir regsadviseurs word by taksasie toegelaat slegs in gevalle wat onder skaal B, C of D val of waar die hof 'n bevel ingevolge reël 33(8) gegee het.

(7) Waar die bedrag wat vir 'n item toegelaat word gespesifiseer is, sluit die bedrag alle nodige afskrifte, bywonings en betekenings (behalwe betekenings deur die balju vir die Landdroshof) in verband daarmee in, behalwe dat 'n heffing van R27,00 per dokument toegelaat sal word vir die indiening van dokumente by die hof.

(8) Waar die bedrag vir 'n item toegelaat oningevul gelaat word—

- (a) word die opstel van dokumente (nie pleitstukke nie) toegelaat teen R27,00 vir elke folio;
- (b) afskrifte vir liassering, betekening en 'n prokureur se afskrif om te hou word ook toegelaat;
- (c) R27,00 word toegelaat vir elke nodige betekening;
- (d) R27,00 per dokument word toegelaat vir die nodige indiening van dokumente by die hof.
- (9) (a) Waar enige dokument vir die hof blyk onnodige omslagtigheid te wees, kan die hof die geheel of enige deel van die gelde daarvoor weier.
- (b) Waar gedrukte vorms van dokumente waarvan afskrifte gemaak moet word, beskikbaar is, word die gelde vir afskrifte beperk tot die nodige besonderhede in daardie gedrukte vorms ingevoeg.
- (10) (a) 'n Folio bestaan uit 100 skriftelike of gedrukte woorde of syfers of deel daarvan.
- (b) Vier syfers word as een woord bereken.
- (11) (a) Tensy anders bepaal, word 'n heffing vir deurlesing toegelaat teen R10,00 per folio ten opsigte van enige dokument of pleitstuk wat noodsaaklikerwys deurgelees is.
- (b) Waar 'n heffing toegelaat word vir die maak van afskrifte, word dit toegelaat teen R4,00 per bladsy, ongeag die getal woorde, tensy anders bepaal.
- (12) Waar daar meer as een verweerder is, word R17,00 bygevoeg ten opsigte van elke bykomende verweerder vir elk van items 2 en 3 van Deel I en items 2 en 7 van Deel III.
- (13) Waar die vonnisskuld ingevolge die vonnis of 'n ooreenkoms in paaierement betaalbaar is, word 'n geld van 10% op elke paaierement ingevorder ter delging van die kapitaal, koste en rente, toegelaat, behoudens 'n maksimum van R411,00 op elke paaierement. Geen bykomende geld word gehef vir enige bywoning in verband met die ontvangs of betaling van enige paaierement nie.
- (14) Die klerk of griffier van die hof keur by taksering enige heffing wat onnodig aangegaan is, af.
- (15) Waar die geld kragtens enige item op grond van tyd bereken word, word die totale tyd op enige een dag spandeer bereken en die geld vir daardie dag word op daardie totaal bereken.

(16) Enige bedrag noodsaaklikerwys en werklik spandeer in die opspoor van die skuldenaar word toegelaat benewens die gelde in hierdie tarief uiteengesit.

(17) Item 10A en 14A van Deel III in die tarief tot Tabel A is ook van toepassing op Deel IV van die tarief by Tabel A."

Wysiging van Deel III van Tabel A van Bylae 2 tot die Reëls

6. Deel III van Tabel A van Bylae 2 tot die Reëls word hierby gewysig--

(a) deur na item 10 van die aangehegde tarief die volgende item in te voeg:

"10A Paginerings en indeksering van pleitsukke per kwartier of deel daarvan:	R108,00	R108,00	R131,50	R171,00"
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(b) deur die volgende item na item 14 van die aangehegde tarief in te voeg:

"14A Opstel van betooghoofde per kwartier of deel daarvan:	R160,50	R160,50	R202,50	R261,00"
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Wysiging van Deel IV van Tabel A van Bylae 2 tot die Reëls

7. Item 21 van Deel IV van Tabel A van Bylae 2 van die Engelse teks van die Reëls word hierby gewysig deur die volgende woorde te skrap: "Note: A fee to counsel on application shall be allowed only where the court certifies that the briefing of counsel was warranted".

Wysiging van Deel III van Tabel B van Bylae 2 tot die Reëls

8. Deel III van Tabel B van Bylae 2 tot die Reëls word gewysig deur in paragraaf 1 subparagraaf (b) te vervang:

"1. Die volgende geld word toegelaat benewens die geld in die Tarief by hierdie Deel uiteengesit:

(a) Alle nodige uitgawes aangegaan in verband met die verrigtinge.

