DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 1604 **17 December 2021**

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), and 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, R. 507 of 27 June 2014, 571 of 18 July 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, R. 1318 of 30 November 2018, R. 842 of 31 May 2019, R. 1343 of 18 October 2019, R. 107 of 7 February 2020, R. 858 of 7 August 2020 and R. 1156 of 30 October 2020.

Substitution of rule 1 of the Rules

2. The following rule is hereby substituted for rule 1 of the Rules:

"**1. Purpose and application of rules**

(1) The purpose of these **[Rules]** rules is to promote access to the courts and to **[ensure that]** give effect to the right to have any dispute **[disputes]** that can be resolved by the application of law **[by]** decided in a fair public hearing before a court **[is given effect to]**.

(2) These **[Rules]** rules are to be applied so as to facilitate the expeditious handling of disputes and the minimisation of costs involved.

(3) In order to promote access to the courts **[or when it is]** and in the interest of justice **[to do so]**, a court may, at a conference convened in terms of section 54(1) of the Act, dispense with any provision of these **[Rules]** rules and give directions as to the procedure to be followed by the parties so as to dispose of the action in the most expeditious and least costly manner.

(4) *(a)* The forms contained in Annexure 1 may be used with such variation as circumstances require.

(b) Subject to the provisions of paragraph *(a)*, the clerk or registrar of the court may refuse to issue –

(i) any summons purporting to be in the form of Form 2, 2A, 2B, 2C or 3, but which does not substantially comply with the prescribed requirements; or

(ii) any written request as referred to in section 59 of the Act which does not substantially comply with a request contained in Form 5A or 5B.

(c) All processes of the court for service or execution and all documents or copies to be filed of record, other than documents or copies filed of record as documentary proof, shall be on standard A4 paper unless if filed in electronic format **[on paper known as A4 standard paper of a size of approximately 210 mm by 297 mm]**.".

Substitution of rule 16 of the Rules

3. The following rule is hereby substituted for rule 16 of the Rules:

"**16. Further particulars**

(1) Subject to sub-rules (2), (3) and (4) further particulars shall not be requested.

(2) **[*(a)* After the close of pleadings any party may, not less than 20 days before trial, deliver a notice requesting only such further particulars as are strictly necessary to enable him or her to prepare for trial.]**

(a) Any party may, within 20 days after the discovery of documents provided for in rule 23, deliver a notice requesting only such further particulars as are strictly necessary to enable him or her to prepare for trial.

(b) A request contemplated in paragraph *(a)* shall be complied with within 10 days after receipt thereof.

(3) A request for further particulars for trial and the reply thereto shall be signed by an attorney or, if a party is unrepresented, by that party.

(4) If a party who has been requested in terms of this rule to furnish any particulars fails to deliver them timeously or sufficiently, the party requesting the same may apply to court for an order for their delivery or for the dismissal of the action or the striking out of the defence, whereupon the court may make such order as it deems fit.

(5) A court shall at the conclusion of a trial **[*mero motu*]** of its own accord consider whether the further particulars were strictly necessary, and shall disallow all costs of and flowing from any unnecessary request or reply, or both, and may order either party to pay the costs thereby wasted, on an attorney and client basis or otherwise.".

Substitution of rule 22 of the Rules

4. The following rule is hereby substituted for rule 22 of the Rules:

"**22. Set-down of trial**

(1) The trial of an action shall be subject to the delivery by the plaintiff, after the pleadings have been closed, of notice of trial for a day or days approved by the registrar or clerk of the court: Provided that, if the plaintiff does not within 15 days after the pleadings have been closed deliver notice of trial, the defendant may do so.

(2) The delivery of notice of trial shall automatically operate to set down for trial at the same time any claim in reconvention made by the defendant.

(3) Delivery of notice of trial shall be effected at least 20 days before the day so approved.

(4) *(a)* On receipt of an application for a trial date the registrar or clerk of the court shall draw the court file and take it to the magistrate to enable the magistrate to consider whether a pre-trial conference in terms of section 54 of the Act is necessary.**[: Provided that the trial date shall be allocated within 10 days of receipt of the application for trial date.]**

(b) Subject to paragraph (a), a trial date shall be allocated within 10 days of receipt of the application for a trial date: Provided that a trial date in defended actions may only be allocated after the magistrate had certified the case trial-ready in matters considered appropriate for judicial case management by the court.

(c) Upon allocation of a date for trial, the registrar or clerk of the court shall inform all parties of the allocated date.

(5) *(a)* In divorce actions or actions for nullity of marriage, notwithstanding anything in this rule contained, the registrar of the court shall at the written request of the plaintiff set the action down for hearing at the time and place and on a date to be fixed by the registrar of the court, if the defendant has-

[*(a)*] (i) failed to deliver the notice of intention to defend; or

[*(b)]* (ii) failed to deliver a plea after receiving a notice in terms of rule 21B(2); or

[*(c)*] (iii) given written notice to the plaintiff and the registrar or clerk of the court that he or she does not intend defending the action,

but no notice of such request or set down need to be served on the defendant.

(b) If there are minor children involved, the Office of the Family Advocate must be informed of the date on which the matter is set down for hearing.

(6) When an undefended divorce action is postponed the action may be continued before another court notwithstanding that evidence has been given.

(7) A party who receives notice of the trial date of an action shall, if such party has not yet made discovery in terms of rule 23, within 20 days deliver a sworn statement which complies with rule 23(2).".

Insertion of rule 22A to the Rules

5. The following rule is hereby inserted after rule 22 of the Rules:

"**22A. Meeting between parties to prepare for pre-trial conference or trial**

"(1) A party who receives a notice for a pre-trial conference as provided for in section 54 of the Act or for trial may within 10 days deliver a notice appointing a date, time and place for a meeting to prepare for such a pre-trial conference or trial between the parties.

(2) *(a)* The parties may hold the meeting referred to in sub-rule (1) using telephonic or electronic means.

(b) The date, time, place or form of the meeting referred to in sub-rule (1) may be amended by agreement between the parties: Provided that such a meeting shall be held not later than 10 days prior to the date of hearing.

(3) Each party shall, not later than 5 days prior to the meeting referred to in sub-rule (1), furnish every other party with a list of –

(a) the admissions which such party requires;

(b) the enquiries which such party will direct and which are not included in a request for further particulars for trial; and

(c) other matters regarding preparation for trial which such party will raise for discussion.

(4) At the meeting referred to in sub-rule (1), the matters mentioned in sub-rules (3) and (5) shall be dealt with.

(5) The minutes of the meeting referred to in sub-rule (1) shall be prepared and signed by or on behalf of every party and the following shall appear therefrom:

(a) The date, place, form and duration of the meeting and the names of the persons present;

(b) if a party feels 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 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 the basis on which it has been so referred;

(e) whether the case should be transferred to another court;

(f) whether the case should be separated in terms of rule 29(6);

(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 evidence by way of an affidavit in terms of rule 29(16);

(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; and

(l) whether the parties are ready to proceed with trial.

(6) The minutes referred to in sub-rule (5) shall be filed with the registrar or clerk of the court by the plaintiff not later than five days prior to the pre-trial conference or trial date.".

Substitution of rule 23 of the Rules

6. The following rule is hereby substituted for rule 23 of the Rules:

"**23. Discovery of documents**

(1) (*a)* Any party to any action may require any other party thereto, by notice in writing, to make discovery on oath within 20 days of all documents and tape, electronic, digital or other forms of recordings relating to any matter in question in such action, whether such matter is one arising between the party requiring discovery and the party

required to make discovery or not, which are or have at any time been in the possession or control of such other party.

(b) A notice in terms of paragraph *(a)* shall not, save with the leave of a magistrate, be given before the close of pleadings.

(2) *(a)* A party required to make discovery shall within 20 days or within the time stated in any order of a magistrate make discovery of such documents on affidavit **[similar to]** corresponding substantially with Form 13 of Annexure 1, specifying separately –

(i) such documents and tape, electronic, digital or other forms of recordings in his or her possession or that of his or her agent other than the documents and tape recordings mentioned in paragraph *(b)*;

(ii) such documents and tape, electronic, digital or other forms of recordings in respect of which he or she has a valid objection to produce; and

(iii) such documents and tape, electronic, digital or other forms of recordings which he or she or his or her agent had, but no longer has in his or her possession at the date of the affidavit.

(b) A document shall be deemed to be sufficiently specified if it is described as being one of a bundle of documents of a specified nature, which have been initialled and consecutively numbered by the deponent.

(c) Statements of witnesses taken for purposes of the proceedings, communications between attorney and client and between attorney and advocate, pleadings, affidavits and notices in the action shall be omitted from the schedules.

(3) If any party believes that there are, in addition to documents or tape, electronic, digital or other forms of recordings disclosed in terms of this rule, other documents, including copies thereof, or tape, electronic, digital or other forms of recordings which may be relevant to any matter in question in the possession of any other party thereto, the former may give notice to the latter requiring the latter **[him or her]** to make the same available for inspection in accordance with sub-rule (6), or to state on oath within 10 days that such documents or tape, electronic, digital or other forms of recordings are not in his or her possession, in which event such party **[he or she]** shall state their whereabouts, if known **[to him or her]**.

(4) A document or tape, electronic, digital or other forms of recording not disclosed as requested in terms of this rule may not, save with the leave of the court granted on such terms as **[to it may seem meet]** it may deem appropriate, be used for any purpose at

the trial by the party who was obliged, but failed to disclose it, provided that any other party may use such document or tape, electronic, digital or other forms of recording.

(5) *(a)* Where the **[Road Accident]** Fund as defined in the Road Accident Fund Act, 1996 (Act No. 56 of 1996), is a party to any action by virtue of the provisions of that Act, any party **[thereto]** to such action may obtain discovery in the manner provided in paragraph *(d)* against the driver or owner or short-term insurer of the vehicle or employer of the driver of the vehicle, referred to in that Act. **[, as defined in that Act, of that vehicle.]**

[*(b)* Paragraph *(a)* shall apply *mutatis mutandis* to the driver of a vehicle owned by a person, state, government or body of persons referred to in the Road Accident Fund Act, 1996.]

(b) Paragraph *(a)* shall apply with appropriate changes to the driver or owner or short-term insurer of the vehicle or employer of the driver of a vehicle referred to in the Road Accident Fund Act, 1996.

(c) Where the plaintiff sues as a cessionary, the defendant shall **[*mutatis mutandis*]** have the same rights under this rule against the cedent, with necessary changes.

(d) A party requiring discovery in terms of paragraph *(a),(b),* or *(c)* shall do so by notice **[similar to]** corresponding substantially with Form 14 of Annexure 1.

(6) *(a)* Any party may at any time by notice **[similar to]** corresponding substantially with Form 15 of Annexure 1 require any party who has made discovery to make available for inspection any document or tape, electronic, digital or other form of recording disclosed in terms of sub-rules (2) and (3).

(b) A notice provided for in paragraph *(a)* shall require the party to whom notice is given to deliver **[to him or her]** within **[5]** five days, to the party requesting discovery, a notice **[similar to]** corresponding substantially with Form 15A of Annexure 1, stating a time within **[5]** five days from the delivery of such **[latter]** notice when the document or tape, electronic, digital or other form of recording may be inspected at the office of **[his or her]** such party's attorney or, if **[he or she]** such party is not represented by an attorney, at some convenient place mentioned in the notice, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade, business or undertaking, at their usual place of custody.

(7) *(a)* A party receiving a notice **[similar to]** corresponding substantially with Form 15A of Annexure 1 mentioned in sub-rule (6)*(b)* shall be entitled at the time therein stated, and for a period of **[5]** five days thereafter during normal business hours and on

any one or more of such days, to inspect such document or tape, electronic, digital or other form of recording and to take copies or transcriptions thereof.

(b) A party's failure to produce any such document or tape, electronic, digital or other form of recording required for inspection shall preclude **[him or her]** such party from using it at the trial, save where the court on good cause shown allows otherwise.

(8) If any party fails to give discovery as aforesaid or, having been served with a notice under sub-rule (6)*(a)*, omits to give notice of a time for inspection as provided for in sub-rule 6*(b)* or fails to give inspection as required by that sub-rule, the party desiring discovery or inspection may apply to a court, which may order compliance with this rule and, failing such compliance, may dismiss the claim or strike out the defence.

(9) Any party to an action may after the close of pleadings give notice to any other party to specify in writing particulars of dates and parties of or to any document or tape, electronic, digital or other form of recording intended to be used at the trial of the action on behalf of the party to whom notice is given, and the party receiving such notice shall not less than 15 days before the date of trial deliver a notice-

(a) specifying the dates of and parties to and the general nature of any such document or tape, electronic, digital or other form of recording which is in **[his or her]** such party's possession; or

(b) specifying such particulars as **[he or she]** the party may have to identify any such document or tape, electronic, digital or other form of recording not in **[his or her]** such party's possession, at the same time furnishing the name and address of the person in whose possession such document or tape, electronic, digital or other form of recording is.

(10) *(a)* Any party proposing to prove any document or tape, electronic, digital or other form of recording at a trial may give notice to any other party requiring him or her within 10 days after the receipt of such notice to admit that such document or tape, electronic, digital or other form of recording was properly executed and is what it purports to be.

(b) If a party receiving a notice under paragraph *(a)* does not within the said period admit as required, then as against such party the party giving the notice shall be entitled to produce the document or tape, electronic, digital or other form of recording specified at the trial without proof other than proof, if it is disputed, that the document or tape, electronic, digital or other form of recording is the document or tape, electronic, digital or other form of recording referred to in the notice and that the notice was duly given.

(c) If a party receiving a notice under paragraph *(a)* states that the document or tape, electronic, digital or other form of recording is not admitted as required, it shall

be proved by the party giving the notice before **[he or she]** such party is entitled to use it at the trial, but the party not admitting it may be ordered to pay the costs of its proof.

(11) *(a)* Any party may give to any other party who has made discovery of a document or tape, electronic, digital or other form of recording notice to produce at the hearing the original of such document or tape, electronic, digital or other form of recording, not being a privileged document or tape, electronic, digital or other form of recording, in such party's possession.

(b) A notice under paragraph *(a)* shall be given not less than **[5]** five days before the hearing but may, if the court so allows, be given during the course of the hearing.

(c) If any notice under paragraph *(a)* is so given, the party giving the same may require the party to whom notice is given to produce the said document or tape, electronic, digital or other form of recording in court and shall be entitled, without calling any witness, to hand in the said document or object, which shall be receivable in evidence to the same extent as if it had been produced in evidence by the party to whom notice is given.

(12) The court may, during the course of any proceeding, order the production by any party thereto under oath of such document or tape, electronic, digital or other form of recording in **[his or her]** such party's power or control relating to any matter in question in such proceeding as the court may deem fit, and the court may deal with such document or tape, electronic, digital or other form of recording, when produced, as it deems **[fit]** appropriate.

(13) *(a)* Any party to any proceeding may at any time before the hearing thereof deliver a notice **[similar to]** corresponding substantially with Form 15B of Annexure 1 to any other party in whose pleadings or affidavits reference is made to any document or tape, electronic, digital or other form of recording to-

(i) produce such document or tape, electronic, digital or other form of recording for his or her inspection and to permit him or her to make a copy or transcription thereof **[.]**;

(ii) state in writing within 10 days whether the party receiving the notice objects to the production of the document or tape, electronic, digital or other form of recording and the grounds therefor; or

(iii) state on oath within 10 days that such document or tape, electronic, digital or other form of recording is not in such party's possession and in such event to state its whereabouts, if known.

(b) Any party failing to comply with a notice under paragraph *(a)* shall not, save with the leave of the court, use the relevant document or tape, electronic, digital or other form of recording in such proceeding provided that any other party may use such document or tape, electronic, digital or other form of recording.

[(14) The provisions of this rule relating to discovery shall *mutatis mutandis* apply, in so far as the court may direct, to applications.]

(14) The provisions of this rule relating to discovery shall apply with the necessary changes to applications, in so far as the court may direct.

(15) After appearance to defend has been delivered, any party to any action may, for purposes of pleading, require any other party to-

(a) make available for inspection within **[5]** five days a clearly specified document or tape, electronic, digital or other form of recording in his or her possession which is relevant to a reasonably anticipated issue in the action and to allow a copy or transcription to be made thereof **[.]**;

(b) state in writing within 10 days whether the party receiving the notice objects to the production of the document or tape, electronic, digital or other form of recording and the grounds therefor; or

(c) state on oath within 10 days that such document or tape, electronic, digital or other form of recording is not in such party's possession and in such event to state its whereabouts, if known.

(16) For purposes of this rule and rule 26-

(a) a document includes any written, printed or electronic matter, and data and data messages as defined in the Electronic Communications and Transactions Act, 2002; and

(b) a tape recording includes a sound-track, film, magnetic tape, record or any other material on which visual images, sound or other information can be recorded or any other form of recording.".

Substitution of rule 24 of the Rules

7. The following rule is hereby substituted for rule 24 of the Rules:

"**24. Medical examinations, inspection of things, expert testimony and tendering in evidence any plan, diagram, model or photograph**

[(1) Subject to this rule, any party to proceedings in which damages or compensation in respect of alleged bodily injury is claimed may require any party claiming such damages or compensation whose state of health is relevant to the determination of such damages or compensation to submit to an examination by one or more duly registered medical practitioners.]

(1) 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 damages or compensation whose state of health is relevant to the determination thereof, to submit to a medical examination.

[(2) *(a)* Any party requiring another party to submit to an examination provided for in sub-rule (1) shall deliver a notice specifying the nature of the examination required, the person or persons by whom it will be conducted, the place where and the date (being not less than 15 days from the date of such notice) and time it is desired that such examination shall take place and requiring such other party to submit himself or herself for examination at such place, date and time.]

(2) *(a)* A party may deliver a notice to another party requiring such party to submit to a medical examination provided for in sub-rule (1) and shall specify in the notice —

(i) the nature of the examination required;

(ii) the person or persons who shall conduct the examination; and

(iii) the place where and the date (being not less than 15 days from the date of such notice) and time when it is desired that the examination shall take place.

[*(b)* A notice referred to in paragraph *(a)* shall state that the other party may have his or her own medical adviser present at such examination, and shall be accompanied by a remittance in respect of the reasonable expense to be incurred by the other party in attending such examination.]

(b) A notice contemplated in paragraph *(a)* shall—

(i) state that the party being examined may have his or her own medical adviser present at the examination; and

(ii) be accompanied by a remittance in respect of the reasonable expense to be incurred by the party in attending the examination.

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

(i) **[if the other party is physically incapable of proceeding on his or her own to attend such examination,]** if the party being examined is immobile, the amount to be paid **[to him or her]** shall include the cost of **[his or her travelling by motor vehicle]** travelling by any necessary form of transport and, where required, the reasonable cost of a person attending upon **[him or her]** the person to be examined;

[(ii) where the other party will actually forfeit any salary, wage or other remuneration during the period of his or her absence from work he or she shall in addition to his or her expenses on the basis of a witness in a civil case be entitled to receive an amount not exceeding R75 per day in respect of the salary, wage or other remuneration which he or she will actually forfeit, and]

(ii) where the party being examined will actually lose any salary, wage or other remuneration during the period of absence from work, such party shall, in addition to the expenses contemplated in subparagraph (i), be entitled to receive from the party requiring such examination, an amount per day in respect of the salary, wage or other remuneration which such person will actually lose: Provided that the amount to be received shall not exceed the amount determined by the Minister for witnesses in civil proceedings, in accordance with applicable legislation; and

(iii) any amount paid by a party in accordance with **[terms of]** this sub-rule shall be costs in the cause, unless the court otherwise directs.

(3) *(a)* **[Any]** A party receiving a notice referred to in sub-rule (2)*(a)* shall, within **[10]** five days of the service **[thereof]** of the notice, notify the party delivering it; in writing; of the nature and grounds of any objection which **[he or she]** such party may have in relation to—

(i) the nature of the proposed examination;

(ii) the person or persons **[by whom the examination is to be conducted]** who shall conduct the examination;

(iii) the place, date or time of the examination; and

(iv) the amount of the expenses tendered **[to him or her]**,

and shall further—

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

(bb) in the case of **[his or her]** the objection being to the amount of the expenses tendered, furnish particulars of such increased amount as **[he or she may require]** may be required.

(b) If a party receiving the notice referred to in sub-rule (2)*(a)* does not deliver **[any objection within the period referred to in paragraph *(a)*, he or she]** an objection within the period of five days referred to in paragraph (a), such party shall be deemed to have agreed to the examination upon the terms set forth by the party giving the notice.

(c) If a party receiving an objection is of the opinion that the objection or any part thereof is not well-founded **[he or she]**, such party may apply to the court to determine the conditions upon which the examination, if any, is to be conducted.

[(4) Any party to proceedings referred to in sub-rule (1), may at any time by notice require any party claiming any damages or compensation so referred to, to make available and to furnish copies thereof on request, in so far as he or she is able to do so, to such first-mentioned party within 15 days any medical report, hospital record, X-ray photograph, or other documentary information of a like nature relevant to the assessment of such damages or compensation.]

(4) Any party to proceedings referred to in sub-rule (1), may at any time by notice require any claimant to make available, in so far as he or she is able to do so, to such other party within 10 days any medical reports, hospital records, X-ray photographs, other medical imaging or other documentary information of a like nature relevant to the assessment of such damages or compensation and to furnish copies or records thereof on request.

(5) If it appears from any medical examination carried out either by agreement between the parties or in pursuance of any notice given in terms of this rule or **[any determination made by the court under sub-rule (3)]** by order of the court that any further medical examination by any other **[medical practitioner]** person is necessary or desirable for the purpose of obtaining full information on matters relevant to the assessment of such damages or compensation, any party may require a second and final examination in accordance with the provisions of this rule.

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

(6) If it appears that the state or condition of **[anything]** 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 **[thereto]** may at any stage **[thereof, not later than 15 days before the hearing,]** give notice requiring the party relying upon the existence of such state or condition of such **[thing]** property or having such **[thing]** property in his or her possession or under his or her control to make it available for inspection or examination and may in such notice require such party to have such **[thing]** property or a fair sample thereof remain available for inspection or examination for a period of not **[exceeding]** more than 10 days from the receipt of the notice.

(7) *(a)* **[A party requested under sub-rule (6) to submit a thing]** The party called upon under sub-rule (6) to submit a property for inspection or examination may require the party **[so]** requesting it to specify the nature of the inspection or examination **[for which such thing]** to which it is to be submitted, and shall not be bound to submit such **[thing therefor if he or she]** property thereto if this will **[be materially prejudiced]** materially prejudice such party by reason of the effect thereof upon such **[thing]** property.

[*(b)* In the event of any dispute whether a thing should be submitted for inspection or examination, either party may on application to the court state that the inspection or examination has been required and objected to and the court may make such order as it may deem fit.]

(b) In the event of any dispute whether the property should be submitted for inspection or examination, such dispute shall be referred to court on notice delivered by either party stating that the inspection or examination has been required and objected to, and the court may make such order as it deems fit.

(8) Any party causing **[a medical examination or]** an inspection or examination to be made in terms of sub-rule (1) or (6) shall—

[(a) cause the person making the medical examination or the inspection or examination to give a full report in writing of the results of such medical examination or inspection or examination, as the case may be, and the opinions that he or she formed as a result thereof on any relevant matter;]

(a) cause the person making the inspection or examination to give a full report in writing, within two months of the date of the inspection or examination or within such other period as directed by a judicial officer at a pre-trial conference convened in terms section 54(2) of the Act, of the results of the inspection or examination and the opinions that such person formed as a result thereof on any relevant matter;

[*(b)* after receipt of such report and upon request, furnish any other party with a complete copy thereof; and]

(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 **[medical examination or]** inspection or examination **[and]** : 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]** on any matter upon which the evidence of expert witnesses may be received, unless **[he or she shall]**—

[*(a)* not less than 15 days before the hearing, have delivered notice of his or her intention to do so; and

***(b)* not less than 10 days before the hearing, have delivered a summary of such opinions of such expert and his or her reasons therefor.]**

(a) where the plaintiff intends to call an expert, the plaintiff shall not more than 15 days after the close of pleadings, or where the defendant intends to call the expert, the defendant shall not more than 30 days after the close of pleadings, have delivered notice of intention to call such expert; and

(b) in the case of the plaintiff not more than 45 days after the close of pleadings, or in the case of the defendant not more than 60 days after the close of pleadings, such plaintiff or defendant shall have delivered a summary of the expert's opinions and the reasons therefor:

Provided that in divorce and related matters, the notice of intention to call an expert and the summary of the expert's opinion and the reasons thereof must also be filed with the Family Advocate at the same time it is delivered to the other party:

Provided further that where applicable, the notice and summary shall be delivered as directed by the judicial officer at any pre-trial conference convened in terms of section 54 of the Act.

(9A) The parties must—

(a) endeavour, as far as possible, to agree 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 party to an action shall, except with the consent of all the other parties to the action or with the leave of the court, be entitled to tender in evidence any plan, diagram, model or photograph unless he or she shall not less than 10 days before the hearing of the action, have given every such other party notice of his or her intention to do so.]**

(a) No party 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 such party shall, not more than 30 days after the close of pleadings, have delivered a notice to the other party stating an intention to do so.

(b) A notice under paragraph *(a)* shall state that every party receiving it shall be entitled to inspect such plan, diagram, model or photograph and shall require such party, within **[5]** 10 days of the receipt thereof, to state whether he or she has any objection to such plan, diagram, model or photograph being admitted in evidence without proof.

[*(c)* If a party receiving a notice under paragraph *(a)* fails within the period specified in the notice to state whether he or she objects to the admission in evidence of the plan, diagram, model or photograph referred to in the notice, such plan, diagram, model or photograph, as the case may be, shall be received in evidence upon its mere production and without further proof thereof.]

(c) If a party receiving the notice fails within the said period so to object, the said plan, diagram, model or photograph shall be received in evidence upon its mere production and without further proof thereof.

(d) If a party receiving **[a]** the notice **[under paragraph *(a)*]** objects to the admission in evidence of such plan, diagram, model or photograph, **[such]** the said plan, diagram, model or photograph **[, as the case may be,]** may be proved at the hearing **[of the action]** and the party receiving the notice may be ordered to pay the costs of such proof.".

Substitution of rule 25 of the Rules

8. The following rule is hereby substituted for rule 25 of the Rules:

"**25. Judicial Case Management and pre-trial Conference**

(1) Judicial case management shall apply to any matter determined appropriate by the court, of own accord or upon the request of a party, at any stage after a notice of intention to defend is filed.

(2) Case management through judicial intervention shall be—

(a) 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) of the nature and extent as provided for in section 54 of the Act; and

(c) 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) Save to the extent expressly provided for in this rule, the provisions of rule 22A shall not apply in matters which are referred for judicial case management.

(4) *(a)* At any stage of the proceedings, the registrar or clerk of the court may—

(i) direct compliance letters electronically to any party which fails to comply with the time limits for the filing of pleadings or any notice in terms of the rules; and

(ii) in the event of non-adherence to the directions stipulated in a letter of compliance contemplated in subparagraph (i), refer the matter to the judicial officer to consider whether a pre-trial conference as provided for in section 54 of the Act should be held.

(b) The request in writing by any party for a pre-trial conference referred to in section 54(1) of the Act shall be made to the registrar or clerk of the court requesting the court to call such a pre-trial conference and shall indicate generally the matters which it is desired should be considered at such conference.

(c) The registrar or clerk of the court shall place a request referred to in paragraph *(b)* before a judicial officer who shall, if he or she decides to call a conference, direct the registrar or clerk of the court to issue the necessary process.

(5) *(a)* A case shall not be allocated a trial date unless the case has been certified trial-ready by a judicial officer as provided for in rule 22(4)*(b)* or after a pre-trial conference has been concluded as provided for in section 54 of the Act.

(b) A judicial officer considering the trial readiness of a matter must be satisfied that—

(i) 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) the remaining issues that are to go to trial have been adequately defined;

(iii) the requirements of rules 23 and 24(9) have been complied with if they are applicable; and

(iv) any potential causes of delay in the commencement or conduct of the trial have been pre-empted to the extent practically possible.

(c) A judicial officer may order directions on discovery or filing of reports where the judicial officer considers that such directions may expedite the case becoming trial-ready.

(6)*(a)* In all matters where a judicial officer directs that a pre-trial conference in terms of section 54 of the Act should be convened, the registrar or clerk of the court shall send a notice corresponding substantially with Form 19 of Annexure 1 directing all parties to attend such pre-trial conference.

