

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 2134

3 June 2022

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 for the Minister for Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

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, R. 1156 of 30 October 2020, and R. 1602 of 17 December 2021.

Amendment of rule 5 of the Rules

2. Rule 5 of the Rules is hereby amended by the substitution for sub-rule (1) of the following sub-rule:

"(1) Every person making a claim against any other person may, through the office of the registrar or clerk of the court, sue out a simple summons or a combined summons addressed to the sheriff directing the sheriff to inform the defendant among other things that, if the defendant disputes the claim and wishes to defend, the defendant shall-

- (a) within the time stated in the summons, give notice of intention to defend; and
- (b) after complying with paragraph (a), if the summons is a combined summons, within 20 days after giving such notice, deliver a plea (with or without a claim in reconvention), or an exception, or an application to strike out: Provided that an exception or application to strike out shall be in the manner and within the timeframes provided for in rule 19."

Amendment of rule 43 of the Rules

3. Rule 43 of the Rules is hereby amended by—

(a) the substitution for paragraph (b) of sub-rule (1) of the following paragraph:

"(b) A warrant of execution against immovable property shall contain—

- (i) a full description of the nature, magisterial district and physical address of the immovable property to enable it to be traced and identified by the sheriff; and
- (ii) sufficient information to enable the sheriff to give effect to sub-rule (3) hereof, including the title deed number, the erf number or sectional title unit number and exclusive use area to enable the Registrar of Deeds to identify the immovable property and record the attachment as an interdict against the immovable property."; and

(b) the substitution in sub-rule (11) for paragraph (b) of the following paragraph:

"(b) Any loss sustained by reason of the purchaser's default may, on the application of any aggrieved creditor **[whose name appears on the sheriff's distribution account]** referred to in paragraph (14)(c), be recovered from the purchaser under judgment of a magistrate given on a written report by the sheriff, after notice in writing has been given to the purchaser that the report will be laid before a magistrate for the aforesaid purpose."

Amendment of rule 67 of the Rules

4. Rule 67 of the Rules is hereby amended by—

(a) the substitution in sub-rule (2)(b) for sub-paragraph (ii) of the following sub-paragraph:

"(ii) be sent by electronic means, and if not possible by registered post."; and

(b) the substitution in sub-rule (5A) for paragraph (a) of the following paragraph:

"(a)(i) A person contemplated in the first proviso of section 309(1)(a) of the Criminal Procedure Act, 1977, who wishes to appeal against his or her conviction or sentence or order, shall do so in writing to the registrar or clerk of the court within 10 days after the passing of the sentence or order following on the conviction and shall also send a copy of such notice of appeal to the director of public prosecutions concerned or in a case in which the prosecution was not at the public instance, to the prosecutor concerned.

(ii) In the event of the appeal being struck-off or removed from the roll for any reason, the appeal shall then be re-enrolled within 10 days of the date of such striking-off or removal, failing compliance therewith the appeal shall lapse."

Amendment of Annexure 1 to the Rules

5. Annexure 1 to the Rules is hereby amended by the substitution for Forms 2B and 2C of the Forms contained in the Annexure hereto.

Amendment of Annexure 2 to the rules

6. Annexure 2 to the rules is hereby amended—

(a) by the substitution for Tables A and B of the following Tables, respectively:

**"TABLE A
COSTS**

**PART I
GENERAL PROVISIONS**

1. When the amount in dispute is less than or equal to the amount of R7 000, costs shall be taxed on Scale A; when the amount in dispute exceeds the amount of R7 000, but is less than or equal to R50 000, costs shall be taxed on Scale B; when the amount in dispute exceeds R50 000, but is less than or equal to the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts, costs shall be taxed on Scale C; when the amount in dispute exceeds the maximum jurisdictional amount so determined by the Minister in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act, costs shall be taxed on Scale D.

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

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

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

(ii) the matter is instituted in the Regional Court for a Regional Division, costs shall be computed on Scale D,
unless the court orders otherwise.

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

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

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

- 6(i) Fees to advocates referred to in section 34(2)(a)(i) of the Legal Practice Act, 2014 (Act No. 28 of 2014) shall be allowed on taxation only in cases falling within Scale B, C or D or where the court has made an order in terms of rule 33(8).
- (ii) Fees to advocates referred to in section 34(2)(a)(ii) of the Legal Practice Act, 2014 (Act No. 28 of 2014) shall be allowed on taxation for Scale A, B, C or D or where the court has made an order in terms of rule 33(8).
7. Where the amount allowed for an item is specified, the amount shall be inclusive of all necessary attendances and services (other than services by the sheriff for the magistrate's court) in connection therewith save that for the necessary filing of documents at court a charge shall be allowed at **[R30,00]** R33,00 per document.
8. Where the amount allowed for an item is left blank—
- (a) the drawing of documents (not pleadings) shall be allowed at **[R30,00]** R33,00 for each folio;
- (b) copies for filing, service and an attorney's copy to retain shall also be allowed;
- (c) **[R30,00]** R33,00 shall be allowed for each necessary service;
- (d) **[R30,00]** R33,00 shall be allowed per document for the necessary filing of documents at court.
9. (a) Where any document appears to the court to be unnecessary prolix, the court may disallow the whole or any part of the fee therefor.
- (b) Where printed forms of documents to be copied are available, the fees for copying shall be limited to the necessary particulars inserted in such printed forms.
10. (a) A folio shall consist of 100 written or printed words or figures or part thereof.
- (b) Four figures shall be reckoned as one word.
11. (a) Unless otherwise provided, a charge for perusal shall be allowed at **[R11,50]** R12,50 per folio in respect of any document or pleading necessarily perused.
- (b) For necessary copies, including photocopies, of any document or papers not already provided for in this tariff, per A4 size page **[R4,50]** R5,00.
12. Where there are more defendants than one **[R19,00]** R21,00 shall be added in respect of each additional defendant for each of items 2 and 3 of Part II and items 2 and 7 of Part III.
13. Where the judgment debt is payable in instalments in terms of the judgment or an agreement, a fee of 10% on each instalment collected in redemption of the capital, costs and interest shall be allowed, subject to a maximum of **[R459,00]** R499,00 on each instalment. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment.
14. The clerk or registrar of the court shall on taxation disallow any charge unnecessarily incurred.
15. Where the fee under any item is calculated on a time basis, the total time spent on any one day shall be calculated and the fee for that day calculated on such total.