(b) Benewens die gelde hieronder gestel, is die administrateur geregtig op 'n geld van 10% op elke paalement ingevorder ter delging van die kapitaal en koste, welke bedrag ingesluit is in die 12,5% ingevolge artikel 74L(2) van die Wet.”.

Wysiging van Deel II van Tabel C van Bylae 2 tot die Reëls

9. Deel II van Tabel C van Bylae 2 van die Reëls word hierby gewysig deur Deel II deur die volgende Deel te vervang:

“DEEL II

BALJU'S WAT NIE AMPTENARE VAN DIE STAATSDIENS IS NIE

1A. Vir registrasie van enige dokument vir betekening of by ontvangs daarvan: R10,00.

1B. (a) Vir die betekening van 'n dagvaarding, getuiedagvaarding, kennisgewing of ander dokument wat nie 'n dokument is wat in item 2 genoem is nie, die reis na en van die plek van betekening van enige van die bogenoemde dokumente—

(i) binne 'n afstand van 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R40,00;

(ii) binne 'n afstand van 12 kilometer, maar verder as 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R47,00;

(iii) binne 'n afstand van 20 kilometer, maar verder as 12 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R63,00;

(b) Vir die gepoogde betekening van die dokumente in paragraaf (a) genoem, die reis na en van die plek van gepoogde betekening van enige van die bogenoemde dokumente—

(i) binne 'n afstand van 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R33,50;

(ii) binne 'n afstand van 12 kilometer maar verder as 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R40,00;

(iii) binne 'n afstand van 20 kilometer maar verder as 12 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R56,00;

(c) (i) Waar 'n dokument saam met 'n prosesstuk van die hof beteken moet word en in die prosesstuk vermeld word of 'n aanhangsel daarby is, word geen bykomende

geld gevra vir betekening van die dokument nie, andersins kan R10,00 gevra word vir elke aparte betekende dokument.

(ii) Geen gelde word gehef vir 'n aparte dokument wanneer prosesstukke in strafregtelike aangeleenthede beteken word nie.

(iii) Die betekening van 'n kennisgewing reël 54(1) bedoel gelyktydig met die dagvaarding word nie as 'n aparte betekening beskou nie.

(iv) Waar 'n lasgewer die balju, skriftelik, opdrag gee om 'n dokument in item 1B(a) of (2)(a) op 'n dringende grondslag of na-ure te beteken of tenuitvoer te lê, hef die balju bykomende gelde van R165,00 vir sodanige betekening ongeag of die betekening of tenuitvoerlegging suksesvol was, welke bykomende gelde deur die lasgewer betaal word, behalwe waar die hof anders gelas.

(v) By die toepassing van subparagraaf (iv) beteken—

(aa) “dringend” op dieselfde dag of binne vier-en-twintig-uur sedert die skritelike lasgewing; en

(bb) “na-ure” enige tyd—

(aaa) voor 7h00 of ná 19h00 op Maandae tot Vrydae; of

(bbb) op 'n Saterdag, Sondag of openbare vakansiedag.

2. (a) Vir die tenuitvoerlegging van 'n lasbrief (behalwe teen onroerende goed), interdik, skuldbeslagorder of besoldigingsbeslagbevel, die reis na en van die plek van tenuitvoerlegging van die bogenoemde dokumente—

(i) binne 'n afstand van 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R56,00;

(ii) binne 'n afstand van 12 kilometer, maar verder as 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R63,00;

(iii) binne 'n afstand van 20 kilometer, maar verder as 12 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R78,50;

(b) Vir die gepoogde tenuitvoerlegging van die dokumente in paragraaf (a) vermeld, die reis na en van die plek van gepoogde tenuitvoerlegging van die bogenoemde dokumente—