(b) The notice referred to in paragraph (a) shall be delivered to the parties at the addresses furnished in terms of rules 5(3) and 13(3) at least 15 days prior to the date fixed for the pre-trial conference in accordance with the provisions of rule 9(9)*(a)*.

(7) The notice referred to in sub-rule (6)(a) shall inform the parties—

(a) of the date, time and place for a pre-trial conference convened in terms of sub-rule (6)(a);

(b) that they are required to attend such a pre-trial conference to consider –

(i) the simplification of the issues;
(ii) the necessity or desirability of amendments to the pleadings;
(iii) the possibility of obtaining admissions of fact and documents with a view to avoiding unnecessary proof;
(iv) the limitation of the number of expert witnesses;
(v) such other matters as may aid in the disposal of the action in the most expeditious and least costly manner;

(c) that on the date of the pre-trial conference, they are required to have held a meeting to prepare for the pre-trial conference at which the issues identified in sub-rule (10) in relation to the conduct of the 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 pre-trial conference referred to in section 54 of the Act, 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 sub-rule (7)*(d)*(ii) shall particularise the parties' agreement or respective positions on each of the issues identified in sub-rule (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 sub-rule (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 issue.

(b) A case management judicial officer may, upon considering the statement by the parties referred to in paragraph *(a)*, direct that appearance by one or all of the parties at a pre-trial conference is dispensed with.

(10) The matters that the parties must address at the meeting to be held in terms of sub-rule (7)*(c)*) are as follows:

(a) the matters set forth in rules 23, 24, 27 and 29;

(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 24(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 for voluntary court-annexed mediation;

(g) the discovery of electronic documents contained in the server or other storage device;

(h) the taking of evidence by audio-visual link;

(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 pre-trial conference referred to in section 54 of the Act, the judicial officer shall—

(a) if appropriate, enquire whether the parties have considered voluntary court-annexed 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 judicial officer may at a pre-trial conference referred to in section 54 of the Act —

(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 at a further pre-trial conference on a fixed date;

(d) strike the matter from the pre-trial roll and direct that it be re-enrolled only after any non-compliance with the rules or pre-trial conference 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 such a pre-trial conference, record the decisions made and, if deemed convenient, direct the plaintiff to file a minute thereof; and

(h) make any order, including a costs order as provided for in section 54 of the Act.

(13) The record of the pre-trial conference referred to in section 54 of the Act, including the minutes submitted by the parties to the judicial officer, any directions issued by the judicial officer and the judicial officer'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.

(14) The judicial officer shall be entitled to have regard to the documents referred to in sub-rule (13) in regard to the conduct of the trial, including the determination of any applications for postponement and issues of costs.

(15) 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.".

Substitution of rule 26 of the Rules

9. The following rule is hereby substituted for rule 26 of the Rules:

"**26. Subpoenae, interrogatories and commissions *de bene esse***

(1) *(a)* Any party desiring the attendance of any person to give evidence at a trial, may as of right, without any prior proceeding whatsoever, sue out from the office of the registrar or clerk of the court one or more subpoenas for that purpose, each of which subpoena shall contain the names of not more than four persons, and the service thereof upon any person therein named shall be effected by the sheriff in the manner prescribed by rule 9 **[, and the process of subpoenaing such witness shall correspond substantially to Form 24]**.

(b) The process for subpoenaing a witness referred to in paragraph *(a)* shall be by means of a subpoena in a form corresponding substantially with Form 24 of Annexure 1.

(2) *(a)* Where the evidence of any person is to be taken on commission before any Commissioner within the Republic, such person may be subpoenaed to appear before such commissioner to give evidence as if at the trial.

(b) In the case of evidence taken on commission, such process shall be sued out by the party desiring the attendance of the witness and **[shall]** be issued by the Commissioner.

[(3) If any witness has in his or her possession or control any deed, instrument, writing or thing which the party requiring his or her attendance desires to be produced in evidence, the subpoena shall specify such document or thing and require him or her to produce it to the court at the trial.]

(3) *(a)* If any witness is in possession or control of any document including a deed, book, writing, tape, electronic, digital or other form of recording or thing which the party requiring the attendance of such witness desires to be produced in evidence, the subpoena shall specify such document or thing and require such witness to produce it to the court at the trial.

(b) (i) The process for requiring the production of a document referred to in paragraph *(a)* shall be by means of a subpoena in a form corresponding substantially with Form 24A of Annexure 1.

(ii) Within 10 days of receipt of a subpoena requiring the production of any document, any person who has been required to produce a document at the trial shall lodge it with the registrar or clerk of the court, unless such a person claims privilege.

(iii) The registrar or clerk of the court shall set the conditions upon which the said document may be inspected and copied so as to ensure its protection.

(iv) Within five days of lodgement with the registrar or clerk of the court, the party causing the subpoena to be issued for the production of the document shall inform all other parties by notice that the said document is available for inspection and copying and of any conditions set by the registrar or clerk of the court for inspection and copying.

(v) After inspection and copying, the person who produced the document is entitled to its return.

(c)(i) The process for requiring the production of a thing referred to in paragraph *(a)* shall be by means of a subpoena in a form corresponding substantially with Form 24A of Annexure 1.

(ii) Within 10 days of receipt of a subpoena requiring the production of anything, any person who has been required to produce a thing at the trial shall inform the registrar or clerk of the court of the whereabouts of the thing and make the thing available for inspection, unless such person claims privilege.

(iii) The registrar or clerk of the court shall set the conditions upon which the said thing may be inspected and copied or photographed so as to ensure its protection.

(iv) Within five days of notification from the registrar or clerk of the court of the whereabouts of the said thing, the party causing the subpoena to be issued for the production of the thing shall inform all other parties by notice where and when the thing may be inspected and copied or photographed and of any conditions set by the registrar for inspection, copying and photographing.

(v) After inspection and copying or photographing, the person who produced the thing is entitled to its return.

(4) **[There shall be handed to the sheriff together with a subpoena so may]** The sheriff shall be handed a subpoena and so many copies thereof as there are witnesses to be summoned, and also the sum of money that the party for whom they are to be summoned considers that the sheriff **[shall]** must pay or offer to the said witnesses for their conduct money.

(5) The court may set aside service of any subpoena if it appears that the witness was not given reasonable time to enable him or her to appear in pursuance of the subpoena.".

Substitution of rule 29 of the Rules

10. The following rule is hereby substituted for rule 29 of the Rules:

"**29. Trial**

(1) Unless the court **[shall]** otherwise **[order]** orders, the trial of an action shall take place at the **[court-house]** court from which the summons was issued.

(2) A witness who is not a party to the action may be ordered by the court –

(a) to leave the court until his or her evidence is required or after his evidence has been given; or

(b) to remain in court after his or her evidence has been given until the trial is terminated or adjourned.

(3) The court may, before proceeding to hear evidence, require the parties to state shortly the issues of fact or questions of law which are in dispute and may record the issues so stated.

(4) *(a)* If, in any pending action, it appears to the court **[*mero motu*]** of its own accord that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, the court may make an order

directing the disposal of such question in such manner as it may deem fit and may order that all further proceedings be stayed until such question has been disposed of **[, and the]**.

(b) The court **[shall]** may at the request of any party make **[such]** the order referred to in paragraph (a) unless it appears that the questions cannot conveniently be decided separately.

(5) If the question in dispute is a question of law and the parties are agreed upon the facts, the facts may be admitted in court, either *viva voce* or by written statement, by the parties and recorded by the court and judgment may be given thereon without further evidence.

(6) When questions of law and issues of fact arise in the same case and the court is of opinion that the case may be disposed of upon the questions of law only, the court may require the parties to argue upon those questions only and may give its decision thereon before taking evidence as to the issues of fact and may give final judgment without dealing with the issues of fact.

(7) *(a)* If on the pleadings the burden of proof is on the plaintiff, he or she shall first adduce his or her evidence.

(b) If absolution from the instance is not decreed after the plaintiff has adduced evidence, the defendant shall then adduce his or her evidence.

(8) Where on the pleadings the burden of proof is on the defendant, the defendant shall first adduce his or her evidence, and if necessary, the plaintiff shall thereafter adduce his or her evidence.

(9) *(a)* Where the burden of proving one or more of the issues is on the plaintiff and that of proving others is on the defendant, the plaintiff shall first call his or her evidence on any issues proof whereof is upon him or her, and may then close his or her case, and the defendant shall then call his or her evidence on all the issues.

(b) If the plaintiff has not called any evidence (other than that necessitated by his or her evidence on the issues proof whereof is on him or her) on any issues proof whereof is on the defendant, he or she shall have the right to do so after defendant has closed his or her case, but If he or she has called any such evidence, he or she shall have no such right.

(10) In a case of dispute as to the party upon whom the burden of proof rests, the court shall direct which party **[shall]** must first adduce evidence.

(11) Any party may, with the leave of the court, adduce further evidence at any time before judgment; but such leave shall not be granted if it appears to the court that such evidence was intentionally withheld out of its proper order.

(12) The court may at any time before judgment, on the application of any party or of its own motion, recall any witness for further examination.

(13) Any witness may be examined by the court as well as by the parties.

(14) After the evidence on behalf of both parties has been adduced the party who first adduced evidence may first address the court and thereafter the other party, and the party who first adduced evidence may reply.

(15) Where the court has authorised the evidence of any witness to be taken on interrogatories, such interrogatories shall be filed within 4 days of the order and cross-interrogatories within 5 days thereafter.

(16) The witnesses at the trial of any action shall be examined *viva voce*, but a court may at any time, for sufficient reason, order that—

(a) all or any of the evidence to be adduced at any trial be given on affidavit; or

(b) the affidavit of any witness be read at the hearing, on such terms and conditions as to it may seem fit:
Provided that where it appears to the court that any other party reasonably requires the attendance of a witness for cross-examination, and such witness can be produced, the evidence of such witness shall not be given on affidavit.".

Substitution of rule 31 of the Rules

11. The following rule is hereby substituted for rule 31 of the Rules:

"**31. Adjournment and postponement**

(1) *(a)* The trial of an action or the hearing of an application or matter may be adjourned or postponed by consent of the parties or by the court, either on application or request or of its own motion.

(b) (i) If the parties have reached an agreement to postpone the proceedings, the plaintiff or applicant shall file a notice of the parties' agreement to postpone with the registrar or clerk of the court at least 15 days prior to the date of hearing.

(ii) The registrar or clerk of the court must immediately inform the judicial officer accordingly, to enable other cases to be scheduled on the roll.

[(2) Where an adjournment or postponement is made *sine die*, any party may by delivery of notice of reinstatement set down the action, application or matter for further trial or hearing on a day generally or specially fixed by the registrar or clerk of the court, not earlier than 10 days after delivery of such notice.]

(2) *(a)* (i) Where an adjournment or postponement is made *sine die*, any party seeking to reinstate the action, application or matter shall file a notice of request for reinstatement of the action, application or matter for further trial or hearing.

(ii) Where an action, application or a matter has been struck off the roll due to the non-appearance of the parties on the date of trial or hearing, the request must be accompanied by an affidavit setting out the reasons for the non-appearance and for the reinstatement of the matter.

(b) On receipt of a request to reinstate any action, application or matter the registrar or clerk of the court shall take the court file to the magistrate to enable the magistrate to determine whether the action, application or matter can be certified trial-ready before a new date for trial or hearing can be allocated.

(c) If the action, application or matter cannot be certified ready for trial or hearing, the magistrate shall convene a pre-trial conference in terms of section 54 of the Act or give any direction that he or she may deem fit.

(3) Any adjournment or postponement shall be on such terms as to costs and otherwise as the parties may agree to or as the court may order.

(4) Where the action, application or matter has been certified trial-ready and a trial date has been allocated or arranged at a pre-trial conference referred to in section 54 of the Act, any party seeking a postponement shall file a notice with the registrar or clerk of the court at least 15 days prior to the allocated or arranged trial date requesting the allocation of another trial date.".

Substitution of rule 32 of the Rules

12. The following rule is hereby substituted for rule 32 of the Rules:

"**32. Non-appearance of a party – withdrawal and dismissal**

(1) If a plaintiff or applicant does not appear at the time appointed for the trial of an action or the hearing of an application, the action or application may be dismissed with costs.
(2) If a defendant or respondent does not so appear, a judgment (not exceeding the relief claimed) may be given against him or her with costs, after consideration of such evidence, either oral or by affidavit, as the court deems necessary.

(3) The withdrawal or dismissal of an action or a decree of absolution from the instance shall not be a defence to any subsequent action, but if a subsequent action is brought for the same or substantially the same cause of action before payment of the costs awarded on such withdrawal, dismissal or decree of absolution, the court may on application, if it deems fit and if the said costs have been taxed and payment thereof has been demanded, order a stay of such subsequent action until such costs **[shall be]** shall have been paid and that the plaintiff shall pay the costs of such application.

(4) If both parties do not appear at the time allocated for the trial of an action or the hearing of an application, the action or application shall be struck off the roll.".

Substitution of rule 38 of the Rules

13. The following rule is hereby substituted for rule 38 of the Rules:

"**Security by [judgment] execution creditor**

38. (1) **[Where the sheriff is in doubt as to the validity of any attachment or contemplated attachment, he or she may require that the party suing out the process in execution shall give security to indemnify him or her]** If there is a claim made by any person to any property seized, or about to be seized by the sheriff, then, if the execution creditor gives the sheriff security to his or her satisfaction, to indemnify the sheriff against any loss or damage by reason of the seizure thereof, the sheriff shall retain or seize, as the case may be, and keep the said property.

(2) Unless the summons commencing the action has been served upon the defendant personally or **[he or she]** the defendant has delivered notice of intention to defend or notice of attachment has been given to **[him or her personality]** the defendant personally—

(a) (i) if any property **[corporeal or incorporeal]** is attached in execution, the execution creditor shall, at least 10 days before the day appointed for the sale of such property give security to the satisfaction of the sheriff for the payment to the **[execution]** judgment debtor or any person if such attachment **[be]** is set aside, of any sum which the **[execution]** judgment debtor or such person may in

law be entitled to recover from the execution creditor for damages suffered by reason of such attachment or of any proceedings consequent thereon; and

(ii) if security **[be]** is not given, the attachment shall **[cease to have effect:]** be automatically suspended until security is given: Provided that—

(aa) the said attachment lapses after a period of four months from the date of the attachment; and

(bb) **[Provided that]** the execution debtor may, by endorsement to that effect on the warrant of execution, dispense with the giving of security under this rule; or

(b) if **[moneys are]** money is received by the sheriff under any form of execution **[otherwise]** other than **[as]** from the proceeds of the sale in execution of property **[in respect of the attachment of which]** and security has been given in terms of paragraph *(a)* in respect thereof, such **[moneys]** money shall not be paid to the execution creditor until he or she has given security for the restitution of the full amount received by the sheriff if the attachment **[be]** of the money is thereafter set aside: Provided that the **[execution]** judgment debtor may in writing over his or her signature dispense with the giving of such security.

(3) The prescribed fee for security given under this rule shall without taxation be recoverable as part of the costs of execution.

(4) Any surety bond or other document of security given in terms of this rule may be sued upon by the **[execution]** judgment debtor or any person entitled thereto, without formal transfer thereof to him or her.

(5) This rule shall not apply where the party suing out the process in execution or the execution creditor is **[a Minister, a Deputy Minister or a Provincial Premier, in his or her official capacity, the State or a provincial government]** represented by Legal Aid South Africa.".

Substitution of rule 39 of the Rules

14. The following rule is hereby substituted for rule 39 of the Rules:

"General provisions regarding execution

39. (1) Unless otherwise ordered by the court, the costs and expenses of issuing a warrant and levying execution shall be a first charge on the

proceeds of the property sold in execution and may so far as such proceeds are insufficient be recovered from the **[execution]** judgment debtor as costs awarded by the court.

(2) *(a)* Subject to any hypothec existing prior to attachment, all warrants of execution lodged with any sheriff appointed for a particular area or any other sheriff on or before the day immediately preceding the date of the sale in execution shall rank *pro rata* in the distribution of the proceeds of the goods sold in execution, in the order of preference referred to in rule 43(14)*(c)*.

(b) The sheriff conducting a sale in execution shall not less than 10 days prior to the date of sale forward a copy of the notice of sale to all other sheriffs appointed for the area in which **[he or she]** the sheriff has been instructed to conduct a sale in respect of the attached goods.

(c) The sheriff conducting a sale in execution shall accept from all other sheriffs appointed for that area or any other sheriff a certificate listing any attachment that has been made and showing the ranking of creditors in terms of warrants in the possession of those sheriffs.

(3) *(a)* Withdrawal of attachment shall be effected by note made and signed by the sheriff on the warrant of execution that the attachment is withdrawn, stating the time and date of the making of such note.

(b) The sheriff shall give notice in writing of a withdrawal of attachment and of the time and date thereof to the execution creditor, the **[execution]** judgment debtor, all other sheriffs appointed for that area or any other sheriff who has submitted a certificate referred to in sub-rule (2)*(c)* and to any other person by whom a claim to the property attached has been lodged with **[him or her]** the sheriff: Provided that the property shall not be released from attachment for a period of four months if a certificate referred to in sub-rule (2)*(c)* or an unsatisfied warrant of execution lodged under sub-rule (2) remains in the hands of the sheriff.

(4) If any property attached in execution is claimed by any third party as his or her property or any third party makes any claim to the proceeds of property so attached and sold in execution, the sheriff shall, subject to sub-rule (5), deal with such matter as provided in rule 44.

(5) Notwithstanding a claim to property referred to in sub-rule (4) by a third party, the sheriff shall attach such property if **[he or she]** the sheriff has not yet done so, and the property shall remain under attachment pending the outcome of interpleader proceedings unless sooner released from attachment upon order of the court or otherwise, and **[rule 41(7) shall *mutatis mutandis* apply]** sub-rules 41(14), (17) and (18) shall apply with appropriate changes to property so attached.

(6) *(a)* On completion of any sale in execution of property, whether movable or immovable, the sheriff shall attach to **[his or her]** the sheriff's return a vendue roll showing details of the property sold, the prices realised, and, where known, the names and addresses of the purchasers and an account of the distribution of the proceeds and shall send a copy of such vendue roll to all other sheriffs appointed for that area who have submitted certificates referred to in sub-rule (2)*(c)*.

(b) Where a warrant of execution has been lodged with the sheriff conducting a sale in execution by any other sheriff referred to in sub-rule (2)*(a)*, the sheriff conducting the sale shall make payment in terms of a distribution account to any sheriff who submitted a certificate referred to in sub-rule (2)*(c)* in respect of that sale.

(c) Payment in terms of a distribution account shall only be made after the distribution account has lain for inspection for a period of 15 days after the sheriff who has lodged a warrant of execution with the sheriff who conducted the sale, has received a copy of the distribution account.

(7) No sheriff or person on behalf of the sheriff shall at a sale in execution purchase any of the property offered for sale either for himself or herself or for any other person.".

Substitution of rule 41 of the Rules

15. The following rule is hereby substituted for rule 41 of the Rules:

"**Execution against movable property**

41. (1) An execution creditor may, at his or her own risk, issue out of the office of the registrar or clerk of the court one or more warrants of execution in a form corresponding substantially with form 32 of Annexure 1.

(2) *(a)* No process of execution shall be issued for the recovery of any costs awarded by the court to any party, until such costs have been taxed by the taxing master or agreed to in writing by the party liable for the payment of such costs in a fixed sum.

(b) (i) A claim for specified costs already awarded to the execution creditor, which costs are still to be taxed, may be included in the warrant of execution.

(ii) If such costs are subsequently taxed, they shall be included in the sheriff's account and plan of distribution only if the original bill of costs has been duly allocated and lodged with the sheriff before the date of the sale in execution.

(3) When the sheriff is instructed, by any court process, to recover any sum of money by execution against the goods of any person, the sheriff shall proceed forthwith to the residence, place of employment or business of such person, unless the execution creditor or the instructing attorney gives different instructions regarding the location of the assets to be attached, and there —

(a) demand satisfaction of the warrant and, failing satisfaction,

(b) demand that so much movable and disposable property be pointed out as the sheriff may deem sufficient to satisfy the said warrant, and failing such pointing out;

(c) search for such property.

(4) If on demand the **[execution]** judgment debtor pays the judgment debt and costs, or part thereof, the sheriff shall endorse the amount paid and the date of payment on the original and copy of the warrant, which endorsement shall be signed by **[him or her]** the sheriff and counter-signed by the **[execution]** judgment debtor or his or her representative.

(5) If the property pointed out in terms of **[paragraph *(a)*]** sub-rule (3)*(b)* is insufficient to satisfy the warrant, the sheriff shall nevertheless proceed to make an inventory and valuation of so much movable property as may be pointed out in part execution of the warrant.

(6) If the **[execution]** judgment debtor does not point out any property as required in terms of sub-rule (3)*(b)*, the sheriff shall immediately make an inventory and valuation of so much of the movable property belonging to the **[execution]** judgment debtor as **[he or she]** the sheriff may deem sufficient to satisfy the warrant or of so much of the movable property as may be found in part execution of the warrant.

(7) **[So]** In so far as may be necessary **[to]** for the execution of any warrant **[referred to in sub-rule (1)]**, the sheriff may open any door on any premises, or of any piece of furniture, and if **[opening]** access is refused or if there is no person there who represents the person against whom such warrant is to be executed, the sheriff may, if necessary, use force or a locksmith to that end.

(8) The sheriff shall exhibit the original warrant of execution and **[shall]** hand to the **[execution]** judgment debtor or leave on the premises a copy thereof.

(9) The sheriff shall sign and hand a copy of an inventory made under this rule **[, signed by himself or herself]** to the **[execution]** judgment debtor or leave the same on the premises, which copy shall have **[subjoined]** appended thereto a notice of the attachment in a format that corresponds substantially with form 33 of Annexure 1.

(10) As soon as the requirements of this rule have been complied with by the sheriff, the goods inventoried by **[him or her]** the sheriff shall be deemed to be judicially attached.

(11) The sheriff shall file with the registrar or clerk of the court any process with a return of what the sheriff has done thereon, and furnish a copy of such return and inventory to the party who caused such process to be issued.

(12) Where perishables are attached, they may, with the consent of the judgment debtor or upon the execution creditor indemnifying the sheriff against any claim for damages which may arise from such sale, be sold immediately by the sheriff concerned in such manner as may be expedient.

(13) Where **[specie]** money and documents are found and attached, the amount of money or number and kinds **[thereof]** of documents shall be specified in the inventory, and any such **[specie]** money or documents shall thereupon be sealed and removed to the office of the sheriff **[where it shall be safely]** and securely stored.

(14)*(a)* **[The execution creditor or his or her attorney shall, where]** Where movable property, other than **[specie]** money or documents, has been attached, the execution creditor or his or her attorney shall after notification of such attachment, instruct the sheriff in writing, whether the property shall be removed to a place of security or left upon the premises in the charge and custody of the **[execution]** judgment debtor or in the charge and custody of some other person acting on behalf of the sheriff. **[: Provided that]**

(b) Upon the execution creditor or his or her attorney **[may, upon]** satisfying the registrar or clerk of the court **[, who shall endorse his or her approval on the document containing the instructions,]** in writing of the desirability **[of]** for the immediate removal of goods attached, either upon issue of the warrant of execution or at any time thereafter, the registrar or clerk of the court shall endorse his or her approval on the document containing the instructions, and **[instruct]** authorise the sheriff in writing, to remove immediately from the possession of the **[execution]** judgment debtor all or any of the movable property attached **[articles reasonably believed by the execution creditor to be in the possession of the execution debtor]**.

(c) In the absence of any instruction under paragraph *(a)* or authorization under paragraph *(b)*, the sheriff shall leave the attached property, other than **[specie]** money or documents, on the premises and in the possession of the person in whose possession the said movable property is attached.

(15) *(a)* Any person whose movable property has been attached by the sheriff may, together with some person of sufficient means who binds himself or herself

as surety to the satisfaction of the sheriff, undertake in writing to produce such property on the date appointed for the sale thereof, whereupon the sheriff shall leave the said property attached and inventoried on the premises where it was found.

(b) The deed of suretyship shall be in the form that corresponds substantially with form 37A of Annexure 1.

(16) *(a)* If the judgment debtor does not, together with a surety, give an undertaking as contemplated in sub-rule (15)*(a)*, then, unless the execution creditor directs otherwise, the sheriff shall remove the said goods to a convenient place of security or keep possession thereof on the premises where they were attached.

(b) The costs of such removal or storage shall be recoverable from the judgment debtor and defrayed out of the proceeds of the sale in execution.

(17)*(a)* Where a sheriff is instructed to remove the movable property, he or she shall do so without any avoidable delay, and he or she shall in the meantime leave the same in the charge or custody of some person who shall have the charge or custody in respect of the goods on **[his or her]** the sheriff's behalf.

(b) Any person in whose charge or custody attached movable property **[which has been attached,]** has been left, shall not use, let or lend such property, or permit it to be used, let or lent, nor **[shall he or she]** in any way do anything which will decrease its value and, if the attached property **[attached shall have]** has produced any profit or increase, the custodian shall be responsible for any such profit or increase in like manner as he or she is responsible for the property originally attached, and shall deliver such profit or increase to the sheriff.

(c) If a person, other than the judgment debtor, in whose charge or custody movable property has been left, **[other than the execution debtor, makes a default]** defaults **[in]** on his or her duty **[he or she]** such person shall not be entitled to recover any remuneration for **[his or her]** taking charge and custody of the attached property.

(18)*(a)* Unless an order of court is produced to the sheriff requiring him or her to detain any movable property under attachment for such further period as may be stipulated in such order, the sheriff shall **[, if a sale in respect of such property is not pending,]** release from attachment **[any]** such property which has been detained for a period exceeding four months unless a sale in execution of such property is pending.

(*b)* If such order was **[made on]** granted in terms of an *ex parte* application **[made *ex parte*]**, such order shall not **[be subject to]** require confirmation.

(c) In the event of a claimant lodging an interpleader claim with the sheriff in accordance with rule 44, the period of four months referred to in paragraph **[i]***(a)* shall be suspended from the date on which the claimant delivers his or her affidavit

to the sheriff until the final adjudication of the interpleader claim, including any review or appeal in respect of such interpleader claim.

(19)*(a)*(i) Any movable property to be sold in execution of process of the court shall be sold publicly **[and]** for cash to the highest bidder by the sheriff who removed the goods in terms of sub-rule **[(7)*(b)*]**(17)*(a)* or, with the approval of the magistrate, by an auctioneer or other person appointed by the sheriff, **[to the highest bidder]** at or as near to the place where **[the]** same was attached or to which **[the]** same had been so removed as aforesaid **[as may be advantageous for the sale thereof]**.

(ii) The provisions of rule 43(10) shall apply with appropriate changes to the sale in execution of movable property under this rule.

(b) The execution creditor shall, after consultation with the sheriff, prepare a notice of sale and furnish two copies thereof to the sheriff in sufficient time to enable one copy to be affixed not later than 10 days before the day appointed for the sale on the notice board or door of the court-house or other public building in which the said court is held and the other at or as near as may be to the place where the said sale is **[actually]** to take place.

(c) **[If]** In addition to the requirements of paragraph *(b)*, if in the opinion of the sheriff the value of the goods attached exceeds **[R5 000 he or she shall]** an amount equivalent to the monetary jurisdiction of the Small Claims Court, the sheriff shall indicate **[some local or other newspaper circulating in the district and require]** and direct the execution creditor to publish the notice of sale in **[that newspaper]** a local or other newspaper circulating in the region or district not later than 10 days before the date appointed for the sale **[in addition to complying with paragraph *(b)*]** and to furnish **[him or her]** the sheriff with a copy of the edition of the paper in which the publication appeared not later than the day preceding the date of sale.

(d) In lieu of paragraph *(c)*, the sheriff may post the notice of sale on the sheriff's office's website, upon being so instructed in writing by the execution creditor: Provided that the sheriff shall not later than 10 days before the appointed date of sale, affix on the notice board, the door of the court-house or other public building in which the said court is held, and the other, at or as near as the case may be, to the place where the said sale is to take place, a notice stating the date of the sale in execution and the website on which the full details of the sale may be inspected.

(20) The day appointed for a sale in execution shall not be less than 15 days after attachment: Provided that where the goods attached are of a perishable nature, or with the consent of the **[execution]** judgment debtor, the court may, upon application, reduce any period referred to in this sub-rule or sub-rule **[(8)]**(19) to such extent and on such conditions as it may deem fit.