- (i) binne 'n afstand van 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R47,00;
 - (ii) binne 'n afstand van 12 kilometer, maar verder as 6 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R56,00;
 - (iii) binne 'n afstand van 20 kilometer, maar verder as 12 kilometer van die hofgebou van die distrik waarvoor die balju aangestel is: R70,50;
- (c) (i) Vir die uitsetting van 'n verweerder uit die perseel in die uitsettingslasbrief bedoel: R33,50 per halfuur of gedeelte daarvan (met uitsondering van buitengewone uitgawes noodsaaklikerwys aangegaan).
- (ii) 'n Verdere geld van R22,50 word na tenuitvoerlegging betaal vir elke persoon bo en behalwe die persoon in die prosesstukke van uitsetting genoem of na verwys, wat in werklikheid uitgeset is: Met dien verstande dat waar betekening aan enige persoon behalwe die vonnisskuldenaar, respondent of beslagskuldenaar nodig is ten einde die tenuitvoerlegging te voltooi, kan die geld in item 1B(a) vasgestel gehef word ten opsigte van elke sodanige betekening.
- (d) vir die uitwinning van enige lasbrief teen onroerende goed—
- (i) vir uitwinning, met inbegrip van betekening van kennisgewing van beslaglegging aan die eienaar van die onroerende goed en aan die registrateur van aktes of ander kantoor belas met die registrasie van daardie eiendom, en indien die eiendom geokkupeer word deur iemand anders as die eienaar, ook aan daardie okkupeerder: R186,00;
 - (ii) vir kennisgewing van beslaglegging aan 'n enkele huurder of okkupeerder: R17,50;
 - (iii) identiese kennisgewings waar daar verskeie huurders, okkupeerders of eienaars is, vir elkeen na die eerste een: R5,50;
 - (iv) vir die maak van waardasieverslag vir doeleindes van verkoping, per halfuur of gedeelte daarvan: R47,00;
 - (v) wanneer 'n balju gemagtig is om eiendom te verkoop en die eiendom word nie verkoop nie omdat die beslaglegging ingetrek of opgeskort word, al die nodige kennisgewing vir die intrekking of opskorting van die beslaglegging: R186,00; Opheffing van regterlike beslaglegging op onroerende goed: R186,00;

(vi) om uit te vind en aan te teken watter verband of ander beswarings teen die eiendom geregistreer is, saam met die name en adresse van die persone in wie se guns daardie verbande en beswarings aldus geregistreer is, met inbegrip van enige korrespondensie in verband daarmee (benewens redelike uitgawes noodsaaklikerwys aangegaan): R93,50;

(vii) vir kennisgewing aan die uitwinnende skuldeiser van daardie verbande of ander beswarings en van die name en adresse van die persone in wie se guns daardie verbande of ander beswarings geregistreer is: R17,50;

(viii) vir oorweging van bewys dat 'n preferente skuldeiser aan die vereistes van reël 43(5)(a) voldoen het: R10,00;

(ix) vir kennisgewing bedoel in reël 43(6): R17,50;

(x) vir oorweging van kennisgewing van verkoping voorberei deur die uitwinnende skuldeiser in oorleg met die balju: en

vir verifiëring dat kennisgewing van verkoping in die aangeduide koerante en in die *Staatskoerant* gepubliseer is, insluitend geld vir daardie oorweging en verifiëring: R93,50;

(xi) vir die aanstuur van 'n afskrif van die kennisgewing van verkoping aan elke vonnisskuldeiser wat die onroerende goed op beslag laat lê het en aan elke verbandhouer daarvan wie se adres bekend is, vir elke afskrif: R17,50;

(xii) vir die aanheg van 'n afskrif van die kennisgewing van verkoping aan die kennisgewingbord van die landdroshof in reël 43(7)(e) bedoel en by of so naby as moontlik aan die plek waar die verkoping in werklikheid gaan plaasvind, 'n insluitende geld van R40,00 en reiskoste in item 4(a) bedoel;

(xiii) vir oorweging van die verkoopvoorwaardes deur uitwinnende skuldeiser voorberei; verder vir oorweging van gewysigde verkoopvoorwaardes deur belanghebbende party voorgelê; vasstelling van verkoopvoorwaardes: R93,50 vir elke bywoning;

(xiv) vir alle nodige bywonings voorgeskryf deur enige wet wat met veilings verband hou, in die besonder die 'Consumer Protection Act', 2008 (Wet No. 68 van 2008): R280,50;

(xv) vir die hou van 'n veiling, behalwe dat hierdie geld nie gehef mag word indien kommissie ingevolge items 2(d)(xvi) en (xvii) geëis word nie: R186,00;

(xvi) By die verkoping van onroerende goed deur die balju as afslaer, 6 persent op die eerste R100 000,00, 3,5 persent op R100 001,001 tot

R400 000,00 en 1,5 persent op die balans van die opbrengs van die verkoping, behoudens 'n maksimum kommissie van R40 000,00 in totaal, en 'n minimum van R3 000,00 (insluitend alle instansies van die balju se bankkoste en ander uitgawes aangegaan tydens die oordrag van die opbrengs in sy of haar trustrekening), welke kommissie deur die koper betaal word;