(21) Where property subject to a real right of any third person, is to be sold in execution, such sale must be subject to the rights of such third person unless he or she otherwise waives such rights.

(22) A sale in execution shall be stopped as soon as sufficient money has been raised to satisfy the said warrant and any warrant referred to in rule 39(2) and the costs of the sale.

(23)*(a)* Should the sheriff have a balance in hand after satisfaction of the claim of the execution creditor and of all warrants of execution lodged with **[him or her]** the sheriff on or before the day immediately preceding the date of the sale and of all costs, **[he or she]** the sheriff shall pay **[the same]** such balance to the **[execution]** judgment debtor if he or she can be found, **[otherwise he or she]** failing which the sheriff shall pay such balance into court.

(b) The balance paid into court in terms of paragraph *(a)*, if not disposed of before the expiration of three years, shall be paid into the **[State]** National Revenue Fund after three months' notice of such intention has been given to the persons concerned, whereafter any application for the refund of such balance shall be directed to the **[State]** National Revenue Fund by a person concerned.".

Substitution of rule 42 of the Rules

16. The following rule is hereby substituted for rule 42 of the Rules:

"**Execution against movable property (continued)**

42. (1) If incorporeal property is available for attachment, it may be attached without the necessity of a prior application to court in the manner hereinafter provided.

(a) Where the property or right to be attached is a lease, a bill of exchange, promissory note, bond or other security for the payment of money, the attachment shall be complete only when—

(i) notice has been given by the sheriff to the lessor and lessee, mortgagor and mortgagee or person liable on the bill of exchange or promissory note or security, as the case may be,

(ii) the sheriff shall have taken possession of the document, if any, evidencing the lease, the bill of exchange, promissory note, bond or other security, as the case may be, or has certified that he

or she has been unable, despite diligent search, to obtain possession of the document, and

(iii) in the case of a registered lease or any registered right, notice has been given to the registrar of deeds.

(b)(i) Where the incorporeal right in movable property sought to be attached is the interest of the judgment debtor in property pledged, leased or sold under a suspensive condition to or by a third person, the attachment shall be complete only when the sheriff has served notice of the attachment and a copy of the warrant of execution on the judgment debtor and on the owner of the movable property or any other party who has an interest therein.

(ii) The sheriff may, upon exhibiting the original of such warrant of execution to the owner of the movable property or any other party who has an interest therein, enter upon the premises where such property is and make an inventory and valuation of the said interest.

(c) In the case of the attachment of all other incorporeal rights in property—

(i) the attachment shall only be complete when—

(aa) notice of the attachment has been given in writing by the sheriff to all interested parties and, where the asset consists of an incorporeal right in immovable property, notice shall also have been given to the registrar of deeds in whose deeds registry the property or right is registered, and

(bb) the sheriff shall have taken possession of the document evidencing the ownership of such property or right, or shall have certified that he or she has been unable to obtain possession of the document, despite diligent search;

(ii) the sheriff may, upon exhibiting the original of the warrant of execution to the person having possession of property in which incorporeal rights exist, enter upon the premises where such property is and make an inventory and valuation of the right attached.

(2) Attachment of property subject to a lien must be effected in accordance with the provisions of sub-rule (1)*(b),* with necessary changes.

(3) The method of attachment of property under section 32 of the Act shall [**mutatis mutandis]** be the same as that of attachment in execution, with appropriate changes.".

Substitution of rule 54 of the Rules

17. The following rule is hereby substituted for rule 54 of the Rules:

"**Proceedings against non-juristic persons as a matter of procedural convenience**

54. (1) In this Rule—

"**association**" means any unincorporated body of persons that is not a partnership;
"**entity**" means an association, partnership, firm or sole proprietorship;
"**firm**" means an unincorporated business;
"**partnership**" means an arrangement whereby two or more persons undertake to contribute towards an enterprise to be carried on jointly by them with the object of making a profit and sharing it between them;
"**plaintiff**" and "**defendant**" include an applicant and respondent;
"**relevant date**" means the date when the cause of action arose;
"**sole proprietorship**" means a business that is carried on by the sole proprietor under a name and style other than his or her own; and
"**sue**" and "**sued**" are used in relation to actions and applications.

(2) An entity may sue or be sued in its name.

(3) *(a)* Where an entity is sued, the plaintiff must serve a notice calling upon the defendant to deliver a statement within 10 days containing the full names, residential, business or employment addresses of all its partners, proprietors or, in the case of an association members and office-bearers, as at the relevant date.

(b) If the defendant fails to deliver a statement contemplated in paragraph *(a)* the plaintiff may on notice make application to court to compel the defendant to deliver such a statement within five days and should the defendant fail to comply, the plaintiff may apply to court to—

(i) strike out the defendant's defence, where such a defence has been filed, and to grant judgment, which shall be executable against the entity's assets as is permitted by law; or

(ii) declare any person whom the plaintiff reasonably believes to be a member, partner or proprietor of the defendant at the relevant date: Provided that the application, and a notice corresponding substantially with Form 59 together with a copy of the summons, must be served on the alleged member, partner or proprietor, as the case may be.

(c) The court hearing an application contemplated in paragraph *(b)* may make any other order as it deems appropriate.

(d) When the names of persons are declared in terms of paragraph *(b)*(ii) the action shall proceed in the same manner and with the same consequences as if the persons were named in the summons, but all proceedings shall continue in the name of the entity.

(e) Where the defendant delivers a statement contemplated in paragraph *(a)* the plaintiff must after receiving the statement, serve a notice corresponding substantially with Form 59 together with a copy of the summons to each partner, proprietor or, in the case of an association an office-bearer, calling on them to deliver a notice of intention to defend within 10 days.

(f) If a partner or proprietor or, in the case of an association an office-bearer, fails to defend proceedings contemplated in paragraph *(e)*, the action shall proceed in the same manner and with the same consequences as if that person was named in the summons, but all proceedings shall nevertheless continue in the name of the entity.

(g) If a party disputes being a partner or proprietor or, in the case of an association a member or office-bearer, of an entity at the relevant date and takes the steps set out in Form 59, including the delivery of a plea, the court may at trial decide that issue *in limine:* Provided that the action shall continue in the name of the entity.

(4) *(a)* A plaintiff suing an association may serve a notice to the defendant calling for a true copy of its current constitution and a list of the names and addresses of the office-bearers and their respective offices as at the relevant date.

(b) The notice referred to in paragraph *(a)* must be complied with within 10 days of receiving the notice, failing which the plaintiff may apply to court for an order to comply with the notice.

(c) Paragraphs *(a)* and *(b)* shall apply with necessary changes to a defendant sued by an association.

(5) Execution of a judgment against an entity must first be levied against the assets thereof, and after such excussion if permitted by law, against the assets of any

person held to be a member, partner or proprietor, as if judgment had been entered against such a person.".

Amendment of rule 55 of the Rules

18. Rule 55 of the Rules is hereby amended:

(a) by the substitution for sub-paragraph (iii) of paragraph *(e)* of sub-rule (1) of the following sub-paragraph:

"(iii) set forth a day, not less than **[five]** 10 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.".

Substitution of rule 60 of the Rules

19. The following rule is hereby substituted for rule 60 of the Rules:

"**60. Non-compliance with rules and court orders, including time limits and errors**

(1) Except where otherwise provided in these **[Rules]** rules, failure to comply with these **[Rules]** rules or with any request made in pursuance thereof shall not be a ground for the giving of judgment against the party in default.

[(2) Where any provision of these Rules or any request made in pursuance of any such provision has not been fully complied with the court may on application order compliance therewith within a stated time.]

(2) Where a party fails to comply with any provision of these rules or with a request made or notice given pursuant thereto or with an order or direction made by a court or at a judicial case management process or a pre-trial conference convened in terms of section 54 of the Act, 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, request, order or direction be complied with; or
(b) that the claim or defence be struck out.

[(3) Where any order made under sub-rule (2) is not fully complied with within the time so stated, the court may on application give judgment in the action against the party so in default or may adjourn the application and grant an extension of time for compliance with the order on such terms as to costs and otherwise as may be just.]

(3) Where a party fails to comply with the notice referred to in sub-rule (2) within the period of 10 days, application may on notice be made to the court to compel compliance and the court may make such order as it deems fit.

(4) The court may on an application under sub-rule **[(2) or]** (3) order such stay of proceedings as may be necessary.

(5) *(a)* Any time limit prescribed by these rules, except the period prescribed in rule 51(3) and (6), may at any time, whether before or after the expiry of the period limited, be extended –

(i) by the written consent of the opposite party; and

(ii) if such consent is refused, then by the court on application and on such terms as to costs and otherwise as it may deem fit.

(b) A court granting an extension of the time limit contemplated in subparagraph *(a)*(ii) after expiry of the time prescribed or fixed may make such order as to it seems appropriate as to the recalling, varying or cancelling of the results of the expiry of any time so prescribed or fixed, whether such results flow from the terms of any order or from these rules.

(6) *(a)* Where there has been short service without leave, of any notice of set-down or notice of any application or of process of the court the court may, instead of dismissing such notice or process, adjourn the proceedings for a period equivalent, at the least, to the period of proper notice upon such terms as it may deem fit.

(b) If the proceedings are adjourned in the absence of the party who received short service, due notice of the adjournment must be given to such party by the party responsible for the short service.

(7) Subject to sub-rule (8) no process or notice shall be invalid by reason of any obvious error in spelling or in figures or of date.

(8) If any party has in fact been misled by any error in any process or notice served upon him or her, the court may on application grant that party such relief as it may deem fit and may for that purpose set aside the process or notice and rescind any default judgment given thereon.

(9) The court may, on good cause shown, condone non-compliance with these rules.".

Amendment of Annexure 1 to the Rules

20. Annexure 1 to the Rules is hereby amended—

(a) by the substitution for Form 3 of Form 3 contained in the Annexure hereto;

(b) by the substitution for Form 24 of Form 24 contained in the Annexure hereto;

(c) by the insertion after Form 24 of Form 24A contained in the Annexure hereto;
(d) by the substitution for Form No. 37 of Form No. 37 contained in the Annexure hereto;
(e) by the insertion after Form No. 37 of Form No. 37A contained in the Annexure hereto; and
(f) by the insertion after Form 58 of Form 59 contained in the Annexure hereto.

Commencement

21. These rules and forms come into operation on 1 February 2022.

ANNEXURE

"**No. 3 – Summons (in which is included an automatic rent interdict)**

*** For use in the District Court**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF ……

Held at ……Case No……...

In the matter between:

……Plaintiff

and

…….. Defendant

To:……..... of..……..... (state residence or place of business and if known, gender, occupation and place of employment)……..……(hereinafter called the defendant).

You are hereby summoned that you do within ..... days of the service of this summons deliver or cause to be delivered to the clerk of the aforesaid court and also the plaintiff or plaintiff's attorney, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of ..... (state gender and occupation), of……(residence or place of business)…… (hereinafter called the plaintiff), particulars whereof are endorsed hereunder.

Thereafter, within 20 days after delivering a notice of intention to defend as aforesaid, file with the clerk of the court and serve upon the plaintiff or plaintiff's attorney a plea (with or without a counter-claim), or an exception or application to strike out in the manner and within the timeframes provided for in rule 19.

And take notice that—

(a) in default of your paying the amount of the claim and costs within the said period or of your delivering a notice of intention to defend you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;

(b) if you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save

judgment charges if, within the said period, you lodge with the clerk of the aforesaid court a consent to judgment;

(c) if you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or plaintiff's attorney.

And further take notice that you, the defendant, and all other persons are hereby interdicted from removing or causing or suffering to be removed any of the furniture or effects in or on the premises described in the particulars of claim endorsed hereon which are subject to the plaintiff's hypothec for rent until an order relative thereto shall have been made by the court.

Costs, if the action is undefended, will be as follows:

Summons..... R .....
Judgment…….…….. R .....
Attorney's charges……..... R .....
Sheriff's fees..... R .....
Sheriff's fees on re-issue…….. R ….....
Totals R ..... R .....
Total:……. R .....

Notice:

(i) Any person against whom a court has, in a civil case, given judgment or made any order who has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to enquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

(ii) If the court is satisfied that—

(aa) the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice; or

(bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or

(cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed,

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

(iii) Any person who —

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

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

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

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

(iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or (8)*(b)* of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act]

(v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the clerk of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months. [Section 109 of the Act.]

(1) Particulars of claim.

Plaintiff's claim is—

(i) for arrears of rent due in respect of the defendant's tenancy of…….. ……..……..……..…… ……and for confirmation of the interdict appearing in this summons.

Particulars:
……..……
……..……
……

Date……..…

Period……

Amount
R
..... ….....
……

and

(ii) for ejectment.

Particulars:
……..……
……..

(2) Consent to judgment.

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R.....and costs to date) and I consent to judgment accordingly.

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

Defendant

WITNESSES 1:

- (Full names)…….....,

- (signature)……
- (address)……..……
  ……..……

WITNESSES 2:

- (Full names)……..……..,
- (signature)……
- (address)……..……
  ……..……...

ALTERNATIVE TO (2)

* (3) Notice of intention to defend.

To the Clerk of the Court.

Kindly take notice that the defendant hereby gives notice of defendant's intention to defend this action.
Dated at.....this.....day of....., 20…….....,
.....

Defendant/Defendant's Attorney.

Physical address where service of process or documents will be accepted (within 15 kilometres from the Court-house)
……
Postal address
……
……
……

* The original notice must be filed with the clerk of the court and a copy thereof served on the plaintiff or plaintiff's attorney."

No. 3 – Summons (in which is included an automatic rent interdict)

*** For use in the Regional Court**

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF……

HELD AT ……Case No……

In the matter between:
……Plaintiff
and
……Defendant

To:…….. of……

(state residence or place of business and if known, gender, occupation and place of employment)……..……(hereinafter called the defendant).

You are hereby summoned that you do within ..... days of the service of this summons deliver or cause to be delivered to the registrar of the aforesaid court and also the plaintiff or plaintiff's attorney, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of ..... (state gender and occupation), of …….(residence or place of business)…… (hereinafter called the plaintiff), particulars whereof are endorsed hereunder.

Thereafter, within 20 days after delivering a notice of intention to defend as aforesaid, file with the registrar of the court and serve upon the plaintiff or plaintiff's attorney a plea (with or without a counter-claim), or an exception or application to strike out in the manner and within the timeframes provided for in rule 19.

Notice to Defendant:

And take notice that—

(a) in default of your paying the amount of the claim and costs within the said period or of your delivering a notice of intention to defend you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against you in your absence;

(b) if you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save judgment charges if, within the said period, you lodge with the registrar of the aforesaid court a consent to judgment;

(c) if you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or plaintiff's attorney.

And further take notice that you, the defendant, and all other persons are hereby interdicted from removing or causing or suffering to be removed any of the furniture or effects in or on the premises described in the particulars of claim endorsed hereon which

are subject to the plaintiff's hypothec for rent until an order relative thereto shall have been made by the court.

Costs, if the action is undefended, will be as follows:

Summons..... R .....
Judgment……..…… R .....
Attorney's charges……..... R .....
Sheriff's fees..... R .....
Sheriff's fees on re-issue……. R .....
Totals R ..... R .....

Total:……. R .....

Notice:

(i) Any person against whom a court has, in a civil case, given judgment or made any order who has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to enquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

(ii) If the court is satisfied that—

(aa) the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice; or

(bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or

(cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed,

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

(iii) Any person who—

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

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

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

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

(iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or (8)*(b)* of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act]

(v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the registrar of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months. [Section 109 of the Act.]

(1) Particulars of claim.

Plaintiff's claim is—

(i) for arrears of rent due in respect of the defendant's tenancy of ……and for confirmation of the interdict appearing in this summons.

Particulars:
……
……..

Date……..

Period……

Amount

R .....
……..
……..

and

(ii) for ejectment.

Particulars:
……..……
……..……
……

(2) Consent to judgment.

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R.....and costs to date) and I consent to judgment accordingly.

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

Defendant

WITNESSES 1:

- (Full names)…….....,
- (signature)…….……
- (address)……..……
  …….……..

WITNESSES 2:

- (Full names)……..……..,
- (signature)…….……...
- (address)……..……
  …….……..

ALTERNATIVE TO (2)

* (3) Notice of intention to defend.

To the Registrar of the Court.

Kindly take notice that the defendant hereby gives notice of defendant's intention to defend this action.

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

Defendant/Defendant's Attorney.

Physical address where service of process or documents will be accepted (within 15 kilometres from the Court-house)
……

Postal address
……
……
……

* The original notice must be filed with the registrar of the court and a copy thereof served on the plaintiff or plaintiff's attorney."

"**No. 24 – Subpoena**

***For use in the District Court**

In the Magistrate's Court for the District of .....
held at ..... Case No. ..... of 20.....
In the matter between

..... Plaintiff
and
..... Defendant
To: the Sheriff/Deputy Sheriff:
INFORM:
(1) ..... of .....
(2) ..... of .....
(3) ..... of .....
(4) ..... of ….....

that each of them is hereby required to appear in person before this court at court number..... on the ..... day of ....., 20....., at..... (time) in the above-mentioned action to give evidence or to produce books, papers or documents on behalf of the ..... (Where documents are required to be produced, add:) and to bring with each one of them and then produce to the court the **[several books, papers or documents]** deeds, documents, books, writings, tape, electronic, digital or other form of recordings (hereinafter referred to as "documents") or things specified in the list hereunder.

Payment of the witness fees for the witnesses as provided and allowed under section 51*bis* of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as amended, is hereby tendered by the Plaintiff/Defendant.

(a) If any person, being duly subpoenaed to give evidence or to produce any books, papers or documents in his or her possession or under his or her control, which the party requiring the witness(es)' attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce those books, papers or documents according to the subpoena or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied on oath or by the return of the messenger that such person has been duly subpoenaed and that such person's reasonable expenses, calculated in accordance with the tariff prescribed under section 51*bis*, have been paid or offered to such person, impose upon the said person a fine not exceeding R300, 00, and in default of payment, imprisonment for a period not exceeding three months **[, whether or not such person is otherwise subject to the jurisdiction**

of the court].

(b) If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and

(c) Such person is entitled to the return of the document or thing after inspection or copying or photographing by the parties.

Dated at ..... this ..... day of ....., 20.....,
.....
Clerk of the Court

LIST OF **[BOOKS, PAPERS OR]** DOCUMENTS OR THINGS TO BE PRODUCED

Date Description Original or Copy
.....
.....
.....
(See back.)
[Print on back, paragraphs *(a)* and *(b)* of section 51(2) of the Act]

No. 24 – Subpoena
***For use in the Regional Court**

In the Regional Court for the Regional Division of .....
held at ..... Case No. ..... of 20……..…...
In the matter between
.....Plaintiff
and
.....Defendant
To: the Sheriff/Deputy Sheriff:
INFORM:

(1) ..... of .....
(2) ..... of .....
(3) ..... of .....
(4) ..... of …….....

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

several books, papers or documents specified in the list hereunder.

Payment of the witness fees for the witnesses as provided and allowed under section 51*bis* of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as amended, is hereby tendered by the Plaintiff/Defendant.

(a) If any person, being duly subpoenaed to give evidence or to produce any books, papers or documents in his or her possession or under his or her control, which the party requiring the witness(es)' attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce those books, papers or documents according to the subpoena or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied on oath or by the return of the messenger that such person has been duly subpoenaed and that such person's reasonable expenses, calculated in accordance with the tariff prescribed under section 51*bis*, have been paid or offered to such person, impose upon the said person a fine not exceeding R300, 00, and in default of payment, imprisonment for a period not exceeding three months **[, whether or not such person is otherwise subject to the jurisdiction of the court]**.

(b) If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and

(c) Such person is entitled to the return of the document or thing after inspection or copying or photographing by the parties.

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

LIST OF **[BOOKS, PAPERS OR]** DOCUMENTS OR THINGS TO BE PRODUCED

Date Description Original or Copy
.....
.....
.....
(See back.)
[Print on back, paragraphs *(a)* and *(b)* of section 51(2) of the Act]"

"**No. 24A – Subpoena *duces tecum***

***For use in the District Court**

In the Magistrate's Court for the District of ……..……..
held at ……. Case No: ……..……of 20…….

In the matter between:

..... Plaintiff

and
……. ……. Defendant

To: the Sheriff/Deputy Sheriff:

INFORM:

(1)…….....
(2).....…….
(3)…….....……
(4)…….....……...

(State names, sex, occupation and place of business or residence of each witness)

that each of such persons shall within 10 days of receipt of this subpoena, lodge with the clerk of the said Court (here describe accurately each document to be produced) or inform the clerk of the whereabouts of (here describe a thing to be produced)

(1).....
(2).....
(3).....

unless such person claims privilege in respect of any document or thing.

AND INFORM each of the said persons further that:

(a) If any person, being duly subpoenaed to give evidence or to produce any books, papers or documents in his or her possession or under his or her control, which the party requiring the witness(es)' attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce those books, papers or documents according to the subpoena or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied on oath or by the return of the

messenger that such person has been duly subpoenaed and that such person's reasonable expenses, calculated in accordance with the tariff prescribed under section 51*bis*, have been paid or offered to such person, impose upon the said person a fine not exceeding R300, 00, and in default of payment, imprisonment for a period not exceeding three months;

(b) If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and

(c) Such person is entitled to the return of the document or thing after inspection or copying or photographing by the parties.

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

……
Clerk of the Court

……
Plaintiff / Defendant / Attorney

No. 24A – Subpoena *duces tecum*

***For use in the Regional Court**

In the Magistrate's Court for the Region of ……..……
held at ……..…. Case No: ……..……of 20…….

In the matter between:

.....Plaintiff

and
……. Defendant

To: the Sheriff/Deputy Sheriff:

INFORM:

(1)…….....
(2).....
(3)……..(4)……
……..

(State names, sex, occupation and place of business or residence of each witness)

that each of such persons shall within 10 days of receipt of this subpoena, lodge with the registrar of the said Court (here describe accurately each document to be produced) or inform the registrar of the whereabouts of (here describe a thing to be produced)

(1).....
(2).....
(3).....

unless such person claims privilege in respect of any document or thing.

AND INFORM each of the said persons further that:

(a) If any person, being duly subpoenaed to give evidence or to produce any books, papers or documents in his or her possession or under his or her control, which the party requiring the witness(es)' attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce those books, papers or documents according to the subpoena or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied on oath or by the return of the messenger that such person has been duly subpoenaed and that such person's reasonable expenses, calculated in accordance with the tariff prescribed under section 51*bis*, have been paid or offered to such person, impose upon the said person a fine not exceeding R300, 00, and in default of payment, imprisonment for a period not exceeding three months;

(b) If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and

(c) Such person is entitled to the return of the document or thing after inspection or copying or photographing by the parties.

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

……
Registrar of the Court

……
Plaintiff / Defendant / Attorney"

"**No. 37 - Security under rule 38**

***For use in the District Court**

In the Magistrate's Court for the district of …….

held at …… Case Number: ……..... of 20….....

In the matter between:
…….....…… Execution Creditor

and

……. **[Execution]** Judgment Debtor

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

And whereas under the said judgment execution has been issued and property/a debt/ emoluments has/have been attached or is/are about to be attached;

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

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

Signed and dated at …….. this …….…… day of …… 20……
……
Execution Creditor
…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

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

……
Surety and Co-principal Debtor

…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

OR

We the undersigned [surety 1 name, ID number and address] and [surety 2 name, ID number and address] do hereby bind ourselves jointly and severally to the sheriff of the aforesaid court as sureties and co-principal debtors that if the attachment be hereafter set aside, we, the two sureties, shall satisfy any lawful claim against him or her by the said judgment debtor or any person for damages suffered by the said judgment debtor or person by reason of the said attachment or seizure.

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

……
First Surety & Co-principal Debtor

…… (Full name)
Witness:
…… (Full name)
…… (Signature)
…… (Address)

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

……
Second Surety and Co-principal Debtor

…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

No. 37 - Security under rule 38

***For use in the Regional Court**

In the Regional Court for the Regional Division of ……

held at …… Case Number: ……..… of 20….....

In the matter between:
…….....…… Execution Creditor

and

…… **[Execution]** Judgment Debtor

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

And whereas under the said judgment execution has been issued and property/a debt/ emoluments has/have been attached or is/are about to be attached;

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

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

Signed and dated at …….. this ……..…… day of …… 20……
……
Execution Creditor
…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

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

……
Surety & Co-principal Debtor

…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

OR

We the undersigned [surety 1 name, ID number and address] and [surety 2 name, ID number and address] do hereby bind ourselves jointly and severally to the sheriff of the aforesaid court as sureties and co-principal debtors that if the attachment be hereafter set aside, we, the two sureties, shall satisfy any lawful claim against him or her by the said judgment debtor or any person for damages suffered by the said judgment debtor or person by reason of the said attachment or seizure.

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

……
First Surety & Co-principal Debtor

…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)

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

……
Second Surety & Co-principal Debtor

…… (Full name)

Witness:
…… (Full name)
…… (Signature)
…… (Address)”

"**No. 37A - Security under rule 41(15)**

***For use in the District Court**

In the Magistrate's Court for the district of …….

held at …… Case Number: ……..… of 20…...

In the matter between:

…….....…… Execution Creditor

and

…… Judgment Debtor

WHEREAS by virtue of certain warrant of this court, dated the ……. day of ……20 ……., issued at the instance of A……. B…….. against C……... D……. of …… the sheriff has seized and laid under attachment the under-mentioned articles, namely:

(1) ……
(2) ……
(3) ……

Now, therefore, we the said C……. D…….. and G…….. H…….. of ……... a ……(occupation), as surety for him/her, bind ourselves severally and *in solidum*, hereby undertaking to the said sheriff of his/her cessionaries, assigns or successors in office, that the said goods shall not be made away with or disposed of, but shall remain in possession of the said C……D……under the said attachment, and be produced to the said sheriff (or other person authorised by him/her to receive the same) on the …….day of……20…… (the date appointed for the sale), or on any other date when the same may be required in order to be sold, unless the said attachment shall legally be removed, failing which I, the said G…… H…….. hereby bind myself, my person, goods and effects, to pay and satisfy the sum of R…… (estimated value of the effects seized) to the said sheriff, his/her cessionaries, assigns or successors in office, for and on account of the said A…… B……

In witness whereof we, the said C……..…… D……. and G……. H…….. have hereunto set our hands on this ……day of……20……..

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

C…… D……..
Judgment debtor

G…… H…….
Surety

……
Deputy-Sheriff

ASSIGNMENT OF SURETY BOND

I, ……., in my capacity as Deputy-Sheriff for the district of …….. hereby cede, assign and make over to A…… B…… all my right, title and interest in the aforegoing surety bond.

Signed by me in the presence of the subscribing witnesses at…….. this ……. day of …… 20……
…….
Sheriff

AS WITNESSES:
1. …….
2. …….

No. 37A - Security under rule 41(15)

***For use in the Regional Court**

In the Regional Court for the Regional Division of ……...

held at …… Case Number: ……. of 20…....

In the matter between:

……..…… Execution Creditor

and

…… Judgment Debtor

WHEREAS by virtue of certain warrant of this court, dated the ……. day of ……20 ……., issued at the instance of A……. B…….. against C……. D……. of …… the sheriff has seized and laid under attachment the under-mentioned articles, namely:

(1) ……
(2) ……
(3) ……

Now, therefore, we the said C……. D…….. and G…….. H…….. of ……... a ……(occupation), as surety for him/her, bind ourselves severally and *in solidum*, hereby undertaking to the said sheriff of his/her cessionaries, assigns or successors in office, that the said goods shall not be made away with or disposed of, but shall remain in possession of the said C……..D……under the said attachment, and be produced to the said sheriff (or other person authorised by him/her to receive the same) on the ……day of……20…… (the date appointed for the sale), or on any other date when the same may be required in order to be sold, unless the said attachment shall legally be removed, failing which I, the said G…… H…….. hereby bind myself, my person, goods and effects, to pay and satisfy the sum of R…… (estimated value of the effects seized) to the said sheriff, his/her cessionaries, assigns or successors in office, for and on account of the said A…… B……

In witness whereof we, the said C……..…… D…… and G……. H…….. have hereunto set our hands on this ……day of……20……..