(xvii) Indien 'n afslaer in diens geneem word soos voorsien in reël 43(10), 3 persent op die eerste R100 000,00, 2 persent op R100 001,00 tot R400 000,00 en 1 persent op die balans daarvan, onderhewig aan 'n maksimum kommissie van R22 850,00, in totaal, en 'n minimum van R3 000,00 (insluitend alle instansies van die balju se bankkoste en ander uitgawes aangegaan in die oordrag van die opbrengs na sy of haar trustrekening), welke kommissie deur die koper betaal word;

(xviii) vir skriftelike kennisgewing aan die koper wat versuim het om aan die verkoopvoorwaardes te voldoen: R47,00;

(xix) vir enige verslag in reël 43(11) bedoel: R47,00;

(xx) vir verwittiging van vonnisskuldenaar van die intrekking in reël 43(1)(a)(iii) bedoel: R17,50;

(xxi) vir kennisgewing in reël 43(11)(c) bedoel: R17,50;

(xxii) vir gee van oordrag aan die koper: R23,00;

(xxiii) vir ontvangs van sertifikaat in reël 43(14)(a) bedoel: R17,50;

(xxiv) vir voorbereiding van 'n plan vir verspreiding van die opbrengs (met inbegrip van nodige afskrifte) en vir aanstuur van 'n afskrif na die griffier: R93,50;

(xxv) vir kennisgewing aan alle partye wat lasbriewe ingedien het en aan die uitwinnings-eksekuteur dat die verspreidingsplan ter insae beskikbaar sal wees, vir elke kennisgewing: R17,50;

(xxvi) vir die verslag in reël 43A(9)(d) bedoel: R47,00.

3. Samestelling van enige opgawe ingevolge reël 8, in duplikaat: R16,00.

4. (a) Die Balju moet, benewens die gelde ingevolge items 1B(a), 1B(b), 2(a) en 2(b),₁ genoem, maar behoudens item 4(b) en (c), 'n reistoelaag toegelaat word van R5,00 per

kilometer, of gedeelte daarvan, vir die kortste moontlike reis heen en terug van die kantoor van die Balju na die plek van betekening of uitwinning en terug.

(b) Die reistoelae in items 4(a), 5(a) en 5(c)(i) bedoel word bereken op die afstand bereken vanaf die kantoor van die balju indien —

(i) die balju se kantoor in die regsgebied deur die Minister aan die balju toegewys, val; en

(ii) die afstand van die balju se kantoor minder is as die afstand bereken vanaf die hofgebou naaste aan die adres van betekening

(c) Indien die vereiste in item 4(b) nie aan voldoen word nie, word die reistoelae in items 4(a), 5(a) en 5(c)(i) bereken volgens die afstand bereken vanaf die hofgebou vanaf die hofgebou naaste aan die adres vir betekening.

5. (a) Ten opsigte van die verrigting van enige amptelike plig behalwe dié in items 1 en 2 vermeld, maar behoudens item 4(b) en (c), is 'n reistoelaag van R5,00 per kilometer vir elke kilometer, of gedeelte daarvan, aan die balju betaalbaar vir die gaan en terugkeer.

(b) 'n Reistoelaag sluit al die uitgawes in wat op reis aangegaan is, met inbegrip van treinkaartjies.

(c) 'n Reistoelaag word bereken ten opsigte van elke aparte betekening, met die uitsondering dat—

(i) waar meer as een betekening op dieselfde reis gedoen kan word, die afstand van die balju se kantoor na die eerste plek van betekening net een keer in ag geneem word, en gelyk aan die onderskeie betekeninge toegedeel word; en

(ii) waar betekening van dieselfde prosesstukke aan meer as een persoon by dieselfde adres van betekening deur 'n balju gedoen moet word, slegs een heffing vir reis toegelaat word.

(d) Wanneer die balju enige persoon onder arres moet vervoer, 'n toelating van R5,00 per kilometer ten opsigte van daardie gedeelte van sy of haar reis waarop hy of sy noodsaaklikerwys deur daardie persoon vergesel is, toegelaat word.

6. (a) Maak van 'n inventaris, met inbegrip die maak van alle nodige afdrukke en tyd spandeer op voorraadopname: R33,50 per halfuur of 'n deel daarvan.

(b) Vir bystand, indien nodig, met die opstel van 'n inventaris, R33,50 per halfuur of deel daarvan.