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

C…… D……..
Judgment debtor

G…… H……..
Surety

……
Deputy-Sheriff

ASSIGNMENT OF SURETY BOND

I, ……., in my capacity as Deputy-Sheriff for the district of …….. hereby cede, assign and make over to A……. B…… all my right, title and interest in the aforegoing surety bond.

Signed by me in the presence of the subscribing witnesses at…….. this ……. day of …… 20……

…….
Sheriff

AS WITNESSES:
1. …….
2. ……”

"**No. 59 – Notice to alleged member, partner or proprietor**

***For use in the District Court**

In the Magistrate's Court for the District of ……..…….
held at ……..……. Case No: ……..…… 20…….

In the matter between:

.....Plaintiff

and

……. Defendant

TAKE NOTICE that action has been instituted by the above-named plaintiff against the above-named defendant for the sum of R…….. and that it is alleged that the above-named defendant is an association, partnership, firm or sole proprietorship of which you were from ……. ….. to …… a member, office-bearer, partner or proprietor.

If you dispute that you were a member, office-bearer, partner or proprietor or that the above-mentioned period is in any way relevant to your liability as a member, office-bearer, partner or proprietor or that the defendant is liable you must within 10 days of the service of this notice give notice of your intention to defend.

To give such notice you must file with the clerk of the court and serve a copy thereof upon the plaintiff at the address set out below a notice stating that you intend to defend. In such a notice—

(i) you are required to give your full physical, residential or business address within the court's area of jurisdiction, postal address and where available, facsimile and electronic mail address; and

(ii) you are further required to indicate the preferred address for service upon you of all documents in the application, and service thereof at the address so given shall be valid and effectual, except where personal service is required by an order or practice of the court.

Thereafter you should deliver a plea in which you may dispute that you were a member, office-bearer, partner or proprietor or that the period alleged above is relevant or that the defendant is liable, or all three of these matters.

If you do not give such notice you will not be at liberty to contest any of the above issues. If the above-named defendant is held liable you will be liable to have execution issued against you, should the defendant's assets be excussed in execution and found to be insufficient.

DATED at ……this…….day of ……..20…..…

Attorney for

……
……
……

(Address)
(*N.B. In application proceedings this form should be appropriately altered*.)

No. 59 – Notice to alleged member, partner or proprietor

***For use in the Regional Court**

In the Magistrate's Court for the Region of ……..…….
held at ……..……. Case No: ……..…… 20…….

In the matter between:

.....Plaintiff

and

……. Defendant

TAKE NOTICE that action has been instituted by the above-named plaintiff against the above-named defendant for the sum of R…….. and that it is alleged that the above-named defendant is an association, partnership, firm or sole proprietorship of which you were from ……. ….. to …… a member, office-bearer, partner or proprietor.

If you dispute that you were a member, office-bearer, partner or proprietor or that the above-mentioned period is in any way relevant to your liability as a member, office-

bearer, partner or proprietor or that the defendant is liable you must within 10 days of the service of this notice give notice of your intention to defend.

To give such notice you must file with the clerk of the court and serve a copy thereof upon the plaintiff at the address set out below a notice stating that you intend to defend. In such a notice—

(i) you are required to give your full physical, residential or business address within the court's area of jurisdiction, postal address and where available, facsimile and electronic mail address; and

(ii) you are further required to indicate the preferred address for service upon you of all documents in the application, and service thereof at the address so given shall be valid and effectual, except where personal service is required by an order or practice of the court.

Thereafter you should deliver a plea in which you may dispute that you were a member, office-bearer, partner or proprietor or that the period alleged above is relevant or that the defendant is liable, or all three of these matters.

If you do not give such notice you will not be at liberty to contest any of the above issues. If the above-named defendant is held liable you will be liable to have execution issued against you, should the defendant's assets be excussed in execution and found to be insufficient.

DATED at ……this……day of ……..20…...…

Attorney for

……
……
……

(Address)
(*N.B. In application proceedings this form should be appropriately altered.*)"

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 1604 **17 Desember 2021**

WET OP DIE REËLSRAAD VIR GEREGSHOWE, 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 Geregshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), en met die goedkeuring van die Minister van Justisie en Korrektiewe Dienste, die reëls in die Bylae gemaak.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

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

_____ Woorde of uitdrukkings met ’n volstreep daaronder dui op invoegings in bestaande reëls.

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, R. 1318 van 30 November 2018, R. 842 van 31 Mei 2019, R. 1343 van 18 Oktober 2019., R. 107 van 7 Februarie 2020, R. 858 van 7 Augustus 2020 en R.1156 van 30 Oktober 2020.

Wysiging van reël 1 van die Reëls

2. Reël 1 van die Reëls word hierby deur die volgende reël vervang:

"**1. Doel en toepassing van reëls**

(1) Die doel van hierdie reëls is om toegang tot die howe te bevorder en gevolg te gee aan die reg om enige geskil wat deur die toepassing van die reg opgelos kan word, in 'n billike openbare verhoor voor 'n hof te laat beslis.

(2) Hierdie reëls moet toegepas word sodat die vinnige en doeltreffende hantering van geskille van die beperking van die kostes wat dit behels, vergemaklik word.

(3) Ten einde toegang tot die howe te bevorder en in die belang van geregtigheid, kan 'n hof, by 'n onderhoud wat ingevolge artikel 54(1) van die Wet saamgeroep is, met enige bepaling van hierdie reëls wegdoen en leiding gee oor die prosedure wat die partye moet volg om so spoedig, doeltreffend en goedkoop as moontlik oor die aksie te beskik.

(4) *(a)* Die vorms wat in Aanhangsel 1 bevat word, kan afgewissel word soos die omstandighede vereis.

(b) Behoudens die bepalings van paragraaf *(a)*, kan die klerk of griffier van die hof weier om—

(i) enige dagvaarding uit te reik wat voorgee om in die vorm van Vorm 2, 2A, 2B, 2C of 3 te wees, maar wat nie wesenlik aan die voorgeskrewe vereistes voldoen nie; of

(ii) enige skriftelike versoek uit te reik soos in artikel 59 van die Wet bedoel, wat nie wesenlik aan ’n versoek vervat in Vorm 5A of 5B voldoen nie.

(c) Alle prosesstukke van die hof vir betekening of uitvoering en alle dokumente of afskrifte wat by die stukke van die saak ingedien moet word, behalwe dokumente of afskrifte wat as dokumentêre bewys by die stukke van die saak ingedien word, moet op standaard A4-papier wees tensy dit in elektroniese formaat ingedien is.”.

Vervanging van reël 16 van die Reëls

3. Reël 16 van die reëls word hierby deur reël 16 vervang:

“**16. Verdere besonderhede**

(1) Behoudens subreëls (2), (3) en (4) word verdere besonderhede nie versoek nie.

(2) *(a)* Enige party kan, binne 20 dae sedert die blootlegging van dokumente in reël 23 voor voorsiening gemaak, ’n kennisgewing aflewer wat slegs sodanige verdere besonderhede aanvra soos volstrek noodsaaklik is om hom of haar in staat te stel om vir verhoor gereed te maak.

(b) Gehoor moet binne 10 dae sedert die ontvangs daarvan aan ’n versoek beoog in paragraaf *(a)* gegee word.

(3) ’n Versoek om verdere besonderhede vir verhoor en die antwoord daarop moet deur ’n prokureur onderteken word of, as ’n party nie verteenwoordig is nie, deur daardie party.

(4) As ’n party wat ingevolge hierdie reël gevra is om enige besonderhede te verstrek, versuim om dit tydig of voldoende te verstrek, kan die party wat die besonderhede gevra het, by die hof aansoek doen om ’n bevel vir die lewering daarvan of vir die afwysing van die aksie of skrapping van die verweer, waarna die hof sodanige bevel kan maak soos die hof goedvind.

(5) ’n Hof moet by die afhandeling van ’n verhoor uit eie beweging oorweeg hetsy die verdere besonderhede volstrek noodsaaklik was, al dan nie, en moet alle kostes van en voortspruitend uit enige onnodige versoek of antwoord, of beide, nie toelaat nie.”.

Vervanging van reël 22 van die Reëls

4. Reël 22 van die Reëls word hierby deur die volgende reël vervang:

“**Terolleplasing vir verhoor**

(1) Die verhoor van ’n aksie is onderhewig aan aflewering deur die eiser, ná sluiting van die pleitstukke, van kennisgewing van verhoor vir ’n dag of dae deur die griffier of klerk van die hof goedgekeur: Met dien verstande dat, as die eiser nie binne 15 dae ná sluiting van die pleitstukke, kennisgewing van verhoor aflewer nie, die verweerder dit kan doen.

(2) Die aflewering van kennisgewing van verhoor werk outomaties om terselfdertyd enige terugvordering deur die verweerder terolle te plaas vir verhoor.

(3) Aflewering van kennisgewing van verhoor moet ten minste 20 dae voor die aldus goedgekeurde dag uitgevoer word.

(4) *(a)* By ontvangs van ’n aansoek om ’n verhoordatum, moet die griffier of klerk van die hof die hoflêer trek en dit na die landdros neem sodat die landdros kan oorweeg hetsy ’n voor-verhooronderhoud ingevolge artikel 54 van die Wet nodig is.

(b) Behoudens paragraaf *(a),* moet ’n verhoordatum binne 10 dae vanaf ontvangs van die aansoek om ’n verhoordatum, vasgestel word: Met dien verstande dat ’n verhoordatum in bestrede aksies slegs vasgestel kan word nadat die landdros die saak as verhoorgereed gesertifiseer het in aangeleenthede wat geag word gepas te wees vir regterlike saakbestuur deur die hof.

(c) By vasstelling van ’n datum vir verhoor, moet die griffier of klerk van die hof alle partye oor die vasgestelde datum inlig.

(5) *(a)* In egskeidingsaksies of aksies vir nietigverklaring van ’n huwelik, ondanks enigiets in hierdie reël vervat, moet die griffier van die hof by skriftelike versoek deur die eiser, die aksie terolleplaas vir verhoor op die tyd en by die plek en op ’n datum wat die griffier van die hof moet vasstel, indien die verweerder—

(i) versuim het om kennisgewing van voorneme om te verdedig af te lewer; of

(ii) versuim het om ’n verweerstuk ingevolge reël 21B(2) af te lewer; of

(iii) skriftelik aan die eiser en die griffier of klerk van die hof kennis gegee het dat hy of sy nie voornemens is om die aksie te verdedig nie,

maar geen kennisgewing van sodanige versoek of terolleplasing hoef aan die verweerder afgelewer te word nie.

(b) Indien minderjarige kinders betrokke is, moet die kantoor van die gesinsadvokaat ingelig word van die datum waarvoor die aangeleentheid vir verhoor terollegeplaas is.

(6) Wanneer ’n onbestrede egskeidingsaksie uitgestel word, kan die aksie voor ’n ander hof voortgesit word ondanks die feit dat getuienis gegee is.

(7) ’n Party wat kennisgewing van die verhoordatum van ’n aksie ontvang moet, indien sodanige party nog nie blootlegging ingevolge reël 23 gedoen het nie, binne 20 dae ’n beëdigde verklaring aflewer wat aan reël 23(2) voldoen.”.

Invoeging van reël 22A tot die Reëls

5. Die volgende reël word hierby ná reël 22 van die Reëls ingevoeg:

“ **22A. Vergadering tussen partye ter voorbereiding vir voor-verhooronderhoud of verhoor**

(1) ’n Party wat ’n kennisgewing vir ’n voor-verhooronderhoud waarvoor artikel 54 van die Wet voorsiening maak of vir verhoor ontvang, kan binne 10 dae ’n kennisgewing aflewer ter vasstelling van ’n datum, tyd en plek vir ’n vergadering tussen die partye om vir sodanige voor-verhooronderhoud of verhoor voor te berei.

(2) *(a)* Die partye kan die vergadering bedoel in subreël (1) per telefoniese of elektroniese middele hou.

(b) Die datum, tyd, plek of vorm van die vergadering in subreël (1) bedoel, kan by ooreenkoms tussen die partye gewysig word: Met dien verstande dat sodanige vergadering nie later nie as 10 dae voor die datum van die verhoor gehou word.

(3) Elke party moet, nie later nie as 5 dae voor die vergadering in subreël (1) bedoel, elke ander party voorsien van ’n lys van—

(a) die toelatings wat sodanige party vereis;

(b) die navrae wat sodanige party sal rig en wat nie in ’n versoek om verdere besonderhede vir verhoor, ingesluit is nie;

(c) ander aangeleenthede aangaande voorbereiding vir verhoor wat sodanige party vir bespreking sal opper.

(4) By die vergadering in subreël (1) bedoel, moet die aangeleenthede in subreëls (3) en (5) vermeld, hanteer word.

(5) Die notule van die vergadering in subreël (1) bedoel, moet voorberei en onderteken word deur of namens elke party en die volgende moet daaruit blyk:

(a) Die datum, plek, vorm en tydsduur van die vergadering en die name van die teenwoordige persone;

(b) as ’n party benadeel voel omdat ’n ander party nie aan die hofreëls voldoen het nie, die aard van sodanige nievoldoening en benadeling;

(c) dat elke party wat regshulp eis sodanige party se opponent gevra het om ’n skikkingsvoorstel te doen en dat daardie opponent daarop gereageer het;

(d) hetsy enige geskilpunt deur die partye verwys is vir bemiddeling, arbitrasie of beslissing deur ’n derde party en die grondslag waarop dit aldus verwys is;

(e) hetsy die saak na ’n ander hof oorgeplaas moet word;

(f) hetsy die saak ingevolge reël 29(6) geskei moet word;

(g) die erkennings deur elke party gemaak;

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

(i) enige ooreenkoms aangaande die oorlê van getuienis by wyse van ’n beëdigde verklaring ingevolge reël 29(16);

(j) watter party vir die maak van afskrifte en ander voorbereiding van dokumente verantwoordelik sal wees;

(k) watter dokumente of afskrifte sonder verdere bewyse as getuienis sal dien van wat hulle voorgee om te wees, welke uittreksels bewys kan word sonder om die hele dokument of enige ander ooreenkoms aangaande die bewys van dokumente; en

(l) hetsy die partye gereed is om met die verhoor voort te gaan.

(6) Die notules in subreël (5) bedoel, moet deur die eiser by die griffier of klerk van die hof ingedien word nie later nie as vyf dae voor die voor-verhooronderhoud of verhoordatum.

Vervanging van reël 23 van die Reëls

6. Reël 23 van die Reëls word hierby deur die volgende reël vervang:

“**23. Blootlegging van dokumente**

(1) *(a)* Enige party tot enige aksie kan vereis dat enige ander party daarby, by skriftelike kennisgewing, blootlegging onder eed doen binne 20 dae van alle dokumente en band-, elektroniese, digitale of ander vorme van opnames aangaande enige aangeleentheid wat in sodanige aksie ter sprake is, hetsy sodanige aangeleentheid ontstaan het tussen die party wat blootlegging vereis of nie, wat in besit of onder beheer van sodanige ander party is of enige tyd was.

(b) 'n Kennisgewing ingevolge paragraaf *(a)* word nie, behalwe met die toestemming van 'n landdros, voor die sluiting van pleitstukke gegee nie.

(2) *(a)* 'n Party wat blootlegging moet doen, moet binne 20 dae of binne die tyd gestel in enige bevel van 'n landdros, sodanige dokumente blootlê op beëdigde verklaring wat wesenlik dieselfde is as Vorm 13 van Aanhangsel 1, wat apart vermeld—

(i) sodanige dokumente en band-, elektroniese, digitale of ander vorme van opnames in sy of haar besit of in besit van sy of haar agent behalwe die dokumente en bandopnames in paragraaf *(b)* vermeld;

(ii) sodanige dokumente en band-, elektroniese, digitale of ander vorme van opnames ten opsigte waarvan hy of sy 'n geldige beswaar het om te verstrek; en

(iii) sodanige dokumente en band-, elektroniese, digitale of ander vorme van opnames wat hy of sy of sy of haar agent in sy of haar besit gehad het, maar nie meer het nie, op die datum van die beëdigde verklaring.

(b) 'n Dokument word geag voldoende gespesifiseer te wees as dit as een van 'n bondel dokumente van 'n gespesifiseerde aard beskryf word, wat deur die deponent geparafeer en agtereenvolgend genommer is.

(c) Verklarings van getuies wat vir die doeleindes van die verrigtinge afgeneem is, kommunikasie tussen prokureur en kliënt en tussen prokureur en advokaat, pleitstukke, beëdigde verklarings en kennisgewings in die aksie sal uit die bylaes uitgelaat word.

(3) Indien enige party glo daar is, benewens dokumente of band-, elektroniese, digitale of ander vorms van opnames wat ingevolge hierdie reël blootgelê is, ander dokumente, met inbegrip van afskrifte daarvan, of band-, elektroniese, digitale of ander vorms van opnames is wat op enige aangeleentheid wat ter sprake is, betrekking kan hê, in die besit van enige ander party daarby, kan die eersgenoemde aan laasgenoemde kennis gee waarin van die laasgenoemde vereis word om dit ter insae

beskikbaar te stel ooreenkomstig subreël (6), of om onder eed binne 10 dae te stel dat sodanige dokumente of band-, elektroniese, digitale of ander vorm van opnames nie in sy of haar besit is nie, in welke geval sodanige party moet stel waar dit is, indien hy of sy weet.

(4) 'n Dokument of band-, elektroniese, digitale of ander vorms van opname wat nie blootgelê is soos ingevolge hierdie reël versoek, mag nie, behalwe met die toestemming van die hof toegestaan op sodanige voorwaardes wat die hof goedvind, vir enige doel by die verhoor gebruik word nie deur party wat verplig was, maar versuim het, om dit bloot te lê, met dien verstande dat enige ander party sodanige dokument of band-, elektroniese, digitale of ander vorms van opname mag gebruik.

(5) *(a)* Waar die Fonds soos deur die Padongelukfondswet, 1996 (Wet No. 56 van 1996), 'n party is tot enige aksie uit hoofde van die bepalings van daardie Wet, enige party by sodanige aksie blootlegging kan kry op die wyse in paragraaf *(d)* voorsien teen die bestuurder of eienaar of korttermynversekeraar van die voertuig of werkgewer van die bestuurder van die voertuig, in daardie Wet bedoel.

(b) Paragraaf *(a)* moet van toepassing wees met gepaste veranderinge op die bestuurder of eienaar of korttermynversekeraar van die voertuig of werkgewer van die bestuurder van 'n voertuig in die Padongelukfondswet, 1996, bedoel.

(c) Waar die eiser as sessionaris dagvaar, het die verweerder dieselfde regte kragtens hierdie reël teen die sedent, met nodige veranderinge.

(d) 'n Party wat blootlegging ingevolge paragraaf *(a)*, *(b)* of *(c)* vereis, moet dit by kennisgewing doen wat wesenlik dieselfde is as Vorm 14 van Aanhangsel 1.

(6) *(a)* Enige party kan te eniger tyd by kennisgewing wat wesenlik dieselfde is as Vorm 15 van Aanhangsel 1, vereis dat enige party wat blootlegging gedoen het om enige dokument of band-, elektroniese, digitale of ander vorm van opname wat ingevolge subreëls (2) en (3) openbaar gemaak, ter insae beskikbaar te stel.

(b) 'n Kennisgewing waarvoor in paragraaf *(a)* voorsiening gemaak word, moet vereis dat die party aan wie die kennisgewing gegee word binne vyf dae, aan die party wat blootlegging versoek, 'n kennisgewing aflewer wat wesenlik dieselfde is as Vorm 15A van Aanhangsel 1, waarin 'n tyd binne vyf dae vanaf die aflewering van sodanige kennisgewing vermeld word waarbinne die dokument of band-, elektroniese, digitale of ander vorm van opname by die kantoor van daardie persoon se prokureur ter insae beskikbaar sal wees of, as sodanige party nie deur 'n prokureur verteenwoordig word nie, by 'n in die kennisgewing vermelde plek wat geleë is, of in die geval van bankier se boeke of ander rekeningboeke wat pal in gebruik is vir die doeleindes van enige besigheid of onderneming, by hulle gewone plek van bewaring.

(7) *(a)* 'n Party wat 'n kennisgewing ontvang wat wesenlik dieselfde is as Vorm 15A van Aanhangsel A in subreël 6*(b)* bedoel, is geregtig om op die tyd daarin vermeld en vir 'n tydperk van vyf dae daarna tydens normale sakeure en op een of meer van sodanige dae, insae te kry van sodanige dokument of band-, elektroniese, digitale of ander vorm van opname en afskrifte of transkripsies daarvan te maak.

(b) 'n Party se versuim om enige sodanige dokument of band-, elektroniese, digitale of ander vorm van opname oor te lê wat vir insae vereis word, sal sodanige party daarvan uitsluit om dit by die verhoor te gebruik, behalwe waar die hof dit by die aanvoer van goeie gronde andersins toelaat.

(8) As enige party versuim om voorgenoemde blootlegging te doen of, nadat 'n kennisgewing in subreël 6*(b)* bedoel aan sodanige party beteken is, of versuim om insae te gee soos deur daardie subreël vereis, kan die party wat blootlegging verlang by 'n hof aansoek doen, wat voldoening aan hierdie reël kan gelas en, by versuim van sodanige voldoening, die eis tersyde kan stel of die verweer kan deurhaal.

(9) Enige party tot 'n aksie kan ná die sluiting van pleitstukke aan enige ander party kennis gee om skriftelik besonderhede te spesifiseer van datums en partye van of tot enige dokument of band-, elektroniese, digitale of ander van vorm van opname wat by die verhoor van die aksies gebruik gaan word namens die party aan wie kennis gegee word, en die party wat sodanige kennis ontvang moet nie minder nie as 15 dae voor die datum van verhoor 'n kennisgewing aflewer waarin—

(a) die datums van en partye tot en die algemene aard van enige sodanige dokument of band-, elektroniese, digitale of ander vorm van opname wat in sodanige party se besit is, gespesifiseer word; of

(b) sodanige besonderhede soos die party nodig mag hê om enige sodanige dokument of band-, elektroniese, digitale of ander vorm van opname te identifiseer wat nie in sodanige party se besit is nie, gespesifiseer word en waarin die naam en adres van die persoon in wie se besit sodanige dokument of band-, elektroniese, digitale of ander vorm van opname is, terselfdertyd vermeld word.

(10) *(a)* Enige party wat enige dokument of band-, elektroniese, digitale of ander vorm van opname by 'n verhoor wil bewys, kan aan enige ander party kennis gee om te vereis dat sodanige party binne 10 dae vanaf ontvangs van sodanige kennisgewing erken dat sodanige dokument of band-, elektroniese, digitale of ander vorm van opname behoorlik gemaak is en inderdaad is wat dit voorgee om te wees.

(b) As 'n party wat 'n kennisgewing kragtens paragraaf *(a)* ontvang, nie binne die vermelde tydperk erkenning gee soos vereis nie, dan sal die party, as teen sodanige party, wat die kennisgewing gee geregtig wees om die dokument of band-,

elektroniese, digitale of ander vorm van opname gespesifiseer by die verhoor te verstrek sonder bewys behalwe bewys, indien dit betwis word, dat die dokument of band-, elektroniese, digitale of ander vorm van opname die dokument of band-, elektroniese, digitale of ander vorm van opname in die kennisgewing bedoel is en dat kennis behoorlik gegee is.

(c) As 'n party wat 'n kennisgewing ingevolge paragraaf *(a)* ontvang, stel dat die dokument of band-, elektroniese, digitale of ander vorm van opname nie aangebied word soos vereis nie, moet dit deur die party wat die kennis gee bewys word, voordat sodanige party geregtig is om dit by die verhoor te gebruik, maar die party wat dit nie aangebied het nie, kan beveel word om die koste van die bewys daarvan te betaal.

(11) *(a)* Enige party kan aan enige ander party wat 'n blootlegging van 'n dokument of 'n band-, elektroniese, digitale of ander opname gedoen het, kennis gee om by die verhoor die oorspronklike van sodanige dokument of band-, elektroniese, digitale of ander vorm van opname, in sodanige party se besit, oor te lê.

(b) 'n Kennisgewing kragtens paragraaf *(a)* moet gegee word nie minder nie as vyf dae voor die verhoor, maar kan, as die hof dit toelaat, deur die loop van die verhoor gegee word.

(c) Indien enige kennisgewing kragtens paragraaf *(a)* aldus gegee word, kan die party wat diesulke gee, vereis dat die party aan wie die kennisgewing gegee word die genoemde dokument of band-, elektroniese, digitale of ander vorm van opname in die hof oor te lê en is geregtig, sonder om enige getuie te roep, om die genoemde dokument in te handig of om beswaar te maak, wat in getuienis ontvangbaar sal wees tot dieselfde mate asof dit in getuienis oorgelê is deur die party aan wie kennis gegee word.

(12) Die hof kan, deur die loop van enige verrigtinge, beveel dat enige party daartoe onder eed sodanige dokument of band-, elektroniese, digitale of ander vorm van opname wat in daardie party se mag of beheer is betreffende enige betrokke aangeleentheid in sodanige verrigtinge wat die hof goevind, oorlê en die hof kan sodanige dokument of band-, elektroniese, digitale of ander vorm van opname, wanneer dit oorgelê word, hanteer soos die hof goeddink.

(13) *(a)* Enige party tot enige verrigting kan te eniger tyd voor die verhoor daarvan 'n kennisgewing wat wesenlik dieselfde is as Vorm 15B van Aanhangsel 1 aan enige ander party aflewer in wie se pleitstukke of beëdigde verklarings na enige dokument of band-, elektroniese, digitale of ander vorm van opname verwys word—

(i) om sodanige dokument of band-, elektroniese, digitale of ander vorm van opname vir insae deur hom of haar te oor te lê en om hom of haar toe te laat om 'n afskrif of transkripsie daarvan te maak;

(ii) om binne 10 dae skriftelik te stel of die party wat die kennisgewing ontvang, beswaar maak teen die verstrekking van die dokument of band-, elektroniese, digitale of enige ander vorm van opname en die gronde daarvoor; of

(iii) onder eed binne 10 dae verklaar dat sodanige dokument of band-, elektroniese, digitale of ander vorm van opname nie in sodanige party se besit is nie en in sodanige geval te vermeld waar dit is, indien bekend.

(b) Enige party wat versuim om aan ’n kennisgewing ingevolge paragraaf *(a)* te voldoen, moet nie, behalwe met die verlof van die hof, die tersaaklike dokument of band-, elektroniese, digitale of ander vorm van opname in sodanige verrigtinge gebruik nie, met dien verstande dat enige ander party sodanige dokument of band-, elektroniese, digitale of ander vorm van opname mag gebruik.

(14) Die bepalings van hierdie reël betreffende blootlegging is met die nodige veranderinge van toepassing op aansoeke, vir sover die hof kan gelas.

(15) Ná kennis van voorneme om te verdedig gegee is, kan enige party tot enige aksie, vir die doeleindes van pleitstukke, vereis dat enige ander party—

(a) binne vyf dae ’n duidelik gespesifiseerde dokument of band-, elektroniese, digitale of ander vorm van opname in sy of haar besit vir insae beskikbaar stel wat verband hou met ’n redelike verwagte kwessie in die aksie en om toe te laat dat ’n afskrif of transkripsie daarvan gemaak word;

(b) binne 10 dae skriftelik stel hetsy die party wat die kennisgewing ontvang teen die verstrekking van die dokument of band-, elektroniese, digitale of ander vorm van opname beswaar maak en die gronde daarvoor; of

(c) binne 10 dae onder eed stel dat sodanige dokument of band-, elektroniese, digitale of ander vorm van opname nie in sodanige party se besit is nie en in so ’n geval om te vermeld waar dit is, indien bekend.

(16) By die toepassing van hierdie reël en reël 26—

(a) sluit ’n dokument enige skriftelike, gedrukte of elektroniese aangeleentheid, en data en databoodskappe in soos omskryf in die Wet op Elektroniese Kommunikasies en Transaksies, 2002; en

(b) ’n bandopname sluit ’n klankbaan, film, magneetband, rekord of enige ander materiaal in waarop beelde, klank of ander inligting opgeneem kan word of enige ander vorm van opname.”.

Vervanging van reël 24 van die Reëls

7. Reël 24 van die Reëls word hierby deur die volgende reël vervang:

"**24. Mediese ondersoeke, ondersoek van voorwerpe, deskundige getuienis en aanbieding as getuienis van 'n plan, tekening, model of foto**

(1) 'n Party tot verrigtinge waarin vergoeding of skadeloosstelling ten opsigte van beweerde liggaamlike besering geëis word het die reg om van 'n party wat sodanige vergoeding of skadeloosstelling eis wie se gesondheidstoestand relevant is tot die vasstelling daarvan, te vereis om homself of haarself aan 'n mediese ondersoek te onderwerp.

(2) *(a)* 'n Party kan 'n kennisgewing aan 'n ander party aflewer waarin vereis word dat sodanige party homself of haarself aan 'n mediese ondersoek waarvoor in subreël (1) voorsiening gemaak word, onderwerp en moet in die kennisgewing—

(i) die aard van die vereiste ondersoek vermeld;

(ii) die persoon of persone vermeld wat die ondersoek sal doen; en

(iii) die plek waar en die datum (minstens 15 dae ná die datum van sodanige kennisgewing) en tyd vermeld wanneer verlang word die ondersoek moet plaasvind.

(b) 'n Kennisgewing in paragraaf *(a)* beoog moet—

(i) vermeld dat die party wat ondersoek word sy of haar eie mediese raadgewer by die ondersoek teenwoordig kan hê; en

(ii) vergesel gaan van 'n remise ten opsigte van die redelike uitgawe wat deur die party vir bywoning van die ondersoek aangegaan moet word.

(c) Die uitgawes in paragraaf *(b)*(ii) word aangebied teen die tarief wat sou geld as sodanige persoon 'n getuie in 'n siviele saak voor die hof was: Met dien verstande dat—

(i) as die party wat ondersoek word, nie kan beweeg nie, sluit die bedrag wat betaal moet word die reiskoste per enige nodige vervoermiddel in en, waar vereis, die redelike koste van 'n persoon wat die persoon wat ondersoek moet word, behandel;

(ii) waar die party wat ondersoek word werklik enige salaris, loon of ander vergoeding sal verloor tydens die tydperk van afwesigheid van sy of haar

werk, moet sodanige party, benewens die uitgawes in subparagraaf (i) bedoel, geregtig wees om van die party wat sodanige ondersoek vereis, 'n bedrag per dag te ontvang ten opsigte van die salaris, loon of ander vergoeding wat sodanige persoon werklik sal verloor: Met die verstande dat die bedrag wat ontvang moet word nie die bedrag wat die Minister ooreenkomstig toepaslike wetgewing vir getuies in siviele verrigtinge vasgestel het, mag oorskry nie; en

(iii) enige bedrag deur 'n party betaal ooreenkomstig hierdie subreël is kostes in die saak, tensy die hof anders gelas.

(3) *(a)* 'n Party wat 'n kennisgewing bedoel in subreël (2)*(a)* ontvang moet, binne vyf dae sedert die betekening van die kennisgewing, die party wat dit aflewer, in kennis stel van die aard en gronde van enige beswaar wat sodanige party kan hê betreffende—

(i) die aard van die voorgestelde ondersoek;

(ii) die persoon of persone wat die ondersoek doen;

(iii) die plek, datum of tyd van die ondersoek; en

(iv) die bedrag van die uitgawes aangebied,

en moet verder—

(aa) indien die beswaar teen die plek, datum of tyd van die ondersoek is, 'n alternatiewe plek, datum of tyd verstrek, na gelang van die geval; en

(bb) indien sy of haar beswaar teen die bedrag van die aangebode uitgawes is, besonderhede gee van sodanige verhoogde bedrag soos vereis mag word.

(b) As 'n party wat die kennisgewing in subreël (2)*(a)* bedoel, ontvang, nie 'n beswaar aflewer binne die tydperk van vyf dae in paragraaf *(a)* bedoel nie, word sodanige party geag toegestem het tot die ondersoek op die terme gestel deur die party wat die kennisgewing gee.

(c) As 'n party wat 'n beswaar ontvang van mening is dat die beswaar of enige deel daarvan nie goeie gronde het nie, kan sodanige party by die hof aansoek doen om die voorwaardes te bepaal waarop die ondersoek, indien enige, gedoen moet word.

(4) Enige party tot verrigtinge in subreël (1) bedoel, kan te eniger tyd by kennisgewing vereis dat enige eiser, vir sover hy of sy dit kan doen, aan sodanige ander party binne 10 dae enige mediese verslae, hospitaalrekords, X-strale, ander mediese beelde of ander dokumentêre inligting van ’n soortgelyke aard wat met die assessering van sodanige skadevergoeding of skadeloosstelling verband hou, beskikbaar stel en om afskrifte of opnames daarvan op versoek te verstrek.

(5) As dit uit enige mediese ondersoek wat uitgevoer is óf by ooreenkoms tussen die partye óf in navolging van enige kennis gegee ingevolge hierdie reël óf op bevel van die hof blyk dat enige verdere mediese ondersoek deur enige ander persoon nodig of wenslik is vir die doel om volledige inligting te kry oor aangeleenthede wat met die assessering van sodanige vergoeding of skadeloosstelling verband hou, kan enige party ’n tweede en finale ondersoek ooreenkomstig die bepalings van hierdie reël vereis.

(5A) As enige party vergoeding eis as gevolg van die afsterwe van ’n ander persoon, moet sodanige persoon ’n mediese ondersoek ondergaan soos in hierdie reël voorgeskryf as dit versoek word en daar beweer word dat sodanige party se eie gesondheidstoestand relevant is in die vasstelling van die vergoeding.

(6) As dit blyk dat die toestand van enige eiendom van enige aard, hetsy roerend of onroerend, relevant kan wees aangaande die beslissing van enige aangeleentheid in geskil in enige aksie, kan enige party enige tyd kennis gee waarin die party wat op die bestaan van sodanige staat of toestand van sodanige eiendom staatmaak of wat sodanige eiendom in sy of haar besit of onder sy of haar beheer het om dit beskikbaar te stel vir insae of ondersoek en kan in sodanige kennisgewing vereis dat sodanige party sodanige eiendom of ’n redelike monster daarvan beskikbaar hou vir insae of ondersoek vir ’n tydperk van hoogstens 10 dae vanaf die ontvangs van die kennisgewing.

(7) *(a)* Die party van wie kragtens subreël (6) vereis word om ’n eiendom vir insae of ondersoek voor te lê, kan vereis dat die party wat dit aldus versoek om die aard van die insae of ondersoek waaraan dit onderwerp gaan word, te spesifiseer, en is nie gebind om daardie eiendom aan sodanige insae of ondersoek te onderwerp nie indien dit sodanige party wesenlik sal benadeel weens die uitwerking daarvan op sodanige eiendom.

(b) In die geval van enige geskil oor of die eiendom vir insae of ondersoek voorgelê moet word al dan nie, moet sodanige geskil na die hof verwys word by kennisgewing gegee deur enige een van die partye wat stel dat die insae of ondersoek vereis en teen beswaar gemaak is, en die hof kan sodanige bevel gee soos die hof goedvind.

(8) Enige party wat ’n inspeksie of ondersoek ingevolge subreël (1) of (6) laat doen, moet—

(a) die persoon wat die insae of ondersoek doen ’n volle skriftelike verslag laat gee, binne twee maande sedert die datum van die insae of ondersoek of binne sodanige ander tydperk soos gelas deur ’n regterlike beampte by ’n voor-verhooronderhoud wat ingevolge artikel 54(2) van die Wet saamgeroep is, van die uitslae van die insae of ondersoek en die opinies wat sodanige persoon as gevolg daarvan oor enige tersaaklike aangeleentheid gevorm het;

(b) binne vyf dae ná ontvangs van sodanige verslag, alle ander partye skriftelik inlig van die bestaan van die verslag, en by versoek ’n volledige afskrif daarvan onmiddellik aan enige party voorsien; en

(c) die uitgawe dek van enige sodanige insae of ondersoek: Met dien verstande dat sodanige koste deel van sodanige party se koste sal uitmaak.

(9) Geen persoon, behalwe met die toestemming van die hof of die toestemming van alle partye tot die saak, het die reg om enige persoon as getuie te roep om getuienis as ’n kundige te gee oor enige aangeleentheid waaroor die getuienis van deskundige getuies ontvang kan word nie, tensy—

(a) waar die eiser voornemens is om ’n deskundige te roep, moet die eiser nie later nie as 15 dae nadat die pleitstukke gesluit het, of waar die verweerder voornemens is om die deskundige te roep, moes die verweerder hoogstens 30 dae nadat die pleitstukke gesluit het, kennis van die voorneme om sodanige deskundige te roep, gegee het; en

(b) in die geval van die eiser hoogstens 45 dae nadat die pleitstukke gesluit het, of in die geval van die verweerder hoogstens 60 dae nadat die pleitstukke gesluit het, moes die eiser of verweerder ’n opsomming van die deskundige se opinies en die redes daarvoor afgelewer het:

Met dien verstande dat in egskeiding en verwante aangeleenthede, moet die kennisgewing van voornemens om ’n deskundige te roep en die opsomming van die deskundige se opinie en die redes daarvoor, ook by die Gesinsadvokaat afgelewer word terselfdertyd as wat dit by die ander party afgelewer word:

Met dien verstande dat waar van toepassing, die kennisgewing en opsomming afgelewer word soos deur die regterlike beampte gelas by enige voor-verhooronderhoud ingevolge artikel 54 van die Wet saamgeroep.

(9A) Die partye moet—

(a) sover moontlik poog om ooreen te kom om ’n enkele gesamentlike deskundige oor enige of meer of al die kwessies in die saak aan te stel; en

(b) ’n gesamentlike notule van deskundiges indien rakende dieselfde gebied van kundigheid binne 20 dae vanaf die datum van die laaste indiening van sodanige deskundige verslae.

(10) *(a)* Geen party het, behalwe met die toestemming van die hof of die instemming van al die partye, die reg om enige plan, diagram, model of foto as getuienis aan te bied nie tensy sodanige party nie meer nie as 30 dae nadat die pleitstukke gesluit het, ’n kennisgewing aan die ander party laat aflewer waarin die voorneme om dit te doen, gestel word.

(b) ’n Kennisgewing kragtens paragraaf *(a)* moet stel dat elke party wat dit ontvang, die reg het om insae te hê in sodanige plan, diagram, model of foto en moet vereis dat sodanige party binne 10 dae vanaf ontvangs daarvan stel hetsy hy of sy enige beswaar teen sodanige plan, diagram, model of foto het wat sonder bewys as getuienis aangebied word.

(c) Indien ’n party wat die kennisgewing ontvang versuim om binne vermelde tydperk aldus beswaar te maak, word die vermelde plan, diagram, model of foto by die blote voorlegging daarvan en sonder verdere bewys daarvan in getuienis aanvaar.

(d) Indien ’n party wat die kennis ontvang, teen die toelating as getuienis van sodanige plan, diagram, model of foto beswaar aanteken, kan die vermelde plan, diagram, model of foto by die verhoor bewys word en die party wat die kennisgewing ontvang, kan beveel word om die koste van sodanige bewys te betaal.”.

Vervanging van reël 25 van die Reël

8. Die volgende reël word hierby deur reël 25 van die Reëls vervang:

“ **25. Regterlike saakbestuur en voor-verhooronderhoud**

(1) Regterlike saakbestuur is van toepassing op enige aangeleentheid wat die hof goedvind, uit eie beweging of op versoek van ’n party, op enige stadium nadat ’n kennisgewing van voorneme om te verdedig ingedien is.

(2) Saakbestuur deur regterlike ingryping word—

(a) in die belang van geregtigheid gebruik om oorlaaide verhoorrolle te verlig en om die probleme te hanteer wat vertragings in die afhandeling van sake veroorsaak;

(b) van die aard en omvang waarvoor in artikel 54 van die Wet voorsiening gemaak word; en

(c) uitgelê en toegepas ooreenkomstig die beginsel dat, ondanks die bepalings hierin wat vir regterlike saakbestuur voorsiening maak, berus die hoofverantwoordelikheid steeds by die partye en hul regsverteenwoordigers om behoorlik voor te berei, die hofreëls na te kom, en professioneel op te tree om die aangeleentheid vir verhoor en beregting te bespoedig.

(3) Behalwe tot die mate waarvoor uitdruklik in hierdie reël voorsiening gemaak word, is die bepalings van reël 22A nie van toepassing in aangeleenthede wat vir regterlike saakbestuur verwys word nie.

(4) *(a)* Op enige stadium van die verrigtinge, kan die griffier of klerk van die hof—

(i) nakomingsbriewe elektronies aan enige party rig wat versuim om te voldoen aan die tydsbeperkings vir die indiening van pleitstukke of enige kennisgewing ingevolge die reëls; en

(ii) in die geval van nienakoming van die lasgewings in ’n nakomingsbrief beoog in subparagraaf (i) gegee, die aangeleentheid na die regterlike beampte verwys om te oorweeg hetsy ’n voor-verhooronderhoud waarvoor in artikel 54 van die Wet voorsiening gemaak word, gehou moet word.

(b) Die skriftelike versoek deur enige party vir ’n voor-verhooronderhoud bedoel in artikel 54(1) van die Wet, aan die griffier of klerk van die hof gemaak moet word waarin versoek word dat die hof sodanige voor-verhooronderhoud saamroep en moet oor die algemeen die aangeleenthede wat die party wil hê by sodanige onderhoud oorweeg moet word, vermeld.

(c) Die griffier of klerk van die hof moet ’n versoek in paragraaf *(b)* bedoel, voor ’n regterlike beampte plaas wat, as hy of sy besluit om ’n onderhoud saam te roep, die griffier of klerk van die hof opdrag moet gee om die nodige prosesstukke uit te reik.

(5) *(a)* ’n Verhoordatum word nie aan ’n saak toegeken tensy ’n regterlike beampte die saak as verhoorgereed gesertifiseer het soos in reël 22(4)*(b)* voor voorsiening gemaak word nie, of nadat ’n voor-verhooronderhoud afgehandel is soos in artikel 54 van die Wet voor voorsiening gemaak.

(b) 'n Regterlike beampte wat die verhoorgereedheid van 'n aangeleentheid oorweeg, moet oortuig wees dat—

(i) die saak verhoorgereed is, en in die besonder, dat alle geskilpunte wat sonder 'n verhoor geskik kon word, hanteer is;

(ii) die oorblywende geskilpunte wat verhoor moet word, genoegsaam omskryf is;

(iii) aan die vereistes van reëls 23 en 24(9) voldoen is; en

(iv) enige potensiële oorsake van vertraging in die begin of hou van die verhoor sover prakties moontlik vooruit hanteer is.

(c) 'n Regterlike beampte kan lasgewings gee oor blootlegging of indien van verslae waar die regterlike beampte van oordeel is dat sodanige lasgewings die verhoorgereedheid van die saak kan bespoedig.

(6) *(a)* In alle aangeleenthede waar 'n regterlike beampte gelas dat 'n voor-verhooronderhoud ingevolge artikel 54 van die Wet belê moet word, moet die griffier of klerk van die hof 'n kennisgewing wat wesenlik dieselfde is as Vorm 19 van Aanhangsel 1, stuur waarin gelas word dat alle partye sodanige voor-verhooronderhoud moet bywoon.

(b) Die kennisgewing in paragraaf *(a)* bedoel, moet aan die partye afgelewer word by die adresse wat ingevolge reël 5(3) en 13(3) verstrek is ten minste 15 dae voor die datum wat vir die voor-verhooronderhoud vasgestel is ooreenkomstig die bepalings van reël 9(9)*(a)*.

(7) Die kennisgewing in subreël (6)*(a)* bedoel, moet die partye inlig—

(a) van die datum, tyd en plek van 'n voor-verhooronderhoud ingevolge subreël (6)*(a)* saamgeroep;

(b) dat van hulle vereis word om sodanige voor-verhooronderhoud by te woon om—

(i) die vereenvoudiging van die geskilpunte;

(ii) die nodigheid of wenslikheid van wysigings aan die pleitstukke;

(iii) die moontlikheid dat erkennings van feite en dokumente verkry kan word om onnodige bewyse te vermy;

(iv) die beperking van die getal kundige getuies;

(v) sodanige ander aangeleenthede wat die beskikking van die aksie op die spoedigste en goedkoopste wyse kan aanhelp,

te oorweeg;

(c) dat op die datum van die voor-verhooronderhoud, van hulle vereis word om ’n vergadering te gehou het om vir die voor-verhooronderhoud voor te berei waar die kwessies in subreël (10) rakende die voer van die verhoor of aksie oorweeg moes geword het;

(d) dat van die eiser vereis word om, nie minder nie as twee dae voor die tyd wat vir die voor-verhooronderhoud bedoel in artikel 54 van die Wet bepaal is—

(i) te verseker dat die hoflêer gepas georden, gebind, gepagineer en geïndekseer is; en

(ii) ’n notule van verrigtinge af te lewer waarop by die verrigtinge tydens die vergadering ingevolge paragraaf *(c)* gehou, ooreengekom is, andersins, indien die partye nie ’n ooreenkoms oor die inhoud van die notule bereik het nie, ’n notule onderteken deur die party wat die dokument indien saam met ’n verduideliking oor hoekom ’n ooreenkoms oor die inhoud daarvan nie verkry is nie.

(8) Die notule in subreël (7)*(d)*(ii) bedoel, moet die partye se ooreenkoms of onderskeie posisies oor elkeen van die geskilpunte in subreël (10) geïdentifiseer, spesifiseer en tot die mate wat verdere stappe nog gedoen moet word om die aangeleentheid vir verhoor gereed te maak, dit uitdruklik identifiseer en ’n rooster uiteensit 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 van geskilpunte aflewer, wat sal aandui—

(i) die geskilpunte in die saak wat nie in geskil is nie; en

(ii) die geskilpunte in die saak wat in geskil is, met ’n beskrywing van die aard van die geskil en uiteensetting van die partye se onderlinge betoogredes ten opsigte van elke geskilpunt.

(b) ’n Regterlike beampte wat saakbestuur doen, kan, by die oorweging van die verklaring deur die partye in paragraaf *(a)* bedoel, gelas dat een of al die partye nie by ’n voor-verhooronderhoud hoef te verskyn nie.

(10) Die aangeleenthede wat die partye moet hanteer by die vergadering wat ingevolge subreël (7)*(c)* gehou moet word, is soos volg:

(a) die aangeleenthede in reëls 23, 24, 27 en 29 uiteengesit;

(b) die verkryging van erkennings en die doen van navrae van en deur die partye ten einde die geskilpunte te verminder of die behoefte aan mondelinge getuienis te beperk;

(c) die tydperke waarbinne die partye voorstel dat enige aangeleenthede wat uitstaande is ten einde die saak tot verhoor te kry, onderneem sal word;

(d) behoudens reël 24(9), die instruksie van getuies om deskundige getuienis te gee en die werkbaarheid en redelikheid onder die omstandighede van die saak dat ’n enkele gesamentlike deskundige vir 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 gaan word;

(f) die moontlikheid dat die aangeleentheid vir vrywillige hofverwante bemiddeling verwys kan word;

(g) die blootlegging van elektroniese dokumente vervat in die bediener of ander bergingstoestel;

(h) die afneem van getuienis deur oudio-visuele skakel;

(i) gepaste verhoordatums en die geskatte duur van die verhoor; en

(j) enige ander aangeleentheid wat ter sake is om die verhoorgereedheid van die saak aan te help.

(11) Sonder om die trefwydte van regterlike betrokkenheid by ’n voor-verhooronderhoud bedoel in artikel 54 van die Wet te beperk, moet die regterlike beampte—

(a) indien gepas, uitvind hetsy die partye vrywillige hofverwante bemiddeling oorweeg het;

(b) beoog om ’n ooreenkoms te bevorder om die getal getuies wat by die verhoor geroep sal word, te beperk, ten einde doellose herhaling of getuienis wat feite dek wat reeds toegelaat is, te elimineer; en

(c) die geskilpunte wat in die aksie verhoor gaan word, identifiseer en aanteken.

(12) Die regterlike beampte kan by ’n voor-verhooronderhoud bedoel in artikel 54 van die Wet—

(a) die saak as verhoorgereed sertifiseer;

(b) sertifisering weier;

(c) die partye op sodanige terme plaas soos gepas is om verhoorgereedheid te bereik, en gelas dat hulle op ’n vasgestelde datum by ’n verdere voor-verhooronderhoud aanmeld;

(d) die aangeleentheid van die voorverhoorrol deurhaal en gelas dat dit weer terolle geplaas word alleenlik nadat nienakoming aan die reëls of voor-verhooronderhoudlasgewing goedgemaak is;

(e) opdragte gee vir die verhoor van bestrede tussenaansoeke deur ’n mosiehof op ’n bespoedigde grondslag;

(f) ’n verdeling van geskilpunte in gepaste gevalle beveel ondanks die afwesigheid van instemming daartoe deur die partye;

(g) by die afhandeling van so ’n voor-verhooronderhoud, die besluite wat geneem is aanteken en, indien geleë geag, die eiser gelas om ’n notule daarvan in te dien; en

(h) enige bevel gee, met inbegrip van ’n kostebevel soos in artikel 54 van die Wet voor voorsiening gemaak.

(13) Die oorkonde van die voor-verhooronderhoud in artikel 54 van die Wet bedoel, met inbegrip van die notule deur die partye by die regterlike beampte ingedien, enige lasgewings deur die regterlike beampte uitgereik en die regterlike beampte se rekord van die geskilpunte wat in die aksie verhoor staan te word, maar met uitsondering van enige skikkingsbesprekings en aanbiedinge, word in die hoflêer ingesluit.

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(14) Die regterlike beampte het die reg om die dokumente in subreël (13) in ag te neem betreffende die voer van die verhoor, met inbegrip van die vasstelling van enige aansoeke om uitstel en kwessies van koste.

(15) Enige versuim deur ’n party om die beginsels en vereistes van hierdie reël na te kom, kan gestraf word by wyse van ’n bevel om die teenparty se koste te betaal.”.

Vervanging van reël 26 van die Reëls

9. Reël 26 van die Reëls word hierby deur die volgende reël vervang:

“**26. Getuiedagvaardings, vraagpunte en getuienisnemende kommissies**

(1) *(a)* Enige party wat verlang dat enige persoon ’n verhoor bywoon om getuienis te gee, kan uit reg, sonder enige voorafverrigtinge, een of meer dagvaardings vir daardie doel uit die kantoor van die griffier of die klerk van die hof aanvra, waarvan elke dagvaarding die name van nie meer nie as vier persone sal bevat, en die betekening daarvan aan enige persoon daarin genoem word deur die balju uitgevoer op die wyse in reël 9 voorgeskryf.

(b) Die prosedure vir getuiedagvaarding in paragraaf *(a)* bedoel, geskied by wyse van ’n dagvaarding op ’n vorm wat wesenlik dieselfde is as Vorm 24 van Aanhangsel 1.

(2) *(a)* Waar die getuienis van enige persoon op kommissie geneem staan te word voor enige Kommissaris binne die Republiek, kan die persoon gedagvaar word om voor sodanige kommissaris te verskyn om getuienis te gee asof by die verhoor.

(b) In die geval van getuienis op kommissie geneem, word sodanige prosesstukke uitgeneem deur die party wat die bywoning van die getuie verlang en word deur die Kommissaris uitgereik.

(3) *(a)* Indien enige getuie in besit of in beheer is van enige dokument insluitend ’n akte, boek, geskrif, kasset, elektroniese, digitale of ander vorm van opname of ding wat die party wat die bywoning van sodanige getuie vereis, wil hê moet by die verhoor oorgelê word , moet die dagvaarding sodanige dokument of ding spesifiseer en vereis dat sodanige getuie dit by die verhoor aan die hof oorlê.

(b) (i) Die prosedure om die oorlegging van ’n dokument in paragraaf *(a)* bedoel, te vereis, is by wyse van ’n dagvaarding in ’n vorm wat wesenlik dieselfde is as Vorm 24A van Aanhangsel 1.

(ii) Binne 10 dae vanaf ontvangs van ’n dagvaarding wat die oorlegging van ’n dokument vereis, moet enige persoon van wie vereis is om ’n dokument by die verhoor oor te lê, dit by die griffier of klerk van die hof indien, tensy sodanige persoon op privilegie aanspraak maak.

(iii) Die griffier of klerk van die hof moet die voorwaardes stel waarop insae in die vermelde dokument gekry kan word en afskrifte daarvan gemaak kan word ten einde die beskerming daarvan te verseker.

(iv) Binne vyf dae vanaf indiening by die griffier of die klerk van die hof, moet die party wat die dagvaarding laat uitreik vir die oorlegging van die dokument, alle ander partye by kennisgewing inlig dat die vermelde dokument vir insae en afskrifte beskikbaar is en van enige voorwaardes wat die griffier of klerk van die hof vir insae en afskrifte gestel het.

(v) Ná insae en die maak van afskrifte, is die persoon wat die dokument oorgelê het, geregtig op die terugbesorging daarvan.

(4) Die balju ontvang ’n dagvaarding en ’n afskrif vir elke getuie wat gedagvaar moet word, en ook die bedrag geld wat die party vir wie hulle gedagvaar word meen die balju vir getuiegeld aan die getuies moet betaal of moet aanbied om te betaal.

(5) Die hof kan betekening van enige dagvaarding tersydestel as dit wil voorkom asof die getuie nie redelike tyd gegee is om hom of haar in staat te stel om in navolging van die dagvaarding te verskyn nie.”.

Vervanging van reël 29 van die Reëls

10. Reël 29 van die Reëls word hierby deur die volgende reël vervang:

“**29. Verhoor**

(1) Tensy die hof anders gelas, vind die verhoor van ’n aksie plaas by die hof waarvandaan die dagvaarding uitgereik is.

(2) ’n Getuie wat nie ’n party tot die aksie is nie, kan deur die hof gelas word—

(a) om die hof te verlaat totdat sy of haar getuienis benodig word of nadat sy of haar getuienis gegee is; of

(b) om in die hof te bly nadat sy of haar getuienis gegee is totdat die verhoor beëindig of verdaag word.

(3) Die hof kan, voordat getuienis aangehoor word, vereis dat die partye die feitelike of regskwessies wat in geskil is kortliks te stel en kan die aldus gestelde kwessies aanteken.

(4) *(a)* Indien dit in enige hangende aksie vir die hof uit eie beweging blyk dat daar 'n regsvraag of feitelike vraag is waaroor geredelik beslis kan word voordat enige getuienis aangebied word of waaroor apart van enige ander vraag oor beslis kan word, kan die hof 'n bevel gee waarin afhandeling van sodanige vraag gelas word op sodanige wyse wat die hof goedvind en kan beveel dat alle verdere verrigtinge opgeskort word totdat oor sodanige vraag beskik is.

(b) Die hof kan op versoek van enige partye die bevel bedoel in paragraaf *(a)* gee tensy dit blyk dat die vrae nie gerieflik apart oor beslis kan word nie.

(5) As die vraag in geskil 'n regsvraag is en die partye stem saam oor die feite, kan die feite in die hof toegelaat word, of *viva voce* of per geskrewe verklaring, deur die partye en deur die hof aangeteken word en uitspraak kan daarop gegee word sonder verdere getuienis.

(6) Wanneer regsvrae en feitlike geskilpunte in dieselfde saak ontstaan en die hof is van mening dat die saak op slegs die regsvrae afgehandel kan word, kan die hof vereis dat die partye oor slegs daardie vrae beredeneer en kan sy beslissing daaroor gee voordat getuienis oor die feitlike geskilpunte geneem word en kan finale uitspraak lewer sonder om die feitlike geskilpunte te hanteer.

(7) *(a)* Indien die bewyslas volgens die pleitstukke op die eiser rus, voer hy of sy sy of haar getuienis eerste aan.

(b) Indien absolusie van die instansie nie beveel word nadat die eiser getuienis gevoer het nie, voer die verweerder dan sy of haar getuienis.

(8) Indien die bewyslas volgens die pleitstukke op die verweerder is, voer die verweerder eers sy of haar getuienis aan en, indien nodig, voer die eiser daarna sy of haar getuienis aan.

(9) *(a)* Wanneer die bewyslas ten opsigte van een of meer van die geskilpunte op die eiser rus en ten opsigte van die ander op die verweerder, indien die bewyslas volgens die pleitstukke, voer die eiser eers sy of haar getuienis aan ten opsigte van geskilpunte waarvan die bewyslas op hom of haar rus en kan dan sy of haar saak sluit, en die verweerder voer dan sy of haar getuienis ten opsigte van al die geskilpunte aan.