7. Die besigtiging, opstel en invul van 'n borgakte, borgstellingsakte of skadeloosstellingsakte: R10,00.

8. Beheer of bewaring van goed (geld uitgesluit):

(a) (i) Vir elke amptenaar noodsaaklikerwys in besit gelaat, 'n redelike insluitende bedrag van hoogstens R117,00 per dag.

(ii) Reistoelaes, moet in elke geval losies insluit.

(b) Indien beslag op lewende hawe gelê word, word slegs die nodige uitgawes vir die aanjaag en bewaring van die lewende hawe toegelaat word.

(c) Indien die goedere verwyder en opgeberg word, word slegs die koste van verwydering en opberging toegelaat.

9. (a) **'bewaring'** beteken werklike fisieke bewaring deur 'n persoon in diens van en betaal deur die balju, wie se enigste taak vir die tyd en wyl is om op die perseel te bly waar die goed op beslag gelê is en wat, in der waarheid, in bewaring bly vir die tydperk waarvoor bewaring gevorder word.

(b) **'koste van verwydering'** beteken die bedrag werklik en noodsaaklikerwys uitbetaal vir verwydering of gepoogde verwydering deur 'n derde party of 'n poging aangewend is om dit te verwyder, indien dit deur die balju sigself verwyder is, die bedrag wat billik toelaatbaar sal wees in die gewone loop van sake indien die goed deur 'n derde party verwyder is, of 'n poging aangewend is om dit aldus te verwyder.

(c) **'koste van opberging'** beteken die bedrag werklik en noodsaaklikerwys betaal vir opberging indien die goed by 'n derde persoon opgeberg word of, indien die balju die stoorplek voorsien het, sodanige bedrag soos billik toelaatbaar sal wees in die gewone loop van sake indien die goedere by 'n derde persoon opgeberg is.

10. (a) Waar 'n uitwinningslasbrief of skuldbeslagorder ten volle, of gedeeltelik, aan die balju betaal word of gelde op beslag gelê in uitwinning teen roerende goed, 9 persent van die bedrae aldus betaal of op beslag gelê, met 'n minimum van R63,00 en 'n maksimum van R614,00.

(b) Kennisgewing van beslaglegging aan elke persoon wat in kennis gestel staan te word: R10,00.

11. Waar eiendom ingevolge reël 4(7)(f)(i) vrygegee word, of die uitwinningslasbrief ingetrek of opgeskort word, of die vonnisskuldenaar se boedel na die beslaglegging gesekwestreer word, onderhewig aan 'n maksimum van R186,00: Met dien verstande dat indien 'n verkoping daarna as gevolg van die genoemde beslaglegging plaasvind, word die bedrag aldus betaal, afgetrek van die kommissie kragtens item 12 betaalbaar.

12. Waar die uitwinningslasbrief teen roerende goed per verkoping afgehandel word, 9 persent van die eerste R15 000,00 of gedeelte daarvan, en daarna 6 persent, met 'n maksimum van R8 178,50.

13. Vir die versekering van inbeslaggenome goed, indien nodig geag, en by skriftelike opdragte van die vonnisskuldeiser aan die balju, benewens die premie wat betaal staan te word, 'n alomvattende bedrag van R33,50.

15. Wanneer op onroerende goed beslag gelê is en die beslaglegging verstryk, soos in artikel 66(4) van die Wet bedoel: R56,00.

17. Benewens die gelde deur items 10 tot 13, albei ingesluit, toegelaat, word daar toegelaat—

(a) die som werklik en redelik betaal deur die balju of die afslaer vir druk, advertering en gee van publisiteit aan enige verkoping of voorgenome verkoping in uitwinning.

18. Waar die balju in bewaring is kragtens meer as een uitwinningslasbrief, kan hy of sy slegs vir een bewaring gelde vorder, en daardie bewaring moet, sover moontlik, gelykop toegedeel word aan die verskeie lasbriewe in dieselfde tydperk uitgereik: Met dien verstande dat elke uitwinnende skuldeiser gesamentlik en apart aanspreeklik sal wees vir daardie bewaring tot 'n bedrag wat nie die bedrag oorskrei wat kragtens sy of haar uitwinning verskuldig sou wees indien dit alleenstaande was.

19. Gelde betaalbaar op die waarde van in beslag genome goed of op die opbrengs van die verkoping van goed in uitwinning is nie hefbaar op daardie waarde of opbrengs vir sover dit meer is as die bedrag van die lasbrief.