(b) Indien die eiser ten aansien van geskilpunte waarvan die bewyslas op die verweerder rus geen getuienis aangevoer het nie (uitgesonderd dié waartoe hy of sy

verplig was deur sy of haar getuienis ten aansien van die geskilpunte waarvan die bewyslas op hom of haar rus), is hy of sy geregtig om dit te doen nadat die verweerder sy of haar saak gesluit het. As hy of sy sodanige getuienis aangevoer het, het hy of sy nie so ’n reg nie.

(10) Ingeval van ’n geskil oor die party op wie die bewyslas rus, gelas die hof watter party eerste getuienis moet aanvoer.

(11) ’n Party kan, met verlof van die hof, te eniger tyd voor vonnis verdere getuienis aanvoer, maar sodanige verlof word nie verleen nie indien dit vir die hof blyk dat sodanige getuienis doelbewus uit die behoorlike volgorde agterweë gehou is.

(12) Die hof kan te eniger tyd voor vonnis, op aansoek van ’n party of uit eie beweging, ’n getuie vir verdere ondervraging terugroep.

(13) ’n Getuie kan deur die hof sowel as deur die partye ondervra word.

(14) Nadat die getuienis ten behoewe van beide partye aangevoer is, kan die party wat eerste getuienis aangevoer het die hof eerste toespreek en daarna die ander party, en die party wat eerste getuienis aangevoer het, kan antwoord.

(15) Wanneer die hof afneem van die getuienis van ’n getuie by wyse van vraagpunte gemagtig het, word sodanige vraagpunte binne 4 dae na die bevel, en kruisvraagpunte binne 4 dae daarná, ingedien.

(16) Die getuies by die verhoor van enige aksie word *viva voce* ondervra, maar ’n hof kan te eniger tyd, met voldoende rede, gelas dat—

(a) al of enige van die getuienis wat by enige verhoor aangevoer staan te word per beëdigde verklaring gegee word; of

(b) die beëdigde verklaring van enige getuie by die verhoor gelees word, op sodanige terme en voorwaardes wat die hof goedvind:

Met dien verstande dat waar dit vir die hof voorkom dat enige ander party redelikerwys die bywoning van ’n getuie vir kruis-ondervraging vereis, en sodanige getuie kan voorgebring word, word die getuienis van sodanige getuie nie op beëdigde verklaring gegee nie.”.

Vervanging van reël 31 van die Reëls

11. Die volgende reël word hierby deur reël 31 van die Reëls vervang:

"**31. Verdaging en uitstel**

(1) *(a)* Die verhoor van 'n aksie of die aanhoor van 'n aansoek of aangeleentheid kan met toestemming van die partye of deur die hof, hetsy by aansoek of uit eie beweging, verdaag of uitgestel word.

(b) (i) Indien die partye ooreengekom het om die verrigtinge uit te stel, moet die eiser of applikant 'n kennisgewing van die partye se ooreenkoms om uit te stel by die griffier of klerk van die hof indien ten minste 15 dae voor die datum van die verhoor.

(ii) Die griffier of klerk van die hof moet die regterlike beampte onmiddellik dienooreenkomstig inlig, sodat ander sake op die rol geskeduleer kan word.

(2) *(a)* (i) Wanneer 'n verdaging of uitstel *sine die* gemaak word, moet enige partye wat die aksie wil herinstel, 'n kennisgewing van versoek om herterolleplasing van die aksie, aansoek of aangeleentheid vir verdere verhoor indien.

(ii) Waar 'n aksie, aansoek of 'n aangeleentheid van die rol geskrap is weens die nieverskyning van die partye op die datum van verhoor, moet die versoek vergesel gaan van 'n beëdigde verklaring wat die redes uiteensit vir die nieverskyning en vir die herterolleplasing van die aangeleentheid.

(b) By ontvangs van 'n versoek om herterolleplasing van enige aksie, aansoek of aangeleentheid, neem die griffier of klerk van die hof die hoflêer na die landdros sodat die landdros kan vasstel hetsy die aksie, aansoek of aangeleentheid as verhoorgereed gesertifiseer kan word voordat 'n nuwe datum vir verhoor toegewys kan word.

(c) Indien die aksie, aansoek of aangeleentheid nie verhoorgereed gesertifiseer kan word nie, roep die landdros 'n voor-verhooronderhoud ingevolge artikel 54 van die Wet saam of gee enige lasgewing wat hy of sy goedvind.

(3) 'n Verdaging of uitstel geskied op sodanige voorwaardes betreffende koste en andersins as waartoe die partye ooreenkom of soos die hof mag beveel.

(4) Waar die aksie, aansoek of aangeleentheid as verhoorgereed gesertifiseer is en 'n verhoordatum vasgestel of gereël is by 'n voor-verhooronderhoud bedoel in artikel 54 van die Wet, dien 'n party wat uitstel verlang 'n kennisgewing by die griffier of klerk van die hof in minstens 15 dae voor die toegewese of gereëlde verhoordatum waarin versoek wat dat 'n ander verhoordatum toegewys word.".

Vervanging van reël 32 van Reëls

12. Reël 32 van die Reëls word hierby deur die volgende reël vervang:

"**Nieverskyning van 'n party – terugtrekking en afwysing**

(1) Indien 'n eiser of applikant nie op die tyd wat vir die verhoor van die aksie of die aanhoor van 'n aansoek vasgestel is, verskyn nie, kan die aksie of aansoek met koste afgewys word.

(2) Indien 'n verweerder of respondent nie aldus verskyn nie, kan 'n vonnis (wat nie die gevorderde regshulp oorskry nie) met koste teen hom of haar gegee word, ná oorweging van sodanige getuienis, hetsy mondeling of per beëdigde verklaring, soos die hof gepas ag.

(3) Die terugtrekking en afwysing van 'n aksie of 'n bevel van absolusie van die instansie is nie 'n verweer teen 'n later aksie nie, maar as 'n later aksie vir dieselfde of wesenlik dieselfde skuldoorsaak ingestel word voordat die koste wat by sodanige terugtrekking, afwysing of bevel van absolusie toegeken is, betaal is, kan die hof op aansoek, as die hof dit goed ag en as sodanige koste getakseer is en daar is op betaling daarvan aangedring, beveel dat sodanige latere aksie opgeskort word totdat sodanige koste betaal sou wees en dat die eiser die koste van sodanige aansoek moet betaal.

(4) Indien beide partye nie op die tyd vir die verhoor van 'n aksie of aanhoor van 'n aansoek vasgestel, verskyn nie, word die aksie of aansoek van die rol geskrap.".

Vervanging van reël 38 van Reëls

13. Reël 38 van die Reëls word hierby deur die volgende reël vervang:

"**Sekerheidstelling deur Eksekusieskuldeiser**

38. (1) Indien 'n persoon aanspraak maak op enige eiendom waarop beslag gelê is, of wat die balju op die punt is om op beslag te lê, dan, indien die Eksekusieskuldeiser die balju tot sy of haar oortuiging sekerheidstelling gee, om die balju vry te stel teen enige verlies of skade weens die beslaglegging daarop, behou die balju die vermelde eiendom of lê beslag daarop, na gelang van die geval.

(2) Tensy die dagvaarding wat die aksie begin persoonlik aan die verweerder beteken is of die verweerder kennisgewing van voorneme om te verdedig of kennisgewing van beslaglegging persoonlik aan die verweerder gegee is—

(a) (i) indien ter tenuitvoerlegging op enige eiendom beslag gelê word, ten minste 10 dae voor die dag vir die verkoop van sodanige eiendom aangewys,

sekerheidstelling tot bevrediging van die balju gee vir die betaling aan die Eksekusieskuldeiser of enige persoon indien sodanige beslaglegging ter syde gesel word, van enige bedrag wat die Eksekusieskuldeiser of sodanige persoon regtens geregtig kan wees om van die Eksekusieskuldeiser te verhaal vir skade gely weens sodanige beslaglegging of van enige verrigtinge wat daarop volg; en

(ii) as sekerheidstelling nie gegee word nie, word die beslaglegging outomaties opgeskort totdat sekerheidstelling gegee word: Met dien verstande dat—

(aa) die vermelde beslaglegging verstryk ná ’n tydperk van vier maande vanaf die datum van die beslaglegging; en

(bb) die Eksekusieskuldeiser kan, by endossering te dien effekte op die lasbrief vir eksekusie, wegdoen met die gee van sekerheidstelling kragtens hierdie reël; of

(b) as geld van die balju ontvang word onder enige vorm van tenuitvoerlegging behalwe van die opbrengs van die verkoping in eksekusie van eiendom, en sekerheidstelling is gegee ingevolge paragraaf *(a)* ten opsigte daarvan, word sodanige geld nie aan die Eksekusieskuldeiser betaal nie totdat hy of sy sekerheidstelling vir die terugbetaling van die volle bedrag deur die balju ontvang, gee as die beslaglegging van die geld daarna tersyde gestel word: Met dien verstande dat die vonnisskuldenaar skriftelik bo sy of haar handtekening kan wegdoen met die gee van sodanige sekerheidstelling.

(3) Die voorgeskrewe geld vir sekerheidstelling kragtens hierdie reël gegee is sonder taksasie verhaalbaar as deel van die eksekusiekostes.

(4) Die vonnisskuldenaar of enige persoon wat daarop geregtig is, kan op enige borgakte of ander dokument van sekerheidstelling wat kragtens hierdie reël gegee is, dagvaar sonder dat dit formeel aan hom of haar oorgedra is.

(5) Hierdie reël is nie van toepassing nie waar die party wat die prosesstuk in eksekusie dagvaar of die Eksekusieskuldeiser deur Regshulp Suid-Afrika verteenwoordig word.

Vervanging van reël 39 van die Reëls

14. Reël 39 van die Reëls word hierby deur die volgende reël vervang:

“ **Algemene bepalings betreffende tenuitvoerlegging**

39. (1) Tensy die hof anders beveel, is die koste en uitgawes in verband met die uitreiking van ’n lasbrief en tenuitvoerlegging ’n voorkeurvordering teen die

opbrengs van die eiendom wat in eksekusie verkoop is en kan vir sover sodanige opbrengs onvoldoende is op die vonnisskuldenaar as koste deur die hof toegeken, verhaal word.

(2) *(a)* Behoudens enige hipoteek wat voor die beslaglegging bestaan het, deel alle lasbriewe vir eksekusie wat by enige balju op of voor die dag wat die dag van die eksekusieverkoping onmiddellik voorafgaan ingedien is *pro rata* in die verdeling van die opbrengs van die goed wat in eksekusie verkoop is, in voorrangsorde in reël 43(14)*(c)* bedoel.

(b) Die balju wat ’n eksekusieverkoping hou moet nie minder nie as 10 dae voor die datum van die verkoping ’n afskrif van die kennisgewing van verkoping aan alle ander balju’s wat aangestel is vir die area waarin die balju opdrag gegee is om ’n verkoping te hou, gee.

(c) Die balju wat ’n eksekusieverkoping hou moet ’n sertifikaat van alle ander balju’s wat vir daardie gebied aangestel is of enige ander balju aanvaar waarin enige beslaglegging wat gemaak is gelys word en waarin die rangorde van skuldeisers in terme van lasbriewe in die besit van daardie balju’s aangetoon word.

(3) *(a)* Terugtrekking van beslaglegging word gedoen by nota op die lasbrief vir eksekusie deur die balju gemaak en onderteken dat die beslaglegging teruggetrek word, met melding van die tyd en datum waarop sodanige nota gemaak is.

(b) Die balju gee skriftelik kennis van ’n intrekking van beslaglegging en van die tyd en datum daarvan aan die eksekusieskuldeiser, die vonnisskuldenaar, alle ander balju’s vir daardie gebied aangewys of enige ander balju wat ’n sertifikaat bedoel in subreël (2)*(c)* ingedien het en aan enige persoon deur wie ’n eis op die eiendom waarop beslag gelê is by die balju ingedien is: Met dien verstande dat die eiendom nie uit beslaglegging vrygestel word vir ’n tydperk van vier maande nie indien ’n sertifikaat in subreël (2)*(c)* bedoel of ’n onbevredigde lasbrief vir eksekusie kragtens subreël (2) in die balju se hande bly.

(4) Indien enige eiendom in eksekusie op beslag gelê is deur enige derde party as sy of haar eiendom opgeëis word of enige derde party enige aanspraak maak op die opbrengs van eiendom aldus op beslag gelê en in eksekusie verkoop, moet die balju, behoudens reël (5), sodanige aangeleentheid hanteer soos in reël 44 voor voorsiening gemaak word.

(5) Ondanks ’n aanspraak op eiendom in subreël (4) bedoel deur ’n derde party, lê die balju beslag op sodanige eiendom die balju dit nog nie gedoen het nie, en die eiendom bly onder beslaglegging hangende die uitslag van die tussenpleitverrigtinge tensy dit vroeër by hofbevel of andersins uit beslaglegging vrygestel word, en subreëls 41(14), (17) en (18) is van toepassing met toepaslike veranderinge op eiendom waarop aldus beslag gelê is.

(6) *(a)* By afhandeling van enige verkoping vir eksekusie van eiendom, hetsy roerend of nieroerend, moet die balju 'n vendusielys waarin besonderhede van die eiendom wat verkoop is, die pryse wat behaal is, en, waar bekend, die name en adresse van die kopers en 'n uiteensetting van die distribusie van die opbrengs by die balju se relaas aangeheg word.

(b) Waar 'n lasbrief vir eksekusie ingedien is by 'n balju wat 'n eksekusieverkoping hou deur enige ander balju in subreël (2)*(a)* bedoel, maak die balju wat die verkoping voer 'n betaling ingevolge 'n distribusierekening aan enige balju wat 'n sertifikaat in subreël (2)*(c)* ten opsigte van daardie verkoping ingedien het.

(c) Betaling ingevolge 'n distribusierekening word slegs gemaak nadat die distribusierekening ter insae gelê het vir 'n tydperk van 15 dae nadat die balju wat 'n lasbrief vir eksekusie ingedien het by die balju wat die verkoping gedoen het, 'n afskrif van die distribusierekening ontvang het.

(7) Geen balju of persoon ten behoewe van die balju koop enige van die eiendom by die eksekusieverkoping te koop aangebied hetsy vir homself of haarself of enige ander persoon nie.".

Vervanging van reël 41 van die Reëls

15. Reël 41 van die Reëls word hierby deur die volgende reël vervang:

"**Tenuitvoerlegging teen onroerende eiendom**

41. (1) 'n Eksekusieskuldeiser kan, op sy of haar eie risiko, uit die kantoor van die griffier of klerk van die hof een of meer lasbriewe vir eksekusie uitvaardig in 'n vorm wat wesenlik dieselfde is as vorm 32 van Aanhangsel 1.

(2) *(a)* Geen prosesstukke vir tenuitvoerlegging word uitgereik vir die verhaling van enige koste deur die hof aan enige party toegestaan, totdat sodanige koste deur die takseermeester getakseer is of op skrif op ooreengekom is deur die party aanspreeklik vir betaling van sodanige koste in 'n vaste bedrag.

(b) (i) 'n Vordering vir gespesifiseerde kostes wat reeds aan die Eksekusieskuldeiser toegestaan is, welke koste steeds getakseer moet word, kan in die lasbrief vir eksekusie ingesluit word.

(ii) Indien sodanige koste daarna getakseer word, word dit ingesluit in die balju se distribusierekening en distribusieplan alleenlik as die oorspronklike

kosterekening behoorlik toegewys en ingedien is by die balju voor die datum van die eksekusieverkoping.

(3) Wanneer die balju, deur enige prosesstuk, instruksie kry om enige bedrag geld te verhaal deur eksekusie teen die goedere van enige persoon, moet die balju onverwyld na die woonplek, werksplek of besigheid van sodanige persoon gaan, tensy die Eksekusieskuldeiser of die opdraggewende prokureur ander opdragte gee betreffende die ligging van die bates waarop beslag gelê moet word en daar—

(a) eis dat aan die lasbrief voldoen word en, by versuim van voldoening,

(b) eis dat soveel roerende en wegdoenbare eiendom uitgewys word soos die balju voldoende kan ag om aan die vermelde lasbrief te voldoen, en by versuim van sodanige uitwysing;

(c) na sodanige eiendom soek.

(4) Indien die vonnisskuldenaar by die eis die vonnisskuld en –koste, of ’n gedeelte daarvan, betaal, endosseer die balju die bedrag wat betaal is en die datum van betaling op die oorspronklike en afskrif van die lasbrief, welke endossering deur die balju onderteken word en medeonderteken word deur die vonnisskuldenaar of sy of haar verteenwoordiger.

(5) Indien die eiendom ingevolge subreël (3)*(b)* onvoldoende is om aan die lasbrief te voldoen, gaan die balju nogtans voort om ’n inventaris op te stel en ’n waardasie te doen van soveel roerende eiendom soos in gedeeltelike tenuitvoerlegging van die lasbrief uitgewys kan word.

(6) Indien die vonnisskuldenaar nie enige eiendom uitwys soos ingevolge subreël (3)*(b)* vereis nie, maak die balju onmiddellik ’n inventaris en waardasie van soveel van die roerende eiendom wat aan die vonnisskuldenaar behoort soos die balju voldoende ag om aan die lasbrief te voldoen of van soveel van die roerende eiendom soos gevind kan word in gedeeltelike tenuitvoerlegging van die lasbrief.

(7) Vir sover nodig kan wees vir die tenuitvoerlegging van enige lasbrief, kan die balju enige deur op enige perseel, of van enige meubelstuk, oopmaak en as toegang geweier word of indien daar niemand daar is wat die persoon verteenwoordig teen wie sodanige lasbrief aldus tenuitvoer gelê moet word nie, kan die balju, indien nodig, dwang of ’n slotmaker vir die doel gebruik.

(8) Die balju moet die oorspronklike lasbrief vir eksekusie uitstal en ’n afskrif daarvan aan die vonnisskuldenaar oorhandig of op die perseel agterlaat.

(9) Die balju onderteken ’n afskrif van ’n inventaris wat kragtens hierdie reël gemaak is en oorhandig dit aan die vonnisskuldenaar of los dit op die perseel, welke afskrif ’n kennisgewing van die beslaglegging daarby aangeheg moet hê in ’n formaat wat wesenlik dieselfde is as vorm 33 van Aanhangsel 1.

(10) Sodra die balju aan die vereistes van hierdie reël voldoen het, word die goedere deur die balju op die inventaris geplaas, geag geregtelik op beslag gelê te wees.

(11) Die balju dien enige prosesstuk met ’n relaas van wat die balju gedoen het daarop, by die griffier of klerk van die hof in, en voorsien ’n afskrif van sodanige relaas en inventaris aan die party wat sodanige prosesstuk laat uitreik het.

(12) Waar op bederfbares beslag gelê word, kan dit, met die toestemming van die vonnisskuldenaar of by kwytskelding van die balju deur die eksekusieskuldeiser van enige eis vir skadevergoeding wat uit sodanige verkoping kan voortspruit, onmiddellik op ’n gepaste wyse deur die betrokke balju verkoop word.

(13) Waar geld en dokumente gevind en op beslag gelê word, word die bedrag geld of getal en soorte dokumente in die inventaris gespesifiseer, en enige sodanige geld of dokumente word daarna verseël en verwyder na die kantoor van die balju en veilig geberg.

(14) *(a)* Waar op roerende eiendom, wat nie geld of dokumente is nie, beslag gelê is, gee die eksekusieskuldeiser of sy of haar prokureur ná kennisgewing van sodanige beslaglegging, die balju skriftelik instruksie hetsy die eiendom verwyder sal word na ’n veilige plek of op die perseel agtergelaat word in die beheer en bewaring van die Eksekusieskuldeiser of in die beheer en bewaring van ’n ander persoon wat namens die balju optree.

(b) Indien die eksekusieskuldeiser of sy of haar prokureur die griffier of klerk van die hof skriftelik oortuig dat dit wenslik is om die goedere waarop beslag gelê is, onmiddellik te verwyder, hetsy by uitreiking van die lasbrief vir eksekusie of te eniger tyd daarna, endosseer die griffier of klerk van die hof sy of haar goedkeuring op die dokument wat die instruksies bevat, en magtig die balju skriftelik om al of enige van die roerende eiendom waarop beslag gelê is, onmiddellik uit die besit van die vonnisskuldenaar te verwyder.

(c) By gebrek aan enige instruksie kragtens paragraaf *(a)* of magtiging kragtens paragraaf *(b)*, los die balju die eiendom waarop beslag gelê is, behalwe geld of dokumente, op die perseel en in die besit van die persoon in wie se besit die vermelde roerende eiendom op beslag gelê is.

(15) *(a)* Enige persoon op wie se roerende eiendom die balju beslag gelê het kan, saam met ’n persoon met voldoende middele wat sigself tot oortuiging van die balju as sekerheidstelling verbind, skriftelik onderneem om sodanige eiendom oor te lê op die dag aangewys vir die verkoping daarvan, waarop die balju die vermelde eiendom waarop beslag gelê is en wat op die inventaris is, op die perseel waar dit gevind is agterlaat.

(b) Die akte van sekerheidstelling moet in ’n vorm wees wat wesenlik dieselfde is as vorm 37A van Aanhangsel 1.

(16) *(a)* As die vonnisskuldenaar nie, saam met ’n sekerheidstelling, ’n verbintenis soos in subreël (15)*(a)* beoog, gee nie, dan, tensy die eksekusieskuldeiser anders opdrag gee, verwyder die balju die vermelde goedere na ’n geleë veilige plek of hou dit op die perseel waar daarop beslag gelê is.

(b) Die kostes van sodanige verwydering of berging is verhaalbaar van die vonnisskuldenaar en word gedek uit die opbrengs van die eksekusieverkoping.

(17) *(a)* Waar ’n balju opdrag kry om die roerende eiendom te verwyder, doen hy of sy dit sonder enige vermybare vertraging, en hy of sy moet dit intussen in die beheer of bewaring laat van ’n persoon wat beheer of bewaring van die goedere ten behoewe van die balju sal hê.

(b) Enige persoon in wie se beheer of bewaring roerende eiendom waarop beslag gelê is, gelaat is, moet nie sodanige eiendom gebruik, verhuur of uitleen, of toelaat dat dit gebruik, verhuur of uitgeleen word nie, en sal ook geensins iets doen wat die waarde daarvan sal verminder nie en, indien die eiendom waarop beslag gelê is enige wins of vermeerdering geproduseer het, moet die bewaarder verantwoordelik wees vir enige sodanige wins of vermeerdering op dieselfde wyse as waarop hy of sy verantwoordelik is vir die eiendom waarop oorspronklik beslag gelê is, en moet sodanige wins of vermeerdering aan die balju aflewer.

(c) Indien ’n persoon, anders as die vonnisskuldenaar, in wie se toesig of bewaring roerende eiendom gelaat is, versuim om sy of haar plig te doen, is sodanige persoon nie geregtig op enige vergoeding vir die neem van toesig en bewaring oor die eiendom waarop beslag gelê is nie.

(18) *(a)* Tensy ’n hofbevel aan die balju voorgelê word waarin van die balju vereis word om enige eiendom onder beslaglegging te hou vir sodanige verdere tydperk wat in sodanige bevel bepaal kan word, moet die balju die eiendom wat vir ’n tydperk van langer as vier maande onder beslaglegging gehou is, uit beslaglegging vrystel, tensy ’n verkoping in eksekusie van sodanige eiendom hangende is.

(b) Indien sodanige bevel ingevolge ’n *ex parte*-

aansoek toegestaan is, benodig sodanige bevel nie bevestiging nie.

(c) Indien ’n eiser ’n tussenpleitvordering ingevolge reël 44 by die balju indien, word die tydperk van vier maande in paragraaf *(a)* bedoel, opgeskort vanaf die datum waarop die eiser sy of haar beëdigde verklaring aan die balju aflewer tot die finale beregting van die tussenpleitvordering, met inbegrip van enige hersiening of appèl ten opsigte van sodanige tussenpleitvordering.

(19) *(a)* (i) Enige roerende eiendom wat ter tenuitvoerlegging van ’n geregtelike prosesstuk verkoop gaan word, word in die openbaar vir kontant aan die hoogste bieër verkoop deur die balju wat die goedere ingevolge subreël (17)*(a)* verwyder het of, met die goedkeuring van die landdros, deur ’n afslaer of ander persoon deur die balju aangestel, by of so naby die plek waar daarop beslag gelê is of waarheen dit aldus verwyder is soos vermeld.

(ii) Die bepalings van reël 43(10) is van toepassing met gepaste veranderinge op die verkoping in eksekusie van roerende eiendom kragtens hierdie reël.

(b) Die Eksekusieskuldeiser, ná raadpleging met die balju, berei ’n kennisgewing van verkoping voor en twee afskrifte daarvan word aan die balju voorsien met genoeg tyd dat een afskrif nie later nie as 10 dae as die dag wat vir die verkoping vasgestel is, op die kennisgewingbord of deur van die hofgebou of ander openbare gebou waarin die vermelde hof sit, opgesit kan word en die ander afskrif by of naby moontlik aan die plek waar die vermelde verkoping werklik gaan plaasvind, opgesit kan word.

(c) Benewens die vereistes van paragraaf *(b)*, as die waarde van die goedere waarop beslag gelê is na mening van die balju meer is as ’n bedrag gelyk aan die monetêre jurisdiksie van die hof vir klein eise, moet die balju dit aandui en die Eksekusieskuldeiser opdrag gee om die kennisgewing van verkoping in ’n plaaslike of ander koerant wat in die streek of distrik sirkuleer, te publiseer nie later nie as 10 dae voor die datum vir die verkoping aangewys en om ’n afskrif van die uitgawe van die koerant waarin die publikasie verskyn het aan die balju te voorsien, nie later nie as die dag voor die datum van die verkoping.

(d) In plek van paragraaf *(c)*, kan die balju die kennisgewing van verkoping op die webwerf van die balju se kantoor plaas, indien die eksekusieskuldeiser so ’n instruksie gee: Met dien verstande dat die balju nie later nie as 10 dae voor die aangewese datum van verkoping, op die kennisgewingbord of deur van die hofgebou of ander openbare gebou waarin die vermelde hof sit, aanbring en die ander by of so naby moontlik aan die plek waar die vermelde verkoping werklik gaan plaasvind, ’n kennisgewing moet aanbring waarin die datum van die verkoping in eksekusie en die webwerf waarop die volle besonderhede van die verkoping gesien kan word, vermeld word.

(20) Die dag wat aangewys is vir ’n verkoping in eksekusie moet nie minder as 15 dae na die beslaglegging wees nie: Met dien verstande dat waar die goedere waarop beslag gelê is van ’n bederfbare aard is, of met die toestemming van die vonnisskuldenaar, kan die hof, by aansoek, enige tydperk verminder waarna in hierdie subreël of subreël (19) verwys word, tot so ’n mate en op sodanige voorwaardes wat die hof gepas ag.

(21) Waar eiendom wat aan ’n saaklike reg van enige derde persoon onderhewig is, in eksekusie verkoop gaan word, moet sodanige verkoping onderhewig wees aan die regte van sodanige derde persoon tensy hy of sy andersins van sodanige regte afstand doen.

(22) ’n Verkoping in eksekusie word gestop sodra genoeg geld gemaak is om aan die vermelde lasbrief en enige lasbrief bedoel in reël 39(2) en die koste van die verkoping, te voldoen.

(23) *(a)* Indien die balju ’n saldo oor het nadat aan die vordering van die eksekusieskuldeiser en lasbriewe vir eksekusie by die balju ingedien onmiddellik voor die datum van die verkoping en van alle koste, voldoen is, betaal die balju sodanige balans aan die vonnisskuldenaar as hy of sy opgespoor kan word, in gebreke waarvan die balju sodanige saldo geregtlik inbetaal.

(b) Die saldo wat ingevolge paragraaf *(a)* geregtelik inbetaal word, indien nie voor die verloop van drie jaar daaroor beskik is nie, word aan die Nasionale Inkomstefonds betaal nadat drie maande kennisgewing van sodanige voorneme aan die betrokke persone gegee is, waarna enige aansoek om die terugbetaling van sodanige saldo deur die betrokke persoon aan die Nasionale Inkomstefonds gerig moet word.”.

Vervanging van reël 42 van die Reëls

16. Reël 42 van die reëls word hierby deur die volgende reël vervang:

“**Tenuitvoerlegging teen roerende eiendom (vervolg)**

42. (1) Indien onliggaamlike eiendom ter beslaglegging beskikbaar is, kan daarop beslag gelê word sonder ’n voorafaansoek aan die hof op die wyse waarvoor hierna voorsiening gemaak word.