20. Die gelde en uitgawes van die balju in uitwinning van 'n skuldbeslagorder word gevoeg by die bedrag wat kragtens die bevel verhaal staan te word, en is vorderbaar van die vonnisskuldenaar.

21. Indien dit nodig is vir die balju om 'n dokument deur hom of haar vir betekening of tenuitvoerlegging ontvang aan die opdraggewer terug te besorg omdat—

(a) die adres van betekening wat op die prosesstuk verskyn nie binne sy of haar regsbevoegdheid val nie; of

(b) die opdraggewer versoek het, voor 'n gepoogde betekening of tenuitvoerlegging van die prosesstuk, dat dit aan hom of haar terugbesorg word, is 'n bedrag van R10,00 betaalbaar.

22. Vir die vervoer van enige persoon deur die balju in hegtenis geneem of in sy of haar aanhouding geplaas van die plek van aanhouding af na die hof op 'n dag wat volg op die

dag van inhegtenisneming: R33,50 per reis en R63,00 per uur, of deel daarvan, om voor die hof te verskyn.

23. Vir die bestudering van aangeduide koerante en die *Staatskoerant* waarin die kennisgewing van verkoping gepubliseer is, soos in reël 41(8)(c) bedoel: R10,00.

25. Vir die aanbring van 'n afskrif van die kennisgewing van verkoping op die kennisgewingbord van die hofgebou of ander openbare gebou en by of so naby as moontlik aan die plek waar die genoemde verkoping werklik gaan plaasvind in reël 41(8)(b) bedoel: R23,50 en reiskoste, in item 5(a) bedoel.

26. Vir die opstel van en uitreiking van 'n tussenpleitdagvaarding: R93,50.

27. Benewens die gelde in hierdie Tabel voorgeskryf, is die balju geregtig op die bedrag werklik betaal vir posgeld en telefoonoproepe.

28. Vir die skryf van elke nodige brief, faks of e-pos, met uitsondering van formele briewe wat proses of relaas vergesel: R17,50.

29. Maak of beantwoording van elke noodsaaklike telefoonoproep: R16,00.

30. Afstuur en ontvangs van elke nodige faks of e-pos per bladsy (benewens telefoonkoste): R5,50.

32. Vir die maak van alle nodige afskrifte van dokumente: R4,00, per A4-grootte bladsy.

33. (a) 'n Versoek om 'n rekening van 'n balju te takseer moet gedoen word binne 90 dae na die datum van aflewering van die rekening waarvan die fooie betwis word.

(b) Vir die opstel van die rekening vir taksering en bywoning van die taksering deur die balju: R63,00.

34. Bankkoste: Werklike koste aangegaan ten opsigte van bankkoste en tjekvorms.

35. (a) Opstel van kennisgewing aan die vonnisskuldenaar ingevolge artikel 65A(8)(b) van die Wet: R17,50.

(b) Betekening van die kennisgewing in paragraaf (a) beoog: Tarief soos voorgeskryf in item 1B(a).

(c) Gepoogde betekening van die kennisgewing in paragraaf (a) beoog: Tarief soos voorgeskryf in item 1B(b).

(d) Die tarief, soos in item 4 voorgeskryf, is op paragrawe (b) en (c) van toepassing.

36. (a) Vir die inhegtenisneming of gepoogde inhegtenisneming van 'n vonnisskuldenaar ingevolge artikel 65A(6) van die Wet:

(i) Die tarief soos voorgeskryf in item 2(a) of item 2(b), na gelang van die geval.

(ii) Die tarief, soos voorgeskryf in item 4, is op hierdie item van toepassing.

(b) Vir die oorhandiging van die vonnisskuldenaar aan die Suid-Afrikaanse Polisie, gevangenes se vriend of klerk van die hof of ander wettige plek van aanhouding:

(i) Die tarief, soos in item 2(a) voorgeskryf.

(ii) Reiskoste van plek van inhegtenisneming na plek van oorhandiging aan die tersaaklike gesag, in paragraaf (b) bedoel, per kilometer of gedeelte daarvan: R5,00.

(iii) Wagtyd ten opsigte van oorhandiging van die vonnisskuldenaar aan die tersaaklike owerheid, in paragraaf (b) bedoel: R33,50, per halfuur of gedeelte daarvan, met 'n maksimum van R124,00."

Inwerkingtreding

10. Hierdie reëls tree in werking op 1 JULIE 2019.