(a) Waar die eiendom of reg waarop beslag gelê staan te word ’n huurkontrak, wissel, promesse, verband of ander sekuriteit vir die betaling van geld is, is die beslaglegging nie voltooi nie voordat—

(i) die balju aan die huurder, verhuurder, verbandgewer en verbandhouer of persoon wat op die wissel of ander sekuriteit aanspreeklik is, na gelang van die geval, kennis gegee het;

(ii) die balju besit van die dokument, indien enige, geneem het wat die huurkontrak, wissel, promesse, verband of ander sekuriteit, na gelang van die geval, bewys, of gesertifiseer het dat hy of sy, ten spyte van ’n toegewyde soektog, nie die dokument aan die hande kon kry nie; en

(iii) in die geval van ’n geregistreerde huurkontrak of enige geregistreerde reg, kennis aan die registrateur van aktes gegee is.

(b) (i) Waar die onliggaamlike reg in roerende eiendom waarop beslag gelê wil word die belang is van die vonnisskuldenaar in eiendom wat aan of deur 'n derde persoon verpand, verhuur of onder 'n opskortende voorwaarde verkoop is, is die beslaglegging slegs afgehandel wanneer die balju kennis van beslaglegging en ’n afskrif van die lasbrief vir eksekusie aan die vonnisskuldenaar en aan die eienaar van die roerende eiendom of enige ander party wat ’n belang daarin het, beteken het.

(ii) Die balju kan, by die toon van die oorspronklike van sodanige lasbrief vir eksekusie aan die eienaar van die roerende eiendom of enige ander party wat ’n belang daarin het, die perseel betree waar sodanige eiendom is en ’n inventaris en waardasie van die vermelde belang maak.

(c) In die geval van die beslaglegging op alle ander onliggaamlike regte in eiendom—

(i) is die beslaglegging slegs afgehandel wanneer—

(aa) kennis van die beslaglegging skriftelik deur die balju aan alle belanghebbende partye gegee is en, waar die bate uit ’n onliggaamlike reg in onroerende eiendom bestaan, moes kennis ook aan die registrateur van aktes in wie se aktekantoor die eiendom of reg geregistreer is, gegee gewees het; en

(bb) die balju besit geneem het van die dokument wat bewys lewer van die eienaarskap van sodanige eiendom of reg of gesertifiseer het dat hy of sy nie die dokument kon kry nie, ondanks ’n toegewyde soektog;

(ii) die balju kan, by die toon van die oorspronklike van die lasbrief vir eksekusie aan die persoon wat besit het van eiendom waarin onliggaamlike regte bestaan, die perseel betree waar sodanige eiendom is en ’n inventaris van waardasie doen van die reg waarop beslag gelê is.

(2) Beslaglegging op eiendom onderhewig aan ’n pand moet ooreenkomstig die bepalings van subreël (1)*(b)*, met die nodige veranderinge, gedoen word.

(3) Die metode van beslaglegging op eiendom kragtens artikel 32 van die Wet is dieselfde as die van beslaglegging in eksekusie, met gepaste veranderinge.

Vervanging van reël 54 van die Reëls

17. Reël 54 van die Reëls word hierby deur die volgende reël vervang:

“**Verrigtinge teen nieregspersone as ’n kwessie van prosedurele gerieflikheid**

54. (1) In hierdie Reël beteken—

“**alleeneienaarskap**” ’n besigheid wat deur die alleeneienaar bedryf word onder ’n naam en styl wat nie sy of haar eie is nie;

“**dagvaar**” en “**gedagvaar**” word betreffende aksies en aansoeke gebruik.

“**eiser**” en “**verweerder**” ook ’n applikant en respondent;

“**entiteit**” ’n vereniging, vennootskap, firma of alleeneienaarskap;

“**firma**” ’n ongingelyfde besigheid;

“**tersaaklike datum**” die datum wanneer die skuldoorsaak ontstaan het;

“**vennootskap**” ’n reëling waarvolgens twee of meer persone onderneem om tot ’n onderneming by te dra wat hulle gesamentlik met gaan bedryf om ’n wins te maak wat tussen hulle verdeel sal word; en

“**vereniging**” enige oningelyfde liggaam van persone wat nie ’n vennootskap is nie.

(2) ’n Entiteit kan in die naam daarvan dagvaar of gedagvaar word.

(3) *(a)* Waar ’n entiteit gedagvaar word, moet die eiser ’n kennisgewing beteken waarin ’n beroep op die verweerder gedoen word om binne 10 dae ’n verklaring af te lewer wat die volle name, woon-, sake- of werksadresse van al die entiteit se vennote, eienaars of, in die geval van ’n vereniging, lede en ampsdraers, soos op die tersaaklike datum, bevat.

(b) As die verweerder in gebreke bly om ’n verklaring in paragraaf *(a)* beoog, te lewer, kan die eiser by kennisgewing by die hof aansoek dom om die

verweerder te dwing om so ’n verklaring binne vyf dae af te lewer en sou die verweerder versuim om te voldoen, kan die eiser by die hof aansoek doen om—

(i) die verweerder se verweer deur te haal, waar sodanige verweer ingedien is, en om uitspraak te lewer, wat teen die entiteit se bates tenuitvoer gelê kan word soos die reg dit toelaat;

(ii) enige persoon wat die eiser redelikerwys glo ’n lid, vennoot of eienaar van die verweerder is op die tersaaklike datum: Met dien verstande dat die aansoek, en ’n kennisgewing wat wesenlik dieselfde is as Vorm 59 saam met ’n afskrif van die dagvaarding, aan die beweerde lid, vennoot of eienaar, na gelang van die geval, beteken moet word.

(c) Die hof wat ’n aansoek in paragraaf *(b)* beoog, aanhoor, kan enige ander bevel gee soos die hof goedvind.

(d) Wanneer die name van persone ingevolge paragraaf *(b)*(ii) verklaar word, gaan die aksie voort op dieselfde wyse en met dieselfde gevolge asof die persone in die dagvaarding vermeld is, maar alle verrigtinge sal in die naam van die entiteit voortgaan.

(e) Waar die verweerder ’n verklaring in paragraaf *(a)* beoog, aflewer moet die eiser na ontvangs van die verklaring, ’n kennisgewing wat wesenlik dieselfde as Vorm 59 is, saam met ’n afskrif van die dagvaarding aan elke vennoot, eienaar, of in die geval van ’n vereniging ’n ampsdraer, beteken waarin hulle aangesê word om ’n kennisgewing van voorneme om te verweer binne 10 dae af te lewer.

(f) As ’n vennoot of eienaar of, in die geval van ’n vereniging ’n ampsdraer, versuim om verrigtinge beoog in paragraaf *(e)* te verdedig, gaan die aksie op dieselfde wyse en met dieselfde gevolge voort asof daardie persoon in die dagvaarding genoem is, maar alle verrigtinge gaan nogtans in die naam van die entiteit voort.

(g) As ’n party ontken dat hy of sy ’n vennoot of eienaar is of, in die geval van ’n vereniging ’n lid of ampsdraer, van ’n entiteit op die tersaaklike datum en die stappe uiteengesit in Vorm 59 doen, met inbegrip van die aflewering van ’n pleit, kan die hof by die verhoor besluit dat die geskilpunt *in limine* is: Met dien verstande dat die aksie in die naam van die entiteit sal voortgaan.

(4) *(a)* ’n Eiser wat ’n vereniging dagvaar kan ’n kennisgewing aan die verweerder beteken waarin vir ’n ware afskrif van die huidige grondwet daarvan en ’n lys van die name en adresse van die ampsdraers en hulle onderskeie ampte op die tersaaklike datum, aangevra word.

(b) Die kennisgewing in paragraaf *(a)* bedoel, moet binne 10 dae na ontvangs van die kennisgewing aan voldoen word, by gebreke waarvan die eiser by die hof kan aansoek doen om ’n bevel om aan die kennisgewing te voldoen.

(c) Paragrawe *(a)* en *(b)* is van toepassing met nodige veranderinge op ’n verweerder wat deur ’n vereniging gedagvaar is.

(5) Tenuitvoerlegging van ’n vonnis teen ’n entiteit moet eers teen die bates daarvan gehef word, en ná sodanige tenuitvoerlegging indien regtens toegelaat, teen die bates van enige persoon wat geag word ’n lid, vennoot of eienaar te wees, asof vonnis teen sodanige persoon aangeteken is.”.

Wysiging van reël 55 van die Reëls

18. Reël 55 van die reëls word hierby gewysig deur subparagraaf (iii) van paragraaf *(e)* van subreël (1) deur die volgende subparagraaf te vervang:

“ (iii) ’n keerdatum, nie minder as **[vyf]** 10 dae na betekening daarvan aan die respondent, vir skriftelike kennisgewing deur daardie respondent aan die aansoeker 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 betekening van die kennisgewing aan die respondent.”.

Vervanging van reël 60 van Reëls

19. Reël 60 van die reëls word hierby deur die volgende reël vervang:

“**60. Nienakomg van reëls en hofbevele, insluitend tydsbeperkings en foute**

(1) Behalwe waar in hierdie reëls anders bepaal, is versuim om hierdie reëls of enige versoek in navolging daarvan gemaak, nie ’n grond vir die gee van ’n vonnis teen die party wat in gebreke is nie.

(2) Waar ’n party versuim om te voldoen aan enige bepaling van hierdie reëls of aan ’n versoek of kennis gegee in navolging daarvan of met ’n bevel of lasgewing deur ’n hof of by ’n regterlike saakbestuurproses of ’n voor-verhooronderhoud ingevolge artikel 54 van die Wet saamgeroep, gemaak, kan enige ander party die party in gebreke in kennis stel dat hy of sy voornemens is om, ná afloop van 10 dae vanaf die datum van aflewering van sodanige kennisgewing, om ’n bevel aansoek te doen—

(a) dat sodanige reël, kennisgewing, versoek, bevel of lasgewing nagekom word; of

(b) dat die vordering of verweer geskrap word.

(3) Waar ’n party versuim om aan die kennisgewing bedoel in subreël (2) te voldoen binne die tydperk van 10 dae, kan die aansoek by kennisgewing by die hof gedoen word om voldoening af te dwing en die hof kan sodanige bevel gee soos die hof goedvind.

(4) Die hof kan by aansoek kragtens subreël (3) die nodige opskorting van verrigtinge gelas.

(5) *(a)* Enige tydsbeperking wat deur hierdie reëls voorgeskryf word, behalwe die tydperk in reël 51(3) en (6) voorgeskryf, kan te eniger tyd, hetsy voor of ná die verstryking van die beperkte tydperk, verleng word—

(i) met die skriftelike toestemming van die ander party; en

(ii) indien sodanige toestemming geweier word, dan deur die hof op aansoek en op sodanige voorwaardes betreffende koste en andersins wat die hof goedvind.

(b) ’n Hof wat ’n verlenging toestaan van die tydsbeperking in subparagraaf *(a)*(ii) bedoel ná verstryking van die tyd voorgeskryf of vasgestel, kan sodanige bevel gee wat die hof goedvind oor die herroeping, verandering of intrekking van die uitslae van die verstryking aldus voorgeskryf of vasgestel, hetsy sodanige uitslae voortvloei uit die terme van enige bevel of van hierdie reëls.

(6) *(a)* Wanneer kort betekening sonder verlof van enige kennisgewing van terolleplasing of kennisgewing van 'n aansoek of van 'n geregtelike prosesstuk geskied het, kan die hof, in plaas van sodanige kennisgewing of prosesstuk af te wys, die verrigtinge vir ’n tydperk wat minstens gelyk is aan die tydperk van behoorlike kennisgewing, verdaag op sodanige voorwaardes soos die hof goedvind.

(b) Indien die verrigtinge in die afwesigheid van die party aan wie kort betekening geskied het, verdaag word, moet die party wat vir die kort betekening verantwoordelik is, behoorlik kennis van die verdaging aan die party aan wie kort betekening geskied het, gee.

(7) Behoudens subreël (8), is geen prosesstuk of kennisgewing ongeldig weens enige ooglopende spelfout of fout in die syfer of datum nie.

(8) Indien 'n party werklik mislei is deur enige sodanige fout in enige prosesstuk of kennisgewing wat aan hom of haar beteken is, kan die hof op aansoek sodanige verligting as wat billik geag word, verleen en kan vir daardie doel die

prosesstuk of kennisgewing tersyde stel en enige vonnis by verstek wat daarkragtens gegee is, vernietig.

(9) Die hof kan, by die aanvoer van goeie gronde, nievoldoening aan hierdie reëls kondoneer.”.

Wysiging van Aanhangsel 1 by die Reëls

20. Aanhangsel 1 by die Reëls word hierby gewysig—

(a) deur Vorm 3 te vervang deur Vorm 3 in die Aanhangsel hierby vervat;

(b) deur Vorm 24 te vervang deur Vorm 24 in die Aanhangsel hierby vervat;

(c) deur Vorm 24A in die Aanhangsel hierby vervat ná Vorm 24 in te voeg;

(d) deur Vorm No. 37 te vervang deur Vorm No. 37 in die Aanhangsel hierby vervat;

(e) deur Vorm No. 37A vervat in die Aanhangsel hierby, ná Vorm No. 37 in te voeg; en

(f) deur Vorm 59 vervat in die Aanhangsel hierby ná Vorm 58 in te voeg.

Inwerkingtreding

21. Hierdie reëls en vorms tree in werking op 1 Februarie 2022.

AANHANGSEL

"**No. 3 – Dagvaarding (waarin 'n outomatiese huurinterdik ingesluit is)**

*** Vir gebruik in die Distrikshof**

IN DIE LANDDROSHOF VIR DIE DISTRIK VAN …….……

Gehou te…….Saakno.……...

In die aangeleentheid tussen:

…….Eiser

en

…….. Verweerder

Aan:……..... van…….....
(vermeld woonplek en sakeplek en indien bekend, gender, beroep en werksplek)……..……(hierna die verweerder genoem).

U word hierby gedagvaar om binne ..... dae vanaf die betekening van hierdie dagvaarding aan die griffier van die voormelde hof en ook die eiser of eiser se prokureur, by die adres hierin gespesifiseer, 'n skriftelike kennisgewing af te lewer of te laat aflewer van u voorneme om hierdie aksie te bestry en die vordering van ……. (vermeld gender en okkupasie), van ……. (woonplek of sakeplek) …….. (hierna die eiser genoem), waarvan die besonderhede hieronder geëndosseer is.

Daarna, binne 20 dae nadat 'n kennisgewing van voorneme soos hierbo vermeld afgelewer is, 'n pleitstuk (met of sonder 'n teenvordering), of 'n eksepsie of aansoek om deur te haal op die wyse en binne die tydsbestekke waarvoor in reël 19 voorsiening gemaak word.

En neem kennis dat—

(a) indien u in gebreke bly om die bedrag van die vordering en koste binne die vermelde tydperk te betaal of om 'n kennisgewing van voorneme om te verdedig af

te lewer, sal u geag word die vermelde vordering te erken het en die eiser kan daarmee voortgaan en vonnis kan in u afwesigheid teen u gegee word;

(b) as u die vermelde vordering en koste binne die vermelde tydperk betaal sal vonnis nie hierin teen u gegee word nie en u sal vonniskoste bespaar. U sal ook vonniskoste bespaar indien u, binne die vermelde tydperk, by die griffier van die bomelde hof 'n toestemming tot vonnis indien;

(c) indien u die vordering erken en tot vonnis wil toestem of wil onderneem om die vordering in paaiemente of andersins te betaal, kan u die eiser of eiser se prokureur nader.

En neem verder kennis dat u, die verweerder, en alle ander persone hierby by interdik verbied word om enige van die meubels of besittings in of op die perseel wat in die besonderhede van die vordering wat hierop aangeteken is, beskryf is en onderworpe is aan die eiser se hipoteek vir huurgeld, te verwyder of te laat verwyder of toe te laat dat dit verwyder word voordat 'n bevel ten opsigte daarvan deur die hof gegee is.

Koste, as die aksie onbestrede is, sal soos volg wees:

Dagvaarding..... R .....
Vonnis……..……..... R .....
Prokureursheffings……..... R .....
Baljugelde..... R .....
Baljugelde by heruitreiking…….... R ….....
Totaal R .....R .....
Totaal:……. R .....

Kennisgewing:

(i) Enige persoon teen wie 'n hof in 'n siviele saak 'n vonnis gegee het of 'n bevel uitgevaardig het wat nie, binne 10 dae, volledig aan sodanige vonnis of bevel voldoen het nie, kan by kennisgewing ingevolge artikel 65A(1) van die Wet aangesê word om op 'n gespesifiseerde datum voor die hof in kamers te verskyn sodat die hof ondersoek kan instel na die finansiële posisie van die vonnisskuldenaar en om sodanige bevel te gee soos die hof billik en regverdig ag.

(ii) Indien die hof oortuig is dat—

(aa) die vonnisskuldenaar of, indien die vonnisskuldenaar 'n regspersoon is, 'n direkteur of beampte van die regspersoon, kennis dra van die bogenoemde kennisgewing en dat hy of sy versuim het om voor

die hof te verskyn op die datum en tyd in die kennisgewing gespesifiseer; of

(bb) die vonnisskuldenaar, direkteur of beampte, waar verrigtinge in sy of haar teenwoordigheid uitgestel is na ’n datum en tyd deur die hof bepaal, versuim het om op daardie datum en om daardie tyd voor die hof te verskyn; of

(cc) die vonnisskuldenaar, direkteur of beampte versuim het om by die verrigtinge of by die aldus verdaagde verrigtinge teenwoordig te bly,

kan die hof, op versoek van die vonnisskuldenaar of sy of haar prokureur, die uitreiking van ’n lasbrief magtig waarin ’n balju opdrag kry om die vonnisskuldenaar, direkteur of beampte te arresteer en hom of haar voor ’n bevoegde hof te bring sodat daardie hof ’n finansiële ondersoek kan doen. [Artikel 65A(6) van die Wet]

(iii) Enige persoon wat—

(aa) aangesê word om voor ’n hof te verskyn kragtens ’n kennisgewing ingevolge artikel 65A(1) of (8)*(b)* van die Wet (waar die balju, in plaas van om ’n persoon te arresteer, ’n kennisgewing om in die hof te verskyn aan daardie persoon oorhandig) en wat opsetlik versuim om voor die hof te verskyn op die datum en om die tyd in die kennisgewing gespesifiseer; of

(bb) waar die verrigtinge in sy of haar teenwoordigheid uitgestel is na ’n datum en tyd deur die hof bepaal, opsetlik versuim om op daardie datum en om daardie tyd voor die hof te verskyn; of

(cc) opsetlik versuim om by die tersaaklike verrigtinge of by die aldus verdaagde verrigtinge teenwoordig te bly,

is skuldig aan ’n misdryf en by skuldigbevinding strafbaar met ’n boete of met gevangenisstraf vir ’n tydperk van hoogstens drie maande. [Artikel 65A(9) van die Wet]

(iv) By verskyning voor die hof op die datum in die kennisgewing ingevolge artikel 65A(1) of (8)*(b)* van die Wet bepaal in navolging van die inhegtenisname van die vonnisskuldenaar, direkteur of beampte kragtens ’n lasbrief bedoel in artikel 65A(6) van die Wet of op enige datum waarheen die verrigtinge uitgestel is, word sodanige vonnisskuldenaar, direkteur of beampte aangesê om getuienis te gee oor sy of haar

finansiële posisie of dié van die regspersoon en sy of haar of die regspersoon vermoë om die vonnisskuld te betaal. [Artikel 65D van die Wet]

(v) enige persoon teen wie ’n hof, in ’n siviele saak, enige vonnis gegee het of enige bevel uitgereik het wat nie ten volle aan sodanige vonnis of bevel voldoen het nie en nie alle koste betaal het waarvoor hy of sy in verband daarmee aanspreeklik is nie moet, indien hy of sy van woon- , sake- of werkplek verander het en versuim om binne 14 dae ná die datum van elke sodanige verandering aan die klerk van die hof wat voornoemde vonnis gegee of bevel uitgevaardig het en aan die eiser of die eiser se prokureur by skriftelike kennisgewing die nuwe woon-, sake- of werkplek volledig en juis mee te deel, en deur sy of haar versuim om dit te doen sal sodanige vonnisskuldenaar aan ’n misdryf skuldig wees en by skuldigbevinding strafbaar met ’n boete of met gevangenisstraf vir ’n tydperk van hoogstens drie maande. [Artikel 109 van die Wet.]

(1) Besonderhede van vordering.

Eiser se vordering is—

(vi) vir agterstallige huurgeld ten opsigte van die verweerder se huur van ….. ……..……..……..…… ……en vir bevestiging van die interdik wat in hierdie dagvaarding verskyn.

Besonderhede:
……..……
……..……
……

Datum……

Tydperk……

Bedrag
R
..... ….....
……

en

(vii) vir uitsetting.

Besonderhede:
……..……
……..

(2) Toestemming tot vonnis.

Ek erken dat ek teenoor die eiser aanspreeklik is soos in hierdie dagvaarding gevorder (of tot die bedrag van R.....en koste tot op datum) en ek stem toe tot 'n dienooreenkomstige vonnis.

Gedateer te.....op hede die.....dag van....., 20……....,
.....

Verweerder

GETUIE 1:

- (Volle name)…….....,
- (handtekening)…….……
- (adres)……..……
  …….……..

GETUIE 2:

- (Volle name)……..……..,
- (handtekening)…….……...
- (adres)……..……
  …….…….……..

ALTERNATIEF OP (2)

* (3) Kennisgewing van voorneme om te verdedig.

Aan die klerk van die hof.

Geliewe kennis te neem dat die verweerder hierby kennis gee van die verweerder se voorneme om hierdie aksie te verdedig.
Gedateer te.....op hede die.....dag van....., 20……....,
.....

Verweerder/Verweerder se prokureur.

Fisiese adres waar betekening van prosesstukke of dokumente aanvaar sal word (binne 15 kilometer van die hofgebou)
……
Posadres
……
……
……

* Die oorspronklike kennisgewing moet by die klerk van die hof ingedien word en ’n afskrif daarvan moet aan die eiser of eiser se prokureur beteken word.”

No. 3 – Dagvaarding (waarin ’n outomatiese huurinterdik ingesluit is)

*** Vir gebruik in die Streekhof**

IN DIE STREEKHOF VIR DIE STREEKAFDELING VAN ……

GEHOU TE……Saakno ……

In die aangeleentheid tussen
……Eiser
en
……Verweerder

Aan:…….. van……

(vermeld woonplek of sakeplek en indien bekend, die gender, beroep en werksplek)……..……(hierna die verweerder genoem).
U word hierby gedagvaar om binne ..... dae vanaf die betekening van hierdie dagvaarding aan die griffier van die voormelde hof en ook die eiser of eiser se prokureur, by die adres hierin gespesifiseer, ’n skriftelike kennisgewing af te lewer of te laat aflewer van u voorneme om hierdie aksie te verdedig en die vordering van ……. (vermeld gender en okkupasie), van ……. (woonplek of sakeplek) …….. (hierna die eiser genoem), waarin die besonderhede hieronder geëndosseer is.

Daarna, binne 20 dae nadat ’n kennisgewing van voorneme soos hierbo vermeld afgelewer is, ’n pleitstuk (met of sonder ’n teenvordering), of ’n eksepsie of aansoek om deur te haal op die wyse en binne die tydsbestekke waarvoor in reël 19 voorsiening gemaak word.

Kennisgewing aan Verweerder:

En neem kennis dat—

(a) indien u in gebreke bly om die bedrag van die vordering en koste binne die vermelde tydperk te betaal of om ’n kennisgewing van voorneme om te verdedig af te lewer, sal u geag word die vermelde vordering te erken het en die eiser kan daarmee voortgaan en vonnis kan in u afwesigheid teen u gegee word;

(b) as u die vermelde vordering en koste binne die vermelde tydperk betaal sal vonnis nie hierin teen u gegee word nie en u sal vonniskoste bespaar. U sal ook vonniskoste bespaar indien u, binne die vermelde tydperk, by die griffier van die bomelde hof ’n toestemming tot vonnis indien;

(c) indien u die vordering erken en tot vonnis wil toestem of wil onderneem om die vordering in paaiemente of andersins te betaal, kan u die eiser of eiser se prokureur nader.

En neem verder kennis dat u, die verweerder, en alle ander persone hierby by interdik verbied word om enige van die meubels of besittings in of op die perseel wat in die besonderhede van die vordering wat hierop aangeteken is, beskryf is en onderworpe is aan die eiser se hipoteek vir huurgeld, te verwyder of te laat verwyder of toe te laat dat dit verwyder word voordat ’n bevel ten opsigte daarvan deur die hof gegee is.

Koste, as die aksie nie verdedig word nie, sal soos volg wees:

Dagvaarding..... R .....
Vonnis……..…… R .....
Prokureurskoste……..... R .....
Baljugelde..... R .....
Baljugelde by heruitreiking…….R .....
Totaal R ..... R .....

Totaal:……. R .....

Kennisgewing:

(i) Enige persoon teen wie ’n hof in ’n siviele saak ’n vonnis gegee het of ’n bevel uitgevaardig het wat nie, binne 10 dae, volledig aan sodanige vonnis of bevel voldoen het nie, kan by kennisgewing ingevolge artikel 65A(1) van die Wet aangesê word om op ’n gespesifiseerde datum voor die hof in kamers te verskyn sodat die hof ondersoek kan instel na die finansiële posisie van die vonnisskuldenaar en om sodanige bevel te gee soos die hof billik en regverdig ag.

(ii) Indien die hof oortuig is dat—

(aa) die vonnisskuldenaar of, indien die vonnisskuldenaar 'n regspersoon is, 'n direkteur of beampte van die regspersoon kennis dra van die bogenoemde kennisgewing en dat hy of sy versuim het om voor die hof te verskyn op die datum en tyd in die kennisgewing gespesifiseer; of

(bb) die vonnisskuldenaar, direkteur of beampte, waar verrigtinge in sy of haar teenwoordigheid uitgestel is na 'n datum en tyd deur die hof bepaal, versuim het om op daardie datum en om daardie tyd voor die hof te verskyn; of

(cc) die vonnisskuldenaar, direkteur of beampte versuim het om by die verrigtinge of by die aldus verdaagde verrigtinge teenwoordig te bly,

kan die hof, op versoek van die vonnisskuldenaar of sy of haar prokureur, die uitreiking van 'n lasbrief magtig waarin 'n balju opdrag kry om die vonnisskuldenaar, direkteur of beampte te arresteer en hom of haar voor 'n bevoegde hof te bring sodat daardie hof 'n finansiële ondersoek kan doen. [Artikel 65A(6) van die Wet]

(iii) Enige persoon wat—

(aa) aangesê word om voor 'n hof te verskyn kragtens 'n kennisgewing ingevolge artikel 65A(1) of (8)*(b)* van die Wet (waar die balju, in plaas van om 'n persoon te arresteer, 'n kennisgewing om in die hof te verskyn aan daardie persoon oorhandig) en wat opsetlik versuim om voor die hof te verskyn op die datum en om die tyd in die kennisgewing gespesifiseer; of

(bb) waar die verrigtinge in sy of haar teenwoordigheid uitgestel is na 'n datum en tyd deur die hof bepaal, opsetlik versuim om op daardie datum en om daardie tyd voor die hof te verskyn; of

(cc) opsetlik versuim om by die tersaaklike verrigtinge of by die aldus verdaagde verrigtinge teenwoordig te bly,

is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie maande. [Artikel 65A(9) van die Wet]

(iv) By verskyning voor die hof op die datum in die kennisgewing ingevolge artikel 65A(1) of (8)*(b)* van die Wet bepaal in navolging van die inhegtenisname van die vonnisskuldenaar, direkteur of beampte kragtens 'n lasbrief bedoel in artikel 65A(6) van die Wet of op enige datum waarheen die verrigtinge uitgestel is, word sodanige vonnisskuldenaar, direkteur of beampte aangesê om getuienis te gee oor sy of haar finansiële posisie of dié van die regspersoon en sy of haar vermoë om die vonnisskuld te betaal. [Artikel 65D van die Wet]

(viii) enige persoon teen wie 'n hof, in 'n siviele saak, enige vonnis gegee het of enige bevel uitgereik het wat nie ten volle aan sodanige vonnis of bevel voldoen het nie en nie alle koste betaal het waarvoor hy of sy in verband daarmee aanspreeklik is nie moet, indien hy of sy van woon- , sake- of werkplek verander het en versuim om binne 14 dae ná die datum van elke sodanige verandering aan die klerk van die hof wat voornoemde vonnis gegee of bevel uitgevaardig het en aan die eiser of die eiser se prokureur by skriftelike kennisgewing die nuwe woon-, sake- of werkplek volledig en juis mee te deel, en deur sy of haar versuim om dit te doen sal sodanige vonnisskuldenaar aan 'n misdryf skuldig wees en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie maande. [Artikel 109 van die Wet.]

(1) Besonderhede van vordering.

Eiser se vordering is—

(i) vir agterstallige huurgeld ten opsigte van die verweerder se huur van ……en vir bevestiging van die interdik wat in hierdie dagvaarding verskyn.

Besonderhede:
……
……..

Datum……..…..

Tydperk……

Bedrag

R .....
……..
……..

en

(ii) vir uitsetting.

Besonderhede:
……..……
……..……
……

(2) Toestemming tot vonnis.

Ek erken dat ek teenoor die eiser aanspreeklik is soos in hierdie dagvaarding gevorder (of tot die bedrag van R.....en koste tot op datum) en ek stem toe tot 'n dienooreenkomstige vonnis.

Gedateer te.....op hede die.....dag van....., 20……....,
.....

Verweerder

GETUIE 1:

- (Volle name)…….....,
- (handtekening)…….……
- (adres)……...……
  …….……..

GETUIE 2:

- (Volle name)……..……..,
- (handtekening)…….……....
- (adres)……...……
  …….……..

ALTERNATIEF OP (2)

* (3) Kennisgewing van voorneme om te verdedig.

Aan die Griffier van die Hof.

Geliewe kennis te neem dat die verweerder hierby kennis gee van die verweerder se voorneme om hierdie aksie te verdedig.

Gedateer te.....op hede die.....dag van....., 20…...,

.....

Verweerder/Verweerder se prokureur.

Fisiese adres waar betekening van prosesstukke of dokumente aanvaar sal word (binne 15 kilometer van die Hofgebou)
……

Posadres
……
……
……

* Die oorspronklike kennisgewing moet by die griffier van die hof ingedien word en ’n afskrif daarvan moet aan die eiser of eiser se prokureur beteken word.”.

“**No. 24 – Getuiedagvaarding**

***Vir gebruik in die Distrikshof**

In die Landdroshof vir die Distrik van .....
gehou te ..... Saakno. ..... van 20.....
In die aangeleentheid tussen

..... Eiser
en
..... Verweerder
Aan: die Balju/Adjunkbalju
LIG DIE VOLGENDE IN:

(1) ..... van.....
(2) ..... van.....
(3) ..... van .....
(4) ..... van .....

dat elkeen van hulle hierby vereis word om persoonlik voor hierdie hof te verskyn by hofnommer..... op die ..... dag van ....., 20....., om ..... (tyd) in die bogenoemde aksie om getuienis te gee of om boeke, papier of dokumente oor te lê namens die ..... (Waar vereis word dat dokumente oorgelê word, voeg by:) en om saam met elkeen van hulle te bring en dan aan die hof oor te lê, die aktes, dokumente, boeke, geskrifte, bandopnames, elektroniese, digitale of ander vorm van opnames (hierna "dokumente" genoem) of goedere in die lys hieronder gespesifiseer.

Betaling van die getuiegelde vir getuies soos bepaal en toegelaat kragtens artikel 51*bis* van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), soos gewysig, word hierby deur die Eiser/Verweerders aangebied.

(a) Indien enige persoon wat behoorlik gedagvaar is om getuienis te lewer of om enige boeke, papiere of dokumente in sy of haar besit of onder sy of haar beheer oor te lê wat die party wat die getuie(s) se teenwoordigheid verlang in getuienis wil wys, sonder wettige verskoning, versuim om teenwoordig te wees of om getuienis te lewer of om daardie boeke, papiere of dokumente ooreenkomstig die dagvaarding oor te lê of, tensy behoorlik verskoon, versuim om deur die loop van die verhoor teenwoordig te bly, kan die hof, indien oortuig onder eed of deur die relaas van die boodskapper dat sodanige persoon behoorlik gedagvaar is en dat sodanige persoon se redelike uitgawes, ooreenkomstig die tarief voorgeskryf kragtens artikel 51*bis* bereken, aan sodanige persoon betaal of aangebied is, 'n boete van hoogstens R300,00 aan sodanige persoon oplê en by gebreke aan betaling, gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(b) Indien op privilegie ten opsigte van enige dokument of ding aanspraak gemaak word, word die party wat die getuiedagvaarding laat uitreik het binne vyf dae van ontvangs van die getuiedagvaarding ingelig van die aard van die privilegie waarop aanspraak gemaak word; en

(c) Sodanige persoon is geregtig daarop dat die dokument of ding ná insae of die maak van afskrifte of neem van foto's deur die partye, aan hom of haar terugbesorg word.

Gedateer te ..... op hede die ..... dag van ....., 20....., .

.....

Klerk van die Hof

LYS VAN DOKUMENTE OF GOED WAT OORGELÊ MOET WORD

Datum BeskrywingOorspronklike of afskrif
.....
……
…….....
(Sien rugkant.)
[Druk op rugkant, paragrawe *(a)* en *(b)* van artikel 51(2) van die Wet]

No. 24 – Getuiedagvaarding
***Vir gebruik in die Streekhof**

In die Streekhof van die Streekafdeling van .....
gehou te ..... Saakno. ..... van 20……..…...
In die aangeleentheid tussen
.....Eiser
en
.....Verweerder
Aan: die Balju/Adjunkbalju:
LIG DIE VOLGENDE IN:
(1) ..... van.....
(2) ..... van.....
(3) ..... van .....
(4) ..... van .....

dat elkeen van hulle hierby vereis word om persoon voor hierdie hof te verskyn by hofnommer..... op die ..... dag van ....., 20....., om ..... (tyd) in die bogenoemde aksie om getuienis te gee of om boeke, papiere of dokumente oor te lê namens die ..... (Waar vereis word dat dokumente oorgelê word, voeg by:) en om die verskeie boeke, papiere of dokumente in die lys hieronder gespesifiseer saam met elkeen van hulle te bring en dan aan die hof oor te lê.

Betaling van die getuiegelde vir getuies soos bepaal en toegelaat kragtens artikel 51*bis* van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), soos gewysig, word hierby deur die Eiser/Verweerder aangebied.
.

(a) Indien enige persoon wat behoorlik gedagvaar is om getuienis te lewer of om enige boeke, papiere of dokumente in sy of haar besit of onder sy of haar beheer oor te lê wat die party wat die getuie(s) se teenwoordigheid verlang in getuienis wil wys, sonder

wettige verskoning, versuim om teenwoordig te wees of om getuienis te lewer of om daardie boeke, papiere of dokumente ooreenkomstig die dagvaarding oor te lê of, tensy behoorlik verskoon, versuim om deur die loop van die verhoor teenwoordig te bly, kan die hof, indien oortuig onder eed of deur die relaas van die boodskapper dat sodanige persoon behoorlik gedagvaar is en dat sodanige persoon se redelike uitgawes, ooreenkomstig die tarief voorgeskryf kragtens artikel 51*bis* bereken, aan sodanige persoon betaal of aangebied is, 'n boete van hoogstens R300,00 aan sodanige persoon oplê en by gebreke aan betaling, gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(b) Indien op privilegie ten opsigte van enige dokument of ding aanspraak gemaak word, word die party wat die getuiedagvaarding laat uitreik het binne vyf dae van ontvangs van die getuiedagvaarding ingelig van die aard van die privilegie waarop aanspraak gemaak word; en

(c) Sodanige persoon is geregtig daarop dat die dokument of ding ná insae of die maak van afskrifte of neem van foto's deur die partye, aan hom of haar terugbesorg word.

Gedateer te ..... op hede die ..... dag van ....., 20....., ...
Griffier

LYS VAN DOKUMENTE OF GOED WAT OORGELÊ MOET WORD

Datum BeskrywingOorspronklike of afskrif
.....
.....
.....
(Sien rugkant.)
[Druk op rugkant, paragrawe *(a)* en *(b)* van artikel 51(2) van die Wet]"

"**No. 24A – Getuiedagvaarding *duces tecum***

***Vir gebruik in die Distrikshof**

In die Landdroshof van ……..……..
gehou te ……. Saakno. ……..…… van 20…….

In die aangeleentheid tussen:

..... Eiser

en
……. Verweerder

Aan: die Balju/Adjunkbalju:

LIG DIE VOLGENDE IN:

(1)…….....
(2).....…….
(3)…….....……
(4)…….....……...

(Stel name, geslag, beroep en sakeplek of woonplek van elke getuie)

dat elkeen van sodanige persone binne 10 dae vanaf ontvangs van hierdie getuiedagvaarding, by die klerk van die genoemde Hof (gee 'n akkurate beskrywing van elke dokument wat oorgelê moet word) of lig die klerk in waar is (gee hier 'n beskrywing van 'n ding wat oorgelê moet word)

(1).....
(2).....
(3).....

moet oorlê tensy sodanige persoon aanspraak maak op privilegie ten opsigte van enige dokument of ding.

EN LIG elkeen van die vermelde persone verder in dat:

(a) Indien enige persoon wat behoorlik gedagvaar is om getuienis te lewer of om enige boeke, papiere of dokumente in sy of haar besit of onder sy of haar beheer oor te lê wat die party wat die getuie(s) se teenwoordigheid verlang in getuienis wil wys, sonder

wettige verskoning, versuim om teenwoordig te wees of om getuienis te lewer of om daardie boeke, papiere of dokumente ooreenkomstig die dagvaarding oor te lê of, tensy behoorlik verskoon, versuim om deur die loop van die verhoor teenwoordig te bly, kan die hof, indien oortuig onder eed of deur die relaas van die boodskapper dat sodanige persoon behoorlik gedagvaar is en dat sodanige persoon se redelike uitgawes, ooreenkomstig die tarief voorgeskryf kragtens artikel 51*bis* bereken, aan sodanige persoon betaal of aangebied is, 'n boete van hoogstens R300,00 aan sodanige persoon oplê en by gebreke aan betaling, gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(b) Indien op privilegie ten opsigte van enige dokument of ding aanspraak gemaak word, word die party wat die getuiedagvaarding laat uitreik het binne vyf dae van ontvangs van die getuiedagvaarding ingelig van die aard van die privilegie waarop aanspraak gemaak word; en

(c) Sodanige persoon is geregtig daarop dat die dokument of ding ná insae of die maak van afskrifte of neem van foto's deur die partye, aan hom of haar terugbesorg word.

GEDATEER te ..... op hede die ……. dag van …….. 20…….

……
Klerk van die Hof

…….
Eiser/ Verweerder / Prokureur

No. 24A – Getuiedagvaarding *duces tecum*

***Vir gebruik in die Streekhof**

In die Landdroshof vir die Streek van ……..……
gehou te ……..…. Saakno.: ……van 20…….

In die aangeleentheid tussen:

.....Eiser

en
……. Verweerder

Aan: die Balju/Adjunkbalju:

LIG DIE VOLGENDE IN:

(1)…….....
(2).....……
(3)…….....……..(4)……
…….....……..

(Vermeld name, geslag, beroep en sakeplek of woonplek van elke getuie)

dat elkeen van sodanige persone binne 10 dae vanaf ontvangs van hierdie getuiedagvaarding, by die griffier van die genoemde Hof (gee ’n akkurate beskrywing van elke dokument wat oorgelê moet word) moet indien of die griffier inlig waar is (gee hier ’n beskrywing van ’n ding wat oorgelê moet word)

(1).....
(2).....
(3).....

tensy sodanige persoon aanspraak maak op privilegie ten opsigte van enige dokument of ding.

EN LIG elkeen van die genoemde persone verder in dat:

(a) Indien enige persoon wat behoorlik gedagvaar is om getuienis te lewer of om enige boeke, papiere of dokumente in sy of haar besit of onder sy of haar beheer oor te lê wat die party wat die getuie(s) se teenwoordigheid verlang in getuienis wil wys, sonder wettige verskoning, versuim om teenwoordig te wees of om getuienis te lewer of om daardie boeke, papiere of dokumente ooreenkomstig die dagvaarding oor te lê of, tensy behoorlik verskoon, versuim om deur die loop van die verhoor teenwoordig te bly, kan die hof, indien oortuig onder eed of deur die relaas van die boodskapper dat sodanige persoon behoorlik gedagvaar is en dat sodanige persoon se redelike uitgawes, ooreenkomstig die tarief voorgeskryf kragtens artikel 51*bis* bereken, aan sodanige persoon betaal of aangebied is, ’n boete van hoogstens R300,00 aan sodanige persoon oplê en by gebreke aan betaling, gevangenisstraf vir ’n tydperk van hoogstens drie maande.

(b) Indien op privilegie ten opsigte van enige dokument of ding aanspraak gemaak word, word die party wat die getuiedagvaarding laat uitreik het binne vyf dae van ontvangs van die getuiedagvaarding ingelig van die aard van die privilegie waarop aanspraak gemaak word; en

(c) Sodanige persoon is geregtig daarop dat die dokument of ding ná insae of die maak van afskrifte of neem van foto’s deur die partye, aan hom of haar terugbesorg word.

GEDATEER te .....op hede die ……. dag van

…….. 20…….

……
Griffier van die Hof

…….
Eiser / Verweerder / Prokureur"

"No. 37 – Sekerheidstelling kragtens reël 38

***Vir gebruik in die Distrikshof**

In die Landdroshof vir die distrik van …….

gehou te …… Saakno.: ……..... van 20….....

In die aangeleentheid tussen:
…….....…… Eksekusieskuldeiser

en

…… Vonnisskuldenaar

Nademaal die vermelde Eksekusieskuldeiser vonnis in hierdie hof gekry het teen die vermelde vonnisskuldenaar op die …….. dag van ....., 20…. vir die bedrag van R..... saam met die bedrag van R..... vir koste;

En nademaal tenuitvoerlegging kragtens die vermelde vonnis geskied het en op eiendom/skuld/besoldiging beslag gelê is/binnekort op beslag gelê gaan word;

So is dit dat die vermelde Eksekusieskuldeiser homself of haarself tot die balju van die bomelde hof verbind dat indien die beslaglegging hierna tersyde gestel word, hy of sy sal voldoen aan enige wettige vordering teen hom of haar deur die vermelde vonnisskuldenaar of enige persoon vir skade deur vermelde vonnisskuldenaar of persoon gely as gevolg van die vermelde beslaglegging;

En …… van …… bind homself of haarself as sekerheidstelling en medehoofskuldenaar vir die behoorlike vervulling deur die vermelde eksekusieskuldeiser van die verpligting wat hy of sy opneem.

Geteken en gedateer te …….. op hede die …….. dag van …… 20……

……
Eksekusieskuldeiser
…… (Volle naam)

Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

Geteken en dateer by …….. op hede die …….. dag van …… 20……..

……
Borg en Medehoofskuldenaar

…… (Volle naam)

Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

OF

Ons die ondergetekendes [borg 1 se naam, ID-nommer en adres] en [borg 2 se naam, ID-nommer en adres] verbind onsself hierby gesamentlik en apart tot die balju van die voormelde hof as borge en medehoofskuldenaars dat indien die beslaglegging hierna tersyde gestel word, ons, die twee borge, sal voldoen aan enige wettige vordering teen hom of haar deur die vermelde vonnisskuldenaar of enige persoon vir skade gely deur die vermelde vonnisskuldenaar of persoon as gevolg van die vermelde beslaglegging.

Onderteken en gedateer te…….. op hede die …… dag van …… 20…….

……
Eerste borg en medehoofskuldenaar

…… (Volle naam)
Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

Geteken en gedateer te …….. op hede die …… dag van ……... 20…….

……
Tweede borg en medehoofskuldenaar

…… (Volle naam)

Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

No. 37 – Sekerheidstelling kragtens reël 38

***Vir gebruik in die Streekhof**

In die Streekhof vir die Streekafdeling van ……

gehou te …… Saakno.: …… van 20…....

In die aangeleentheid tussen:
……..……. Eksekusieskuldeiser

en

…… Vonnisskuldenaar

Nademaal die vermelde Eksekusieskuldeiser vonnis in hierdie hof gekry het teen die vermelde vonnisskuldenaar op die …….. dag van ....., 20…. vir die bedrag van R..... saam met die bedrag van R..... vir koste;

En nademaal tenuitvoerlegging kragtens die vermelde vonnis geskied het en op eiendom/skuld/besoldiging beslag gelê is/binnekort op beslag gelê gaan word;

So is dit dat die vermelde Eksekusieskuldeiser homself of haarself tot die balju van die bomelde hof verbind dat indien die beslaglegging hierna tersyde gestel word, hy of sy sal voldoen aan enige wettige vordering teen hom of haar deur die vermelde vonnisskuldenaar of enige persoon vir skade deur vermelde vonnisskuldenaar of persoon gely as gevolg van die vermelde beslaglegging;

En …… van …… bind homself of haarself as sekerheidstelling en medehoofskuldenaar vir die behoorlike vervulling deur die vermelde Eksekusieskuldeiser van die verpligting wat hy of sy opneem.

Geteken en gedateer te …….. op hede die …….. dag van ……. 20……

……
Borg en medehoofskuldenaar

…… (Volle naam)

Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

OF

Ons die ondergetekendes [borg 1 se naam, ID-nommer en adres] en [borg 2 se naam, ID-nommer en adres] verbind onsself hierby gesamentlik en apart tot die balju van die voormelde hof as borge en medehoofskuldenaars dat indien die beslaglegging hierna tersyde gestel word, ons, die twee borge, sal voldoen aan enige wettige vordering teen hom of haar deur die vermelde vonnisskuldenaar of enige persoon vir skade gely deur die vermelde vonnisskuldenaar of persoon as gevolg van die vermelde beslaglegging.

Onderteken en gedateer te…….. op hede die …… dag van …… 20…….

……
Eerste borg en medehoofskuldenaar

…… (Volle naam)
Getuie:
…… (Volle naam)

…… (Handtekening)
…… (Adres)

Geteken en gedateer te …….. op hede die …… dag van ……... 20…….

……
Tweede borg en medehoofskuldenaar

…… (Volle naam)

Getuie:
…… (Volle naam)
…… (Handtekening)
…… (Adres)

"No. 37A – Sekerheidstelling kragtens reël 41(15)

***Vir gebruik in die Distrikshof**

In die Landdroshof vir die distrik van ……..

gehou te …… Saaknommer: ……..… van 20…...

In die aangeleentheid tussen:

…….....…… Eksekusieskuldeiser

en

…… Vonnisskuldenaar

NADEMAAL uit hoofde van ’n sekere lasbrief van hierdie hof, gedateer die …….. dag van 20 …….., uitgereik op aandrang van A…… B…….. teen C…… D…….. van …… het die balju op die volgende artikels beslag gelê en onder beslaglegging gebring:

(1) ……
(2) ……
(3) ……

So is dit dat ons, die vermelde C……. D…….. en G……. H…….. van ……..... ’n ……. (beroep), as borg vir hom/haar, onsself afsonderlik en *in solidum* verbind, en onderneem hierby teenoor die vermelde balju of sy/haar sessionarisse, opvolgers in regte, dat die vermelde goedere nie mee weggedoen of oor beskik sal word nie, maar in besit van die vermelde C.....D..... sal bly kragtens die vermelde beslaglegging, en aan die vermelde balju oorgelê (of ander persoon deur hom/haar gemagtig om dit te ontvang) op die ..... dag van ..... 20..... (die datum vir die verkoping vasgestel), of op enige ander datum wanneer dit benodig kan word ten einde verkoop te word, tensy die vermelde beslaglegging regtens verwyder word, by gebreke waarvan ek, die vermelde G.....H..... myself, my persoon, goedere en my persoon, goedere en besittings, verbind om die bedrag van R…… (geraamde waarde van die besittings waarop beslag gelê is) aan die vermelde balju, sy/haar sessionarisse, opvolgers in reg, te betaal en daaraan te voldoen vir en ten behoewe van die vermelde A…… B……

Ten bewyse waarvan ons, die vermelde C……..……. D…….. en G……. H…….. ons handtekeninge hierop aangebring het op hede die ……dag van…….20……..

GEDATEER te ……op hede die……dag van ……..20……
……..

C…… D……..
Vonnisskuldenaar

G…… H…….
Borg

……
Adjunkbalju

TOEWYSING VAN BORGAKTE

Ek, ……., in my hoedanigheid as Adjunkbalju vir die distrik van ……..sedeer, wys toe en all my regte, titel en belange in die voorgaande borgakte aan hereby cede, assign and make over to A…… B…… en wys all my right, title and interest in the voorgaande borgakte.

Signed by me in the presence of the subscribing witnesses at…….. this ……. day of …… 20……
…….
Balju

AS GETUIES:
1. …….
2. …….

No. 37A – Sekerheidstelling kragtens reël 41(15)

***Vir gebruik in die Streekhof**

In die Streekhof vir die Streekafdeling van ..……...

gehou te …… Saaknommer: …… van 20…....

In die aangeleentheid tussen:

…….....…… Eksekusieskuldeiser

en

…… Vonnisskuldenaar

NADEMAAL uit hoofde van ’n sekere lasbrief van hierdie hof, gedateer die …….. dag van 20 …….., uitgereik op aandrang van A…… B…….. teen C…… D…….. van …… het die balju op die volgende artikels beslag gelê en onder beslaglegging gebring:

(1) ……
(2) ……
(3) ……

So is dit dat ons, die vermelde C……. D…….. en G……. H…….. van ……..... 'n ……. (beroep), as borg vir hom/haar, onsself afsonderlik en *in solidum* verbind, en onderneem hierby teenoor die vermelde balju of sy/haar sessionarisse, opvolgers in regte, dat die vermelde goedere nie mee weggedoen of oor beskik sal word nie, maar in besit van die vermelde C.....D..... sal bly kragtens die vermelde beslaglegging, en aan die vermelde balju oorgelê (of ander persoon deur hom/haar gemagtig om dit te ontvang) op die ..... dag van ..... 20..... (die datum vir die verkoping vasgestel), of op enige ander datum wanneer dit benodig kan word ten einde verkoop te word, tensy die vermelde beslaglegging regtens verwyder word, by gebreke waarvan ek, die vermelde G.....H..... myself, my persoon, goedere en my persoon, goedere en besittings, verbind om die bedrag van R…… (geraamde waarde van die besittings waarop beslag gelê is) aan die vermelde balju, sy/haar sessionarisse, opvolgers in reg, te betaal en daaraan te voldoen vir en ten behoewe van die vermelde A…… B……

Ten bewyse waarvan ons, die vermelde C……..…….. D…….. en G……. H…….. ons handtekeninge hierop aangebring het op hede die ……dag van……20……..

GEDATEER te ……op hede die……dag van ……..20……

C…… D……..
Vonnisskuldenaar

G…… H…….
Borg

……
Adjunkbalju
TOEWYSING VAN BORGAKTE

Ek, ……., in my hoedanigheid as Adjunkbalju vir die distrik van …….. doen hierby sedering, toewysing en oormaaking aan A…… B…… van al my regte, titel en belang in die voorgaande borgakte.

Geteken deur my in die teenwoordigheid van die getuies wat hieronder teken by …….. op hede die ……. dag van …… 20……

…….
Balju

AS GETUIES:
1. …….
2. ……..”

“**No. 59 – Kennisgewing aan beweerde lid, vennoot of eienaar**

***Vir gebruik in die Distrikhof**

In die Landdroshof van ……..…….
gehou te ……..……. Saakno.: ……..…… 20……..

In die aangeleentheid tussen:

.....Eiser

en

……. Verweerder

NEEM KENNIS dat die bogenoemde eiser aksie teen die boegenoemde verweerder ingestel het vir die som van R…….. en dat beweer word dat die bogenoemde verweerder ’n vereniging, vennootskap, firma of alleeneienaarskap is waarvan u vanaf …….. tot …… ’n lid, ampsdraer, vennoot of eienaar was.

Indien u betwis dat u ’n lid, ampsdraer, vennoot of eienaar was of dat die bogenoemde tydperk enigsins verband hou met u aanspreeklikheid as ’n lid, ampsdraer, vennoot of eienaar of dat die verweerder aanspreeklik is, moet u binne 10 dae vanaf die betekening van hierdie kennisgewing, kennis gee van u voorneme om te verdedig.

Om sodanige kennis te gee, moet u ’n kennisgewing by die klerk van die hof indien en ’n afskrif daarvan aan die eiser by die adres hieronder beteken waarin gestel word dat u voornemens is om te verdedig. In sodanige kennisgewing—

(i) word van u vereis om u volle fisieke, woon- of sakeadres binne die hof se regsgebied, posadres en waar beskikbaar, faksommer en e-posadres te verstrek; en

(ii) word verder van u vereis om die adres aan te dui waar u verkies dat alle dokumente in die aansoek aan u beteken word, en betekening daarvan by die adres aldus gegee is geldig en effektief, behalwe waar persoonlike betekening deur ‘n bevel of praktyk van die hof vereis word.

Daarna moet u ’n pleitsuk aflewer waarin u kan betwis dat u ’n lid, ampsdraer, venoot of eienaar was of dat die tydperk hierbo beweer tersaaklik is of dat die verweerder aanspreeklik is, of al drie van hierdie aangeleenthede.

Indien u nie sodanige kennis gee nie, sal u nie enige van die bogenoemde geskilpunte kan betwis nie. Indien bogenoemde verweerder aanspreeklik gehou word, kan eksekusie teen u uitgereik word, sou die verweerder se bates in eksekusie uitgewin word en gevind word onvoldoende te wees.

GEDATEER te …… op hede die ……dag van ……..20…...…

Prokureur vir

……
……
……

(Adres)
(*N.B. In aansoekverrigtinge moet hierdie vorm gepas verander word.)*

No. 59 – Kennisgewing aan beweerde lid, vennoot of eienaar

***Vir gebruik in die Streekhof**

In die Landdroshof vir die Streek van ..……..…….
gehou te ……..……. Saakno.: …… 20…….

In die aangeleentheid tussen:

.....Eiser

en

……. Verweerder

NEEM KENNIS dat die bogenoemde eiser aksie teen die boegenoemde verweerder ingestel het vir die som van R…….. en dat beweer word dat die bogenoemde verweerder ’n vereniging, vennootskap, firma of alleeneienaarskap is waarvan u vanaf ……..….. tot …… ’n lid, ampsdraer, vennoot of eienaar was.

Indien u betwis dat u ’n lid, ampsdraer, vennoot of eienaar was of dat die bogenoemde tydperk enigsins verband hou met u aanspreeklikheid as ’n lid, ampsdraer, vennoot of eienaar of dat die verweerder aanspreeklik is, moet u binne 10 dae vanaf die betekening van hierdie kennisgewing, kennis gee van u voorneme om te verdedig.

Om sodanige kennis te gee, moet u ’n kennisgewing by die klerk van die hof indien en ’n afskrif daarvan aan die eiser by die adres hieronder beteken waarin gestel word dat u voornemens is om te verdedig. In sodanige kennisgewing—

(i) word van u vereis om u volle fisieke, woon- of sakeadres binne die hof se regsgebied, posadres en waar beskikbaar, faksommer en e-posadres te verstrek; en

(ii) word verder van u vereis om die adres aan te dui waar u verkies dat alle dokumente in die aansoek aan u beteken word, en betekening daarvan by die adres aldus gegee is geldig en effektief, behalwe waar persoonlike betekening deur ’n bevel of praktyk van die hof vereis word.

Daarna moet u ’n pleitsuk aflewer waarin u kan betwis dat u ’n lid, ampsdraer, venoot of eienaar was of dat die tydperk hierbo beweer tersaaklik is of dat die verweerder aanspreeklik is, of al drie van hierdie aangeleenthede.

Indien u nie sodanige kennis gee nie, sal u nie enige van die bogenoemde geskilpunte kan betwis nie. Indien bogenoemde verweerder aanspreeklik gehou word, kan eksekusie teen u uitgereik word, sou die verweerder se bates in eksekusie uitgewin word en gevind word onvoldoende te wees.

GEDATEER te …… op hede die ……dag van ……..20…...…

Prokureur vir

……
……
……

(Adres)
(*N.B. In aansoekverrigtinge moet hierdie vorm gepas verander word.